

- 31 ▸ amends requirements relating to a sponsored captive insurance company's business;
- 32 ▸ amends the grounds under which the commissioner may revoke the certificate of
- 33 authority of a captive insurance company; and
- 34 ▸ makes technical and conforming changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **31A-1-103**, as last amended by Laws of Utah 2024, Chapter 120
- 42 **31A-2-201**, as last amended by Laws of Utah 2018, Chapter 200
- 43 **31A-2-402**, as last amended by Laws of Utah 2015, Chapter 330
- 44 **31A-2-404**, as last amended by Laws of Utah 2016, Chapter 193
- 45 **31A-3-304**, as last amended by Laws of Utah 2023, Chapter 194
- 46 **31A-21-112**, as enacted by Laws of Utah 2013, Chapter 443
- 47 **31A-21-303**, as last amended by Laws of Utah 2022, Chapter 198
- 48 **31A-22-407**, as enacted by Laws of Utah 1985, Chapter 242
- 49 **31A-22-509**, as enacted by Laws of Utah 1985, Chapter 242
- 50 **31A-22-511**, as enacted by Laws of Utah 1985, Chapter 242
- 51 **31A-22-512**, as enacted by Laws of Utah 1985, Chapter 242
- 52 **31A-22-514**, as enacted by Laws of Utah 1985, Chapter 242
- 53 **31A-22-605.1**, as last amended by Laws of Utah 2019, Chapter 193
- 54 **31A-22-701**, as last amended by Laws of Utah 2021, Chapter 252
- 55 **31A-23a-105**, as last amended by Laws of Utah 2024, Chapter 120
- 56 **31A-23a-109**, as last amended by Laws of Utah 2018, Chapter 319
- 57 **31A-23a-111**, as last amended by Laws of Utah 2024, Chapter 120
- 58 **31A-23a-119**, as enacted by Laws of Utah 2024, Chapter 120
- 59 **31A-23a-415**, as last amended by Laws of Utah 2023, Chapter 194
- 60 **31A-26-202**, as last amended by Laws of Utah 2018, Chapter 462
- 61 **31A-37-102**, as last amended by Laws of Utah 2023, Chapter 194
- 62 **31A-37-104**, as last amended by Laws of Utah 2008, Chapter 302
- 63 **31A-37-201**, as last amended by Laws of Utah 2019, Chapter 193
- 64 **31A-37-202**, as last amended by Laws of Utah 2024, Chapter 120

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

78 REPEALS AND REENACTS:

79 **31A-2-405**, as enacted by Laws of Utah 2007, Chapter 325

80

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

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

83 **31A-1-103 . Scope and applicability of title.**

84 (1) This title does not apply to:

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

86 (i) with an individual client; and

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

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

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

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

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

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

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

- 167 guideline materials that states:
- 168 (A) the health care sharing ministry is not an insurance company;
- 169 (B) nothing the health care sharing ministry offers or provides is an insurance
170 policy, including the health care sharing ministry's guidelines or plan of
171 operations;
- 172 (C) participation in the health care sharing ministry is entirely voluntary and no
173 participant is compelled by law to contribute to another participant's expenses;
- 174 (D) participation in the health care sharing ministry or subscription to any of the
175 health care sharing ministry's services is not insurance; and
- 176 (E) each participant is always personally responsible for the participant's expenses
177 regardless of whether the participant receives payment for the expenses
178 through the health care sharing ministry or whether this health care sharing
179 ministry continues to operate.
- 180 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
181 31A-3-301.
- 182 (5)(a) After a hearing, the commissioner may order an insurer of certain group
183 insurance policies or blanket insurance policies to transfer the Utah portion of the
184 business otherwise exempted under Subsection (3)(h) to an authorized insurer if the
185 contracts have been written by an unauthorized insurer.
- 186 (b) If the commissioner finds that the conditions required for the exemption of a group
187 or blanket insurer are not satisfied or that adequate protection to residents of this state
188 is not provided, the commissioner may require:
- 189 (i) the insurer to be authorized to do business in this state; or
190 (ii) that any of the insurer's transactions be subject to this title.
- 191 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and
192 health insurance.
- 193 (6)(a) As used in Subsection (3)(i) and this Subsection (6):
- 194 (i) [~~"manufacturer's~~] "Manufacturer's or seller's service contract" means a service
195 contract:
- 196 (A) made available by:
- 197 (I) a manufacturer of a product;
- 198 (II) a seller of a product; or
- 199 (III) an affiliate of a manufacturer or seller of a product;
- 200 (B) made available:

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

235 itself regardless of whether the manufacturer's or seller's warranty or service contract
236 is sold:

- 237 (i) at the time of the purchase of the product; or
238 (ii) at a time other than the time of the purchase of the product.

239 (7)(a) For purposes of this Subsection (7), "public agency insurance mutual" means an
240 entity formed by two or more political subdivisions or public agencies of the state:

- 241 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
242 (ii) for the purpose of providing for the political subdivisions or public agencies:
243 (A) subject to Subsection (7)(b), insurance coverage; or
244 (B) risk management.

245 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not
246 provide health insurance unless the public agency insurance mutual provides the
247 health insurance using:

- 248 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
249 (ii) an admitted insurer; or
250 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and
251 Insurance Program Act.

252 (c) [~~Except for this Subsection (7), a~~] A public agency insurance mutual is exempt from
253 this title[-] except:

- 254 (i) when providing health insurance as described in Subsection (7)(b); and
255 (ii) as provided in the provisions in Sections 31A-3-301 and 31A-3-303 describing
256 the surplus lines tax that are applicable to a policyholder.

257 (d) A public agency insurance mutual is considered[~~to be~~] a governmental entity and
258 political subdivision of the state with all of the rights, privileges, and immunities of a
259 governmental entity or political subdivision of the state including all the rights and
260 benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

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

262 **31A-2-201 . General duties and powers.**

- 263 (1) The commissioner shall administer and enforce this title.
264 (2) The commissioner has all powers specifically granted, and all further powers that are
265 reasonable and necessary to enable the commissioner to perform the duties imposed by
266 this title.
267 (3)[~~(a)~~] The commissioner may make rules to implement the provisions of this title
268 according to the procedures and requirements of Title 63G, Chapter 3, Utah

269 Administrative Rulemaking Act.

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

273 (4)(a)(i) The commissioner shall issue prohibitory, mandatory, and other orders as
 274 necessary to secure compliance with this title.[-]

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

276 [(i)] (A) is in writing; and

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

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

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

283 (i) investigation;

284 (ii) ascertainment of public sentiment; or

285 (iii) informing the public.

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

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

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

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

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

297 (a) under this title;

298 (b) by the department; or

299 (c) by an agency or division within the department.

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

301 **31A-2-402 . Definitions.**

302 As used in this part:

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

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

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

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

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

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

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

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

312 [~~(4)~~] (3) "Real Estate Commission" means the Real Estate Commission created in Section
313 61-2f-103.

314 [~~(5)~~] (4) "Title insurance matter" means a matter related to:

315 (a) title insurance;

316 (b) an escrow conducted by an individual title insurance producer or agency title
317 insurance producer;

318 (c) licensing, examination, and continuing education of an applicant to be a title
319 licensee; or

320 (d) conduct of a title licensee.

321 [~~(6)~~] (5) "Title licensee" means a person licensed under this title as:

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

323 (b) an individual title insurance producer with:

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

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

326 (c) a title insurance adjuster.

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

328 **31A-2-404 . Duties of the commissioner and Title and Escrow Commission.**

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

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

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

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

336 (C) that is enforced by the commissioner.

- 337 (ii) The commissioner shall consult with and seek concurrence of the commission in
 338 a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding
 339 the imposition of a penalty, and if concurrence cannot be reached, the
 340 commissioner has final authority.
- 341 (c)(i) Unless a provision of this title grants specific authority to the commission, the
 342 commissioner has authority over the implementation of this title related to a title
 343 insurance matter.
- 344 (ii) When a provision requires concurrence between the commission and
 345 commissioner, and concurrence cannot be reached, the commissioner has final
 346 authority.
- 347 (d) Except as provided in Subsection (1)(e), when this title requires concurrence
 348 between the commissioner and commission related to a title insurance matter:
- 349 (i) the commissioner shall report to and update the commission on a regular basis
 350 related to that title insurance matter; and
- 351 (ii) the commission shall review the report submitted by the commissioner under this
 352 Subsection (1)(d); and
- 353 (A) concur with the report[;] ; or[;]
 354 [~~(A)~~] (B) provide a reason for not concurring with the report[;] and
 355 [~~(B)~~] provide recommendations to the commissioner.
- 356 (e) When this title requires concurrence between the commissioner and commission
 357 under Subsection (2), (3), or (4):
- 358 (i) the commission shall report to and update the commissioner on a regular basis
 359 related to that title insurance matter; and
- 360 (ii) the commissioner shall review a report submitted by the commission under this
 361 Subsection (1)(e) and concur with the report or:
- 362 (A) provide a reason for not concurring with the report; and
 363 (B) provide recommendations to the commission.
- 364 (2) The commission shall:
- 365 (a) subject to Subsection (4), make rules for the administration of the provisions in this
 366 title related to title insurance matters including rules related to:
- 367 (i) rating standards and rating methods for a title licensee, as provided in Section
 368 31A-19a-209;
- 369 (ii) the licensing for a title licensee, including the licensing requirements of Section
 370 31A-23a-204;

- 371 (iii) continuing education requirements of Section 31A-23a-202; and
 372 (iv) standards of conduct for a title licensee;
- 373 (b) concur in the issuance and renewal of a license in accordance with Section
 374 31A-23a-105 or 31A-26-203;
- 375 ~~[(e) in accordance with Section 31A-3-103, establish, with the concurrence of the~~
 376 ~~commissioner, the fees imposed by this title on a title licensee;]~~
- 377 ~~[(d) in accordance with Section 31A-23a-415 determine, after consulting with the~~
 378 ~~commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;]~~
- 379 ~~[(e)]~~ (c) with the concurrence of the commissioner, approve a continuing education
 380 program required by Section 31A-23a-202;
- 381 ~~[(f)]~~ (d) on a regular basis advise the commissioner of the most critical matters affecting
 382 the title insurance industry and request the commissioner to direct the department's
 383 investigative resources to investigate and enforce those matters;
- 384 ~~[(g)]~~ (e) in accordance with Section 31A-23a-204, participate in the annual license
 385 testing evaluation conducted by the commissioner's test administrator;
- 386 ~~[(h)]~~ (f) advise the commissioner on matters affecting the commissioner's budget related
 387 to title insurance; and
- 388 ~~[(i)]~~ (g) perform other duties as provided in this title.
- 389 (3) The commission may make rules establishing an examination for a license that will
 390 satisfy Section 31A-23a-204:
- 391 (a) after consultation with the commissioner's test administrator; and
 392 (b) subject to Subsection (4).
- 393 (4)(a) The commission may make a rule under this title only:
- 394 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 395 (ii) with the concurrence of the commissioner, except that if concurrence cannot be
 396 reached, the commissioner has final authority; and
 397 (iii) if at the time the commission files ~~[its]~~ the commission's proposed rule and rule
 398 analysis with the Office of Administrative Rules in accordance with Section
 399 63G-3-301, the commission provides the Real Estate Commission that same
 400 information.
- 401 (b) The commission may not make a rule regarding adjudicative procedures.
- 402 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
 403 adjudicative procedures.
- 404 (5)(a) The commissioner shall annually report the information described in Subsection

- 405 (5)(b) in writing to the commission.
- 406 (b) The information required to be reported under this Subsection (5):
- 407 (i) may not identify a person; and
- 408 (ii) shall include:
- 409 (A) the number of complaints the commissioner receives with regard to
- 410 transactions involving title insurance or a title licensee during the calendar year
- 411 immediately preceding the report;
- 412 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
- 413 (C) for each complaint described in Subsection (5)(b)(ii)(A):
- 414 (I) any action taken by the commissioner with regard to the complaint; and
- 415 (II) the time-period beginning the day on which a complaint is made and
- 416 ending the day on which the commissioner determines it will take no further
- 417 action with regard to the complaint.

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

419 **31A-2-405 . Dual licensing.**

420 An individual title licensee may not conduct the business of title insurance while

421 conducting business as a holder of a license or certificate under:

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

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

426 **31A-3-304 . Annual fees -- Other taxes or fees prohibited -- Captive Insurance**

427 **Restricted Account.**

- 428 (1)(a) A captive insurance company shall pay an annual fee imposed under this section
- 429 to obtain or renew a certificate of authority.
- 430 (b) The commissioner shall:
- 431 (i) determine the annual fee [~~pursuant to~~] in accordance with Section 31A-3-103; and
- 432 (ii) consider whether the annual fee is competitive with fees imposed by other states
- 433 on captive insurance companies.
- 434 (2) A captive insurance company that fails to pay the fee required by this section is subject
- 435 to the relevant sanctions of this title.
- 436 (3)(a) A captive insurance company that pays one of the following fees is exempt from
- 437 Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9,
- 438 Taxation of Admitted Insurers:

- 439 (i) a fee under this section;
- 440 (ii) a fee under Chapter 37, Captive Insurance Companies Act; or
- 441 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company
- 442 Act.
- 443 (b) The state or a county, city, or town within the state may not levy or collect an
- 444 occupation tax or other fee or charge not described in Subsections (3)(a)(i) through
- 445 (iii) against a captive insurance company.
- 446 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115
- 447 against a captive insurance company.
- 448 (4) A captive insurance company shall pay the fee imposed by this section to the
- 449 commissioner by June 1 of each year.
- 450 (5)(a) ~~[Money received pursuant to]~~ The commissioner shall deposit money received
- 451 from a fee described in Subsection (3)(a) [shall be deposited] into the Captive
- 452 Insurance Restricted Account.
- 453 (b) There is created in the General Fund a restricted account known as the "Captive
- 454 Insurance Restricted Account."
- 455 (c) The Captive Insurance Restricted Account shall consist of the fees described in
- 456 Subsection (3)(a).
- 457 (d) The commissioner shall administer the Captive Insurance Restricted Account.
- 458 Subject to appropriations by the Legislature, the commissioner shall use the money
- 459 deposited into the Captive Insurance Restricted Account to:
- 460 (i) administer and enforce:
- 461 (A) Chapter 37, Captive Insurance Companies Act; and
- 462 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
- 463 (ii) promote the captive insurance industry in Utah.
- 464 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing,
- 465 except that at the end of each fiscal year, money received by the commissioner in
- 466 excess of ~~[the following]~~ the legislative appropriation for the fiscal year that just ended
- 467 shall be treated as free revenue in the General Fund[:] .
- 468 ~~[(i) for fiscal year 2018-2019 and subsequent fiscal years, in excess of \$1,600,000;]~~
- 469 ~~[(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of \$1,450,000;~~
- 470 ~~and]~~
- 471 ~~[(iii) for fiscal year 2023-2024 and subsequent fiscal years, in excess of \$1,650,000.]~~
- 472 Section 7. Section **31A-21-112** is amended to read:

473 **31A-21-112 . Language other than English.**

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

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

497 **31A-21-303 . Cancellation, issuance, and renewal.**

- 498 (1)(a) Except as otherwise provided in this section, other statutes, or by rule under
499 Subsection (1)(c), this section applies to all policies of insurance:
- 500 (i) except for:
- 501 (A) life insurance;
- 502 (B) accident and health insurance; and
- 503 (C) annuities; and
- 504 (ii) if the policies of insurance are issued on forms that are subject to filing under
505 Subsection 31A-21-201(1).
- 506 (b) A policy may provide terms more favorable to insureds than this section requires.

- 507 (c) The commissioner may by rule totally or partially exempt from this section classes of
 508 insurance policies in which the insureds do not need protection against arbitrary or
 509 unannounced termination.
- 510 (d) The rights provided by this section are in addition to and do not prejudice any other
 511 rights the insureds may have at common law or under other statutes.
- 512 (2)(a) As used in this Subsection (2), "grounds" means:
- 513 (i) material misrepresentation;
- 514 (ii) substantial change in the risk assumed, unless the insurer should reasonably have
 515 foreseen the change or contemplated the risk when entering into the contract;
- 516 (iii) substantial breaches of contractual duties, conditions, or warranties; or
 517 ~~[(iv) attainment of the age specified as the terminal age for coverage, in which case
 518 the insurer may cancel by notice under Subsection (2)(e), accompanied by a
 519 tender of proportional return of premium; or]~~
- 520 ~~[(v)]~~ (iv) in the case of motor vehicle insurance, revocation or suspension of the
 521 driver's license of:
- 522 (A) the named insured; or
- 523 (B) any other ~~[person]~~ individual who customarily drives the motor vehicle.
- 524 (b)(i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection
 525 (2)(b)(ii) are met, an insurer may not cancel an insurance policy ~~[may not be
 526 canceled by the insurer]~~ before the earlier of:
- 527 (A) the expiration of the agreed term; or
- 528 (B) one year from the effective date of the policy or renewal.
- 529 (ii) Notwithstanding Subsection (2)(b)(i), an insurer may cancel an insurance policy [
 530 ~~may be canceled by the insurer]~~ for:
- 531 (A) nonpayment of a premium when due; or
- 532 (B) ~~[on]~~ grounds ~~[- defined in Subsection (2)(a)]~~.
- 533 (c)(i) The cancellation provided by Subsection (2)(b), except cancellation for
 534 nonpayment of premium, is effective no sooner than 30 days after the delivery or
 535 first-class mailing of a written notice to the policyholder.
- 536 (ii) Cancellation for nonpayment of premium of a personal lines policy is effective no
 537 sooner than 10 days after delivery or first-class mailing of a written notice to the
 538 policyholder.
- 539 (iii) Cancellation for nonpayment of premium of a commercial lines policy is
 540 effective no sooner than 10 days after delivery or first-class mailing of a written

- 541 notice to:
- 542 (A) the policyholder;
- 543 (B) each assignee of the policyholder, if the assignee is named in the policy; and
- 544 (C) each loss payee or mortgagee or lienholder under property insurance of the
- 545 policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.
- 546 (iv) An insurer shall deliver or send by first-class mail a copy of the notice of
- 547 cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an
- 548 agent of record of the policyholder on or before the day on which the insurer
- 549 provides the notice to the policyholder.
- 550 (d)(i) Notice of cancellation for nonpayment of premium shall include a statement of
- 551 the reason for cancellation.
- 552 (ii) Subsection (7) applies to the notice required for grounds of cancellation other
- 553 than nonpayment of premium.
- 554 (e)(i) Subsections (2)(a) through (d) do not apply to any insurance contract that has
- 555 not been previously renewed if the contract has been in effect less than 60 days on
- 556 the day on which the written notice of cancellation is mailed or delivered.
- 557 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10
- 558 days after the day on which a written notice of cancellation is delivered to the
- 559 insured.
- 560 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage
- 561 prepaid, to the insured at the insured's last-known address, delivery is considered
- 562 accomplished after the passing, since the mailing date, of the mailing time
- 563 specified in the Utah Rules of Civil Procedure.
- 564 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the
- 565 procedures described in Subsection (7).
- 566 (3) A policy may be issued for a term longer than one year or for an indefinite term if the
- 567 policy includes a clause providing for cancellation by the insurer by giving notice as
- 568 provided in Subsection (4)(b)(i) 30 days before an anniversary date.
- 569 (4)(a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the
- 570 policy renewed:
- 571 (i) on the terms then being applied by the insurer to similar risks; and
- 572 (ii)(A) for an additional period of time equivalent to the expiring term if the
- 573 agreed term is one year or less; or
- 574 (B) for one year if the agreed term is longer than one year.

- 575 (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under
 576 Subsection (4)(a) is extinguished if:
- 577 (i) at least 30 days before the day on which the policy expires or completes an
 578 anniversary, the insurer delivers or sends by first-class mail a notice of intention
 579 not to renew the policy beyond the agreed expiration or anniversary date to the
 580 policyholder at the policyholder's last-known address;
- 581 (ii) ~~not~~ no more than 45 ~~nor~~ but no less than 14 days before the day on which the
 582 renewal premium is due, the insurer delivers or sends by first-class mail a notice
 583 to the policyholder at the policyholder's last-known address, clearly stating:
- 584 (A) the renewal premium;
- 585 (B) how the renewal premium may be paid, including the due date for payment of
 586 the renewal premium;
- 587 (C) that failure to pay the renewal premium extinguishes the policyholder's right
 588 to renewal; and
- 589 (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for
 590 nonpayment of premium is effective no sooner than at least 10 days after
 591 delivery or first-class mailing of a written notice to the policyholder that the
 592 policyholder has failed to pay the premium when due;
- 593 (iii) the policyholder has:
- 594 (A) accepted replacement coverage; or
- 595 (B) requested or agreed to nonrenewal; or
- 596 (iv) the policy is expressly designated as nonrenewable.
- 597 (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to
 598 renew an insurance policy as a result of a telephone call or other inquiry that:
- 599 (i) references a policy coverage; and
- 600 (ii) does not result in the insured requesting payment of a claim.
- 601 (d) Failure to renew under this Subsection (4) is subject to Subsection (5).
- 602 (e)(i)(A) If the policy is a personal lines policy, during the period that begins
 603 when an insurer delivers or sends by first-class mail the notice described in
 604 Subsection (4)(b)(ii)(D) and ends when the premium is paid, coverage exists
 605 and premiums are due.
- 606 (B) If the policy is a commercial lines policy, during the period that begins when
 607 an insurer delivers or sends by first-class mail the notice described in
 608 Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and

- 609 premiums are due.
- 610 (ii)(A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal
611 lines policyholder fails to pay the renewal premium, the coverage is
612 extinguished as of the date the renewal premium is originally due.
- 613 (B) If after receiving the notice required under Subsection (2)(c)(iii), a
614 commercial lines policyholder fails to pay the renewal premium within the 10
615 days before the day on which cancellation for nonpayment is effective, the
616 coverage is extinguished as of the day on which the renewal premium is
617 originally due.
- 618 (iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or
619 (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.
- 620 (iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if:
- 621 (A) the insurer provides notice of the extinguishment of the right to renew for
622 failure to pay premium at least 15 days, but no longer than 45 days, before the
623 day on which the renewal payment is due; and
- 624 (B) the policy is a personal lines policy.
- 625 (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30
626 days or less.
- 627 (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal
628 lines insurance policies solely on the basis of:
- 629 (a) in the case of a motor vehicle insurance policy:
- 630 (i) a claim from the insured that:
- 631 (A) results from an accident in which:
- 632 (I) the insured is not at fault; and
- 633 (II) the driver of the motor vehicle that is covered by the motor vehicle
634 insurance policy is 21 years ~~[of age]~~ old or older; and
- 635 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
636 36-month period;
- 637 (ii) a single traffic violation by an insured that:
- 638 (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;
- 639 (B) is not in excess of 10 miles per hour over the speed limit;
- 640 (C) is not a traffic violation under[~~§~~]
- 641 [~~(F)~~] Section 41-6a-601, 41-6a-604, or 41-6a-605;
- 642 [~~(H)~~] Section 41-6a-604; or]

- 643 ~~[(H) Section 41-6a-605;]~~
- 644 (D) is not a violation by an insured driver who is younger than 21 years ~~[of age]~~ old;
- 644a
- 645 and
- 646 (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A)
- 647 through (D) within a 36-month period; or
- 648 (iii) a claim for damage that:
- 649 (A) results solely from~~[:]~~ wind, hail, lightning, or an earthquake;
- 650 ~~[(I) wind;]~~
- 651 ~~[(H) hail;]~~
- 652 ~~[(H) lightning; or]~~
- 653 ~~[(IV) an earthquake;]~~
- 654 (B) is not preventable by the exercise of reasonable care; and
- 655 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)
- 656 within a 36-month period; ~~[and]~~ or
- 657 (b) in the case of a homeowner's insurance policy, a claim by the insured that is for
- 658 damage that:
- 659 (i) results solely from~~[:]~~ wind, hail, or lightning;
- 660 ~~[(A) wind;]~~
- 661 ~~[(B) hail; or]~~
- 662 ~~[(C) lightning;]~~
- 663 (ii) is not preventable by the exercise of reasonable care; and
- 664 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
- 665 36-month period.
- 666 (6)(a)(i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the
- 667 policy, but on less favorable terms or at higher rates, the new terms or rates take
- 668 effect on the renewal date if the insurer delivered or sent by first-class mail to the
- 669 policyholder notice of the new terms or rates at least 30 days before the day on
- 670 which the previous policy expires.
- 671 (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i)
- 672 to the policyholder, the new terms or rates do not take effect until 30 days after
- 672a the
- 673 day on which the insurer delivers or sends by first-class mail the notice, in which
- 674 case the policyholder may elect to cancel the renewal policy at any time during the

- 675 30-day period.
- 676 (iii) Return premiums or additional premium charges shall be calculated
677 proportionately on the basis that the old rates apply.
- 678 (b) Except as provided in Subsection (6)(c), Subsection (6)(a) does not apply if the only
679 change in terms that is adverse to the policyholder is:
- 680 (i) a rate increase generally applicable to the class of business to which the policy
681 belongs;
- 682 (ii) a rate increase resulting from a classification change based on the altered nature
683 or extent of the risk insured against; or
- 684 (iii) a policy form change made to make the form consistent with Utah law.
- 685 (c) Subsections (6)(b)(i) and (ii) do not apply to a rate increase of 25% or more on a
686 commercial policy.
- 687 (7)(a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state
688 with reasonable precision the facts on which the insurer's decision is based, the
689 insurer shall send by first-class mail or deliver that information within 10 working
690 days [~~after receipt of~~] after the day on which the insurer receives a written request by
691 the policyholder.
- 692 (b) A notice under Subsection (2)(c) is not effective unless [it] the notice contains
693 information about the policyholder's right to make the request.
- 694 (8)(a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a
695 motor vehicle insurance policy issued in accordance with the requirements of Chapter
696 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide
697 notice of nonrenewal or cancellation to a lienholder if the insurer has been provided
698 the name and mailing address of the lienholder.
- 699 (b) An insurer shall provide the notice described in Subsection (8)(a) to the lienholder by
700 first-class mail or, if agreed by the parties, any electronic means of communication.
- 701 (c) A lienholder shall provide a current physical address of notification or an electronic
702 address of notification to an insurer that is required to make a notification under
703 Subsection (8)(a).
- 704 (9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided
705 by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal
706 required under Subsection (2)(c) or (4)(b)(i) may not be effective unless the notice
707 contains instructions to the policyholder for applying for insurance through the available
708 risk-sharing plan.

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

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

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

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

720 (i) the United States Postal Service;

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

723 (iii) electronic means; and

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

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

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

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

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

733 **31A-22-407 . Reinstatement.**

734 (1)(a) Except as provided under Subsection (2), [~~life insurance policies, other than~~
 735 ~~group policies,~~] an individual life insurance policy shall be reinstated upon written
 736 application made within three years, or within two years in the case of [~~policies~~] an
 737 individual life insurance policy with [~~face amounts~~] a face amount under \$5,000, from
 738 the date of premium default.

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

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

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

742 (iii) pay or reinstate any other indebtedness to the insurer upon the policy, all with

743 interest[-] ;
 744 (A) compounded annually, at a rate not exceeding the rate set by the policy for
 745 policy loans compounded annually[-] ; or
 746 (B) [~~H~~] if no rate is set in the policy, the commissioner shall adopt a rule [~~which~~]
 747 that sets the rate the same as under Section 31A-22-402.

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

- 749 (a) [~~The~~] the policy has been surrendered for its cash surrender value[-] ;
 750 (b) [~~The~~] the policy's cash surrender value has been exhausted[-] ; or
 751 (c) [~~The~~] the paid-up term insurance, if any, has expired.

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

753 **31A-22-509 . Commissioner's authority to approve other groups.**

754 (1) A policy may be issued to a group other than those specified under Sections [
 755 ~~31A-22-502~~] 31A-22-501 through 31A-22-508, if specifically authorized by the
 756 commissioner and if granting the permission is not contrary to public policy.[-]

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

- 760 (i) be actuarially sound[-] ;
 761 (ii) [~~would~~] result in economies of acquisition and administration [~~which~~] that justify
 762 a group rate[-] ; and [~~would~~]
 763 (iii) not present hazards of adverse selection.

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

- 766 (i) the policyholder;
 767 (ii) [~~by~~] the covered [~~persons,~~] person; or [~~from both.~~]
 768 (iii) both the policyholder and the covered person.

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

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

772 **31A-22-511 . Dependents' coverage.**

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

- 777 employee or member against loss due to death.
- 778 (2) The policyholder shall pay the premiums for the insurance [~~shall be paid by the~~
 779 ~~policyholder~~] from funds contributed by [~~the person to whom the policy has been issued,~~
 780 ~~from funds contributed by the covered persons, or from both.~~] :
- 781 (a) the policyholder;
- 782 (b) the covered person; or
- 783 (c) both the policyholder and the covered person.
- 784 (3) Except as provided under Section 31A-22-512, a policy on which no part of the
 785 premium for the [~~dependent's~~] dependent coverage is contributed by the covered [~~persons~~]
 786 person shall insure [~~all insured persons~~] each eligible person, including [~~their spouses~~]
 787 the covered person's spouse and dependent or minor children.

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

789 **31A-22-512 . Individual insurability.**

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

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

798 **31A-22-514 . Incontestability.**

- 799 (1) [~~The~~] A group life insurance policy shall contain a provision that the validity of the
 800 policy may not be contested, except for nonpayment of premiums, after [~~it~~] the policy
 801 has been in force for two years from its date of issue.
- 802 (2) [~~This~~] The provision described in Subsection (1) shall [~~also~~] state that no statement made
 803 by [~~any~~] a person insured under the policy relating to [~~his~~] the person's insurability may
 804 be used:
- 805 (a) in contesting the validity of the insurance with respect to which the statement was
 806 made after the insurance has been in force, prior to the contest, for a period of two
 807 years during the person's lifetime [~~, nor may the statement be used~~] ; or
- 808 (b) unless [~~it~~] the statement is [~~contained in a written instrument signed by him.~~] in
 809 writing and signed by the person.
- 810 (3) [~~This type of provision does not preclude~~] Nothing in this section precludes the assertion

811 of defenses based upon provisions in the policy which relate to eligibility for coverage.

812 Section 14. Section **31A-22-605.1** is amended to read:

813 **31A-22-605.1 . Preexisting condition limitations.**

814 (1) Any provision dealing with preexisting conditions shall be consistent with this section,
815 Section 31A-22-609, and rules adopted by the commissioner.

816 (2) Except as provided in this section, an insurer that elects to use an application form
817 without questions concerning the insured's health or medical treatment history shall
818 provide coverage under the policy for any loss [~~which~~] that occurs more than 12 months
819 after the effective date of coverage due to a preexisting condition [~~which~~] that is not
820 specifically excluded from coverage.

821 (3)(a) An insurer that issues a specified disease policy may not deny a claim for loss
822 due to a preexisting condition that occurs more than six months after the effective
823 date of coverage.

824 (b) A specified disease policy may impose a preexisting condition exclusion only if the
825 exclusion relates to a preexisting condition [~~which~~] that first manifested itself within
826 six months prior to the effective date of coverage or [~~which~~] that was diagnosed by a
827 physician at any time [~~prior to~~] before the effective date of coverage.

828 (4)(a) Except as otherwise provided in this section, a health benefit plan may impose a
829 preexisting condition exclusion only if:

830 (i) the exclusion relates to a preexisting condition for which medical advice,
831 diagnosis, care, or treatment was recommended or received within the six-month
832 period ending on the enrollment date from an individual licensed or similarly
833 authorized to provide those services under state law and operating within the
834 scope of practice authorized by state law;

835 (ii) the exclusion period ends no later than 12 months after the enrollment date, or in
836 the case of a late enrollee, 18 months after the enrollment date; and

837 (iii) the exclusion period is reduced by the number of days of creditable coverage the
838 enrollee has as of the enrollment date, in accordance with Subsection (4)(b).

839 (b)(i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is
840 determined by counting all the days on which the individual has one or more types
841 of creditable coverage.

842 (ii) Days of creditable coverage that occur before a significant break in coverage are
843 not required to be counted.

844 (A) Days in a waiting period or affiliation period [~~are~~] may not be taken into

845 account in determining whether a significant break in coverage has occurred.

846 (B) For an individual who elects federal COBRA continuation coverage during
847 the second election period provided under the federal Trade Act of 2002, the
848 days between the [date] day on which the individual lost group health plan
849 coverage and the first day of the second COBRA election period are not taken
850 into account in determining whether a significant break in coverage has
851 occurred.

852 (c) A group health benefit plan may not impose a preexisting condition exclusion
853 relating to pregnancy.

854 (d)(i) An insurer imposing a preexisting condition exclusion shall provide a written
855 general notice of preexisting condition exclusion as part of any written application
856 materials.

857 (ii) The general notice under this subsection shall include:

858 (A) a description of the existence and terms of any preexisting condition exclusion
859 under the plan, including the six-month period ending on the enrollment date,
860 the maximum preexisting condition exclusion period, and how the insurer will
861 reduce the maximum preexisting condition exclusion period by creditable
862 coverage;

863 (B) a description of the rights of individuals:

864 (I) to demonstrate creditable coverage, including any applicable waiting
865 periods, through a certificate of creditable coverage or through other means;
866 and

867 (II) to request a certificate of creditable coverage from a prior plan;

868 (C) a statement that the current plan will assist in obtaining a certificate of
869 creditable coverage from any prior plan or issuer if necessary; and

870 (D) a person to contact, and an address and telephone number for the person, for
871 obtaining additional information or assistance regarding the preexisting
872 condition exclusion.

873 (e) An insurer may not impose any limit on the amount of time that an individual has to
874 present a certificate or other evidence of creditable coverage.

875 (f) This Subsection (4) does not preclude application of any waiting period applicable to
876 all new enrollees under the plan.

877 (5)(a) If a short-term limited duration health insurance policy provides for an extension
878 or renewal of the policy, the insurer may not exclude coverage for a loss due to a

879 preexisting condition [~~for a period greater than 12 months~~] following the original
 880 effective date of the coverage, unless the insurer specifically and expressly excludes
 881 the preexisting condition in the terms of the policy or certificate.

882 (b)(i) An insurer that includes a preexisting condition exclusion in a short-term
 883 limited duration health insurance policy in accordance with this subsection shall
 884 provide a written general notice of the preexisting condition exclusion as part of
 885 any written application materials.

886 (ii) A written general notice described in [~~this subsection~~] Subsection (5)(b)(i) shall[~~:~~]
 887 [(A)] include a description of the existence and terms of any preexisting condition
 888 exclusion under the policy, including the maximum preexisting exclusion
 889 period[~~; and~~] .

890 [(B) state that the exclusion period ends no later than 12 months after the original
 891 effective date of the coverage.]

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

893 **31A-22-701 . Groups eligible for group or blanket insurance.**

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

895 (a) a group:

896 (i) to which a group life insurance policy may be issued under Section 31A-22-502,
 897 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, [~~or~~]31A-22-507,
 898 31A-22-508, or 31A-22-509; and

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

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

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

903 (ii) the group is actuarially sound;

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

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

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

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

912 (vii) the group is formed and maintained in good faith for a purpose other than

- 913 obtaining insurance; or
- 914 (c) a postsecondary educational institution covering students, upon a finding that:
- 915 (i) the policy provides standards for financial soundness;
- 916 (ii) the policy protects the students covered;
- 917 (iii) the policy provides for the establishment of a financially viable alternative to
- 918 traditional health care plans;
- 919 (iv) authorization is not contrary to the public interest;
- 920 (v) the policy would not present hazards of adverse selection; and
- 921 (vi) the premiums for the policy and any contributions by or on behalf of the insured
- 922 persons are reasonable in relation to the benefits provided.
- 923 (2) A blanket insurance policy offering accident and health insurance:
- 924 (a) covers a defined class of persons;
- 925 (b) may not be offered or underwritten on an individual basis;
- 926 (c) shall cover only a group that is:
- 927 (i) actuarially sound; and
- 928 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
- 929 and
- 930 (d) may be issued only to:
- 931 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 932 policyholder, covering persons who may become passengers as defined by
- 933 reference to the person's travel status;
- 934 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 935 guests, as defined by reference to specified hazards incident to any activities of the
- 936 policyholder;
- 937 (iii) an institution of learning, including a school district, a school jurisdictional unit,
- 938 or the head, principal, or governing board of a school jurisdictional unit, as
- 939 policyholder, covering students, teachers, or employees;
- 940 (iv) a religious, charitable, recreational, educational, or civic organization, or branch
- 941 of one of those organizations, as policyholder, covering a group of members or
- 942 participants as defined by reference to specified hazards incident to the activities
- 943 sponsored or supervised by the policyholder;
- 944 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder,
- 945 covering members, campers, employees, officials, or supervisors;
- 946 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer

- 947 organization, as policyholder, covering a group of members or participants as
 948 defined by reference to specified hazards incident to activities sponsored,
 949 supervised, or participated in by the policyholder;
- 950 (vii) a newspaper or other publisher, as policyholder, covering [its] a newspaper's or
 951 publisher's carriers;
- 952 (viii) a labor union, as a policyholder, covering a group of members or participants as
 953 defined by reference to specified hazards incident to the activities or operations
 954 sponsored or supervised by the policyholder;
- 955 (ix) an association that has a constitution and bylaws covering a group of members or
 956 participants as defined by reference to specified hazards incident to the activities
 957 or operations sponsored or supervised by the policyholder; or
- 958 (x) any other class of risks that, in the judgment of the commissioner, may be
 959 properly eligible for a blanket insurance policy offering accident and health
 960 insurance.

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

- 962 (a) individual risks;
- 963 (b) a class of risks; or
- 964 (c) both risks described in Subsections(3)(a) and (b).

965 (4) A group insurance policy offering accident and health insurance issued to a group
 966 authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section
 967 31A-22-602.

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

969 **31A-23a-105 . General requirements for individual and agency license issuance**
 970 **and renewal.**

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

- 973 (i) a producer;
- 974 (ii) a surplus lines producer;
- 975 (iii) a limited line producer;
- 976 (iv) a consultant;
- 977 (v) a managing general agent; or
- 978 (vi) a reinsurance intermediary.

979 (b) The commissioner shall issue or renew a license [~~under~~] described in Subsection
 980 (1)(a) to a person who, as to the license type and line of authority classification

- 981 applied for under Section 31A-23a-106:
- 982 (i) satisfies the application requirements under Section 31A-23a-104;
- 983 (ii) satisfies the character requirements under Section 31A-23a-107;
- 984 (iii) satisfies applicable continuing education requirements under Section
- 985 31A-23a-202;
- 986 (iv) satisfies applicable examination requirements under Section 31A-23a-108;
- 987 (v) satisfies applicable training period requirements under Section 31A-23a-203;
- 988 (vi) if an applicant for a resident individual producer license, certifies that, to the
- 989 extent applicable, the applicant:
- 990 (A) is in compliance with Section 31A-23a-203.5; and
- 991 (B) will maintain compliance with Section 31A-23a-203.5 during the period for
- 992 which the license is issued or renewed;
- 993 (vii) has not committed an act that is a ground for denial, suspension, or revocation as
- 994 provided in Section 31A-23a-111;
- 995 (viii) if a nonresident:
- 996 (A) complies with Section 31A-23a-109; and
- 997 (B) holds an active similar license in that person's home state;
- 998 (ix) if an applicant for an individual title insurance producer or agency title insurance
- 999 producer license, satisfies the requirements of Section 31A-23a-204;
- 1000 (x) if an applicant for a license to act as a life settlement provider or life settlement
- 1001 producer, satisfies the requirements of Section 31A-23a-117; and
- 1002 (xi) pays the applicable fees under Section 31A-3-103.
- 1003 (2)(a) This Subsection (2) applies to the following persons:
- 1004 (i) an applicant for a pending:
- 1005 (A) individual or agency producer license;
- 1006 (B) surplus lines producer license;
- 1007 (C) limited line producer license;
- 1008 (D) consultant license;
- 1009 (E) managing general agent license; or
- 1010 (F) reinsurance intermediary license; or
- 1011 (ii) a licensed:
- 1012 (A) individual or agency producer;
- 1013 (B) surplus lines producer;
- 1014 (C) limited line producer;

- 1015 (D) consultant;
- 1016 (E) managing general agent; or
- 1017 (F) reinsurance intermediary.
- 1018 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 1019 (i) an administrative action taken against the person, including a denial of a new or
- 1020 renewal license application:
- 1021 (A) in another jurisdiction; or
- 1022 (B) by another regulatory agency in this state;
- 1023 (ii) a criminal prosecution taken against the person in any jurisdiction; and
- 1024 (iii) a civil action filed against the person in any jurisdiction if the action involves
- 1025 conduct related to a professional or occupational license, certification,
- 1026 authorization, or registration, regardless of whether the person held the license,
- 1027 certification, authorization, or registration.
- 1028 (c) The report required by Subsection (2)(b) shall:
- 1029 (i) be filed:
- 1030 (A) at the time the person files the application for an individual or agency license;
- 1031 and
- 1032 (B) for an action or prosecution that occurs on or after the day on which the
- 1033 person files the application:
- 1034 (I) for an administrative action, within 30 days of the final disposition of the
- 1035 administrative action; or
- 1036 (II) for a criminal prosecution or civil action, within 30 days of the initial
- 1037 appearance before a court; and
- 1038 (ii) include a copy of the complaint or other relevant legal documents related to the
- 1039 action or prosecution described in Subsection (2)(b).
- 1040 (3)(a) The department may require ~~a person~~ an individual applying for a license or for
- 1041 consent to engage in the business of insurance to submit to a criminal background
- 1042 check as a condition of receiving a license or consent.
- 1043 (b) A person, if required to submit to a criminal background check under Subsection
- 1044 (3)(a), shall:
- 1045 (i) submit a fingerprint card in a form acceptable to the department; and
- 1046 (ii) consent to a fingerprint background check by:
- 1047 (A) the Utah Bureau of Criminal Identification; and
- 1048 (B) the Federal Bureau of Investigation.

- 1049 (c) For ~~[a person]~~ an individual who submits a fingerprint card and consents to a
1050 fingerprint background check under Subsection (3)(b), the department may request:
- 1051 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
1052 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification;
1053 and
- 1054 (ii) complete Federal Bureau of Investigation criminal background checks through
1055 the national criminal history system.
- 1056 (d) ~~[Information]~~ The department shall use information obtained by the department from
1057 the review of criminal history records received under this Subsection (3) ~~[shall be
1058 used by the department]~~ for the purposes of:
- 1059 (i) determining if ~~[a person]~~ an individual satisfies the character requirements under
1060 Section 31A-23a-107 for issuance or renewal of a license;
- 1061 (ii) determining if ~~[a person]~~ an individual has failed to maintain the character
1062 requirements under Section 31A-23a-107; and
- 1063 (iii) preventing ~~[a person]~~ an individual who violates the federal Violent Crime
1064 Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging
1065 in the business of insurance in the state.
- 1066 (e) If the department requests the criminal background information, the department shall:
- 1067 (i) pay to the Department of Public Safety the costs incurred by the Department of
1068 Public Safety in providing the department criminal background information under
1069 Subsection (3)(c)(i);
- 1070 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal
1071 Bureau of Investigation in providing the department criminal background
1072 information under Subsection (3)(c)(ii); and
- 1073 (iii) charge the ~~[person]~~ individual applying for a license or for consent to engage in
1074 the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and
1075 (ii).
- 1076 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this section,
1077 a person licensed as one of the following in another state who moves to this state shall
1078 apply within 90 days of establishing legal residence in this state:
- 1079 (a) insurance producer;
- 1080 (b) surplus lines producer;
- 1081 (c) limited line producer;
- 1082 (d) consultant;

- 1083 (e) managing general agent; or
 1084 (f) reinsurance intermediary.
- 1085 (5)(a) The commissioner may deny a license application for a license listed in
 1086 Subsection (5)(b) if the person applying for the license, as to the license type and line
 1087 of authority classification applied for under Section 31A-23a-106:
 1088 (i) fails to satisfy the requirements as set forth in this section; or
 1089 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in
 1090 Section 31A-23a-111.
- 1091 (b) This Subsection (5) applies to the following licenses:
 1092 (i) producer;
 1093 (ii) surplus lines producer;
 1094 (iii) limited line producer;
 1095 (iv) consultant;
 1096 (v) managing general agent; or
 1097 (vi) reinsurance intermediary.
- 1098 [~~(6) Notwithstanding the other provisions of this section, the commissioner may:]~~
 1099 [~~(a) issue a license to an applicant for a license for a title insurance line of authority only~~
 1100 [~~with the concurrence of the Title and Escrow Commission; and]~~
 1101 [~~(b) renew a license for a title insurance line of authority only with the concurrence of the~~
 1102 [~~Title and Escrow Commission.]~~
- 1103 Section 17. Section **31A-23a-109** is amended to read:
 1104 **31A-23a-109 . Nonresident jurisdictional agreement.**
- 1105 (1)(a) If a nonresident license applicant has a valid producer, surplus lines producer,
 1106 limited line producer, consultant, managing general agent, or reinsurance
 1107 intermediary license from the nonresident license applicant's home state or
 1108 designated home state and the conditions of Subsection (1)(b) are met, the
 1109 commissioner shall:
 1110 (i) waive the license requirements for a license under this [~~chapter~~] section; and
 1111 (ii) issue the nonresident license applicant a nonresident license.
- 1112 (b) Subsection (1)(a) applies if:
 1113 (i) the nonresident license applicant:
 1114 (A) is licensed in the nonresident license applicant's home state or designated
 1115 home state at the time the nonresident license applicant applies for a
 1116 nonresident producer, surplus lines producer, limited line producer, consultant,

1117 managing general agent, or reinsurance intermediary license;
 1118 (B) has submitted the proper request for licensure;
 1119 (C) has submitted to the commissioner:
 1120 (I) the application for licensure that the nonresident license applicant submitted
 1121 to the applicant's home state or designated home state; or
 1122 (II) a completed uniform application; and
 1123 (D) has paid the applicable fees under Section 31A-3-103; and
 1124 (ii) the nonresident license applicant's license in the applicant's home state or
 1125 designated home state is in good standing.

1126 (2) A nonresident applicant applying under Subsection (1) shall in addition to complying
 1127 with all license requirements for a license under this chapter execute, in a form
 1128 acceptable to the commissioner, an agreement to be subject to the jurisdiction of the
 1129 Utah commissioner and courts on any matter related to the applicant's insurance
 1130 activities in this state, on the basis of:

1131 (a) service of process under Sections 31A-2-309 and 31A-2-310; or

1132 (b) service authorized:

1133 (i) in the Utah Rules of Civil Procedure; or

1134 (ii) under Section 78B-3-206.

1135 (3) The commissioner may verify a producer's licensing status through the producer
 1136 database maintained by:

1137 (a) the National Association of Insurance Commissioners; or

1138 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

1139 (4) The commissioner may not assess a greater fee for an insurance license or related
 1140 service to a person not residing in this state solely on the fact that the person does not
 1141 reside in this state.

1142 Section 18. Section **31A-23a-111** is amended to read:

1143 **31A-23a-111 . Revoking, suspending, surrendering, lapsing, limiting, or**
 1144 **otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

1145 (1) A license type issued under this chapter remains in force until:

1146 (a) revoked or suspended under Subsection (5);

1147 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
 1148 administrative action;

1149 (c) the licensee dies or is adjudicated incompetent as defined under:

1150 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

- 1151 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
1152 Minors;
- 1153 (d) lapsed under Section 31A-23a-113; or
1154 (e) voluntarily surrendered.
- 1155 (2) The following may be reinstated within one year after the day on which the license is no
1156 longer in force:
- 1157 (a) a lapsed license; or
1158 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
1159 not be reinstated after the license period in which the license is voluntarily
1160 surrendered.
- 1161 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license,
1162 submission and acceptance of a voluntary surrender of a license does not prevent the
1163 department from pursuing additional disciplinary or other action authorized under:
- 1164 (a) this title; or
1165 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
1166 Administrative Rulemaking Act.
- 1167 (4) A line of authority issued under this chapter remains in force until:
- 1168 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
1169 (b) the supporting license type:
- 1170 (i) is revoked or suspended under Subsection (5);
1171 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
1172 administrative action;
- 1173 (iii) lapses under Section 31A-23a-113; or
1174 (iv) is voluntarily surrendered; or
- 1175 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1176 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
1177 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
1178 Minors.
- 1179 (5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an
1180 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act,
1181 the commissioner may:
- 1182 (i) revoke:
- 1183 (A) a license; or
1184 (B) a line of authority;

- 1185 (ii) suspend for a specified period of 12 months or less:
- 1186 (A) a license; or
- 1187 (B) a line of authority;
- 1188 (iii) limit in whole or in part:
- 1189 (A) a license; or
- 1190 (B) a line of authority;
- 1191 (iv) deny a license application;
- 1192 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 1193 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and
- 1194 Subsection (5)(a)(v).
- 1195 (b) The commissioner may take an action described in Subsection (5)(a) if the
- 1196 commissioner finds that the licensee or license applicant:
- 1197 (i) is unqualified for a license or line of authority under Section 31A-23a-104,
- 1198 31A-23a-105, or 31A-23a-107;
- 1199 (ii) violates:
- 1200 (A) an insurance statute;
- 1201 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 1202 (C) an order that is valid under Subsection 31A-2-201(4);
- 1203 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or
- 1204 other delinquency proceedings in any state;
- 1205 (iv) is more than 60 days past due on ~~[an enforceable]~~ a final judgment;
- 1206 (v) fails to meet the same good faith obligations in claims settlement that is required
- 1207 of admitted insurers;
- 1208 (vi) is affiliated with and under the same general management or interlocking
- 1209 directorate or ownership as another insurance producer that transacts business in
- 1210 this state without a license;
- 1211 (vii) refuses:
- 1212 (A) to be examined; or
- 1213 (B) to produce ~~[its]~~ the licensee's or license applicant's accounts, records, and files
- 1214 for examination;
- 1215 (viii) has an officer who refuses to:
- 1216 (A) give information with respect to the insurance producer's affairs; or
- 1217 (B) perform any other legal obligation as to an examination;
- 1218 (ix) provides information in the license application that is:

- 1219 (A) incorrect;
- 1220 (B) misleading;
- 1221 (C) incomplete; or
- 1222 (D) materially untrue;
- 1223 (x) violates an insurance law, valid rule, or valid order of another regulatory agency
- 1224 in any jurisdiction;
- 1225 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 1226 (xii) improperly withholds, misappropriates, or converts money or properties
- 1227 received in the course of doing insurance business;
- 1228 (xiii) intentionally misrepresents the terms of an actual or proposed:
- 1229 (A) insurance contract;
- 1230 (B) application for insurance; or
- 1231 (C) life settlement;
- 1232 (xiv) has been convicted of, or has entered a plea in abeyance as defined in Section
- 1233 77-2a-1 to:
- 1234 (A) a felony; or
- 1235 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- 1236 (xv) admits or is found to have committed an [~~insurance~~]unfair trade practice or
- 1237 fraud;
- 1238 (xvi) in the conduct of business in this state or elsewhere:
- 1239 (A) uses fraudulent, coercive, or dishonest practices; or
- 1240 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- 1241 (xvii) has had an insurance license or other professional or occupational license, or an
- 1242 equivalent to an insurance license or registration, or other professional or
- 1243 occupational license or registration:
- 1244 (A) denied;
- 1245 (B) suspended;
- 1246 (C) revoked; or
- 1247 (D) surrendered to resolve an administrative action;
- 1248 (xviii) forges another's name to:
- 1249 (A) an application for insurance; or
- 1250 (B) a document related to an insurance transaction;
- 1251 (xix) improperly uses notes or another reference material to complete an examination
- 1252 for an insurance license;

- 1253 (xx) knowingly accepts insurance business from an individual who is not licensed;
- 1254 (xxi) fails to comply with an administrative or court order imposing a child support
- 1255 obligation;
- 1256 (xxii) fails to[:]
- 1257 [~~(A) pay state income tax; or~~]
- 1258 [~~(B)~~] comply with an administrative or court order directing payment of state
- 1259 income tax;
- 1260 (xxiii) has been convicted of violating the federal Violent Crime Control and Law
- 1261 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written
- 1262 consent to engage in the business of insurance or participate in such business as
- 1263 required by 18 U.S.C. Sec. 1033;
- 1264 (xxiv) engages in a method or practice in the conduct of business that endangers the
- 1265 legitimate interests of customers and the public; or
- 1266 (xxv) has been convicted of any criminal felony involving dishonesty or breach of
- 1267 trust and has not obtained written consent to engage in the business of insurance
- 1268 or participate in such business as required by 18 U.S.C. Sec. 1033.
- 1269 (c) For purposes of this section, if a license is held by an agency, both the agency itself
- 1270 and any individual designated under the license are considered to be the holders of
- 1271 the license.
- 1272 (d) If an individual designated under the agency license commits an act or fails to
- 1273 perform a duty that is a ground for suspending, revoking, or limiting the individual's
- 1274 license, the commissioner may suspend, revoke, or limit the license of:
- 1275 (i) the individual;
- 1276 (ii) the agency, if the agency:
- 1277 (A) is reckless or negligent in its supervision of the individual; or
- 1278 (B) knowingly participates in the act or failure to act that is the ground for
- 1279 suspending, revoking, or limiting the license; or
- 1280 (iii)(A) the individual; and
- 1281 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 1282 (6) A licensee under this chapter is subject to the penalties for acting as a licensee without a
- 1283 license if:
- 1284 (a) the licensee's license is:
- 1285 (i) revoked;
- 1286 (ii) suspended;

- 1287 (iii) limited;
- 1288 (iv) surrendered in lieu of administrative action;
- 1289 (v) lapsed; or
- 1290 (vi) voluntarily surrendered; and
- 1291 (b) the licensee:
- 1292 (i) continues to act as a licensee; or
- 1293 (ii) violates the terms of the license limitation.
- 1294 (7) A licensee under this chapter shall immediately report to the commissioner:
- 1295 (a) a revocation, suspension, or limitation of the person's license in another state, the
- 1296 District of Columbia, or a territory of the United States;
- 1297 (b) the imposition of a disciplinary sanction imposed on that person by another state, the
- 1298 District of Columbia, or a territory of the United States; or
- 1299 (c) a judgment or injunction entered against that person on the basis of conduct
- 1300 involving:
- 1301 (i) fraud;
- 1302 (ii) deceit;
- 1303 (iii) misrepresentation; [~~or~~]
- 1304 (iv) a violation of an insurance law or rule[-:]; or
- 1305 (v) payment of money.
- 1306 (8)(a) An order revoking a license under Subsection (5) or an agreement to surrender a
- 1307 license in lieu of administrative action may specify a time, not to exceed five years,
- 1308 within which the former licensee may not apply for a new license.
- 1309 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the
- 1310 former licensee may not apply for a new license for five years from the day on which
- 1311 the order or agreement is made without the express approval by the commissioner.
- 1312 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a
- 1313 license issued under this part if[-~~so~~] ordered by a court.
- 1314 (10) The commissioner shall [~~by rule prescribe~~] provide the license renewal and
- 1315 reinstatement procedures by rule made in accordance with Title 63G, Chapter 3, Utah
- 1316 Administrative Rulemaking Act.
- 1317 Section 19. Section **31A-23a-119** is amended to read:
- 1318 **31A-23a-119 . Special requirements for agency title insurance producers.**
- 1319 (1) As used in this section:
- 1320 (a) "Applicable percentage" means:

- 1321 (i) on [February] January 1, 2024, through [January] December 31, 2025, 2.5%;
- 1322 (ii) on [February] January 1, 2025, through [January] December 31, 2026, 3%;
- 1323 (iii) on [February] January 1, 2026, through [January] December 31, 2027, 3.5%;
- 1324 (iv) on [February] January 1, 2027, through [January] December 31, 2028, 4%; and
- 1325 (v) on [February] January 1, 2028, through [January] December 31, 2029, 4.5%.
- 1326 (b) "Sufficient capital and net worth" means:
- 1327 (i) for a new title entity:
- 1328 (A) \$100,000 for the first five years after becoming a new agency title insurance
- 1329 producer; or
- 1330 (B) after the first five years after becoming a new agency title insurance producer,
- 1331 the greater of \$50,000, or on [February] January 1 of each year, an amount
- 1332 equal to 5% of the title entity's average annual gross revenue over the
- 1333 preceding two calendar years, up to \$150,000; or
- 1334 (ii) for a title entity licensed before May 14, 2019:
- 1335 (A) for the time period beginning on [February] January 1, 2020, and ending on [
- 1336 January December 31, 2029, the lesser of an amount equal to the applicable
- 1337 percentage of the title entity's average annual gross revenue over the two
- 1338 calendar years immediately preceding the [February] January 1 on which the
- 1339 applicable percentage applies or \$150,000; and
- 1340 (B) beginning on [February] January 1, 2029, the greater of \$50,000 or an amount
- 1341 equal to 5% of the title entity's average annual gross revenue over the
- 1342 preceding two calendar years, up to \$150,000.
- 1343 (2) Before May 1 of each year, each agency title insurance producer shall submit a report to
- 1344 the commissioner containing proof satisfactory to the commissioner that the agency title
- 1345 insurance producer had sufficient capital and net worth for the preceding calendar year.
- 1346 Section 20. Section **31A-23a-415** is amended to read:
- 1347 **31A-23a-415 . Assessment on agency title insurance producers or title insurers --**
- 1348 **Account created.**
- 1349 (1) For purposes of this section:
- 1350 (a) "Premium" is as described in Subsection 59-9-101(3).
- 1351 (b) "Title insurer" means a person:
- 1352 (i) making any contract or policy of title insurance as:
- 1353 (A) insurer;
- 1354 (B) guarantor; or

- 1355 (C) surety;
- 1356 (ii) proposing to make any contract or policy of title insurance as:
- 1357 (A) insurer;
- 1358 (B) guarantor; or
- 1359 (C) surety; or
- 1360 (iii) transacting or proposing to transact any phase of title insurance, including:
- 1361 (A) soliciting;
- 1362 (B) negotiating preliminary to execution;
- 1363 (C) executing of a contract of title insurance;
- 1364 (D) insuring; and
- 1365 (E) transacting matters subsequent to the execution of the contract and arising out
- 1366 of the contract.
- 1367 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or
- 1368 personal property located in Utah, an owner of real or personal property, the holders
- 1369 of liens or encumbrances on that property, or others interested in the property against
- 1370 loss or damage suffered by reason of:
- 1371 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the
- 1372 property; or
- 1373 (ii) invalidity or unenforceability of any liens or encumbrances on the property.
- 1374 (2)(a) The commissioner may assess each title insurer, each individual title insurance
- 1375 producer who is not an employee of a title insurer or who is not designated by an
- 1376 agency title insurance producer, and each agency title insurance producer an annual
- 1377 assessment:
- 1378 [~~(i) determined by the Title and Escrow Commission;~~
- 1379 [~~(A) after consultation with the commissioner; and~~
- 1380 [~~(B)~~] (i) in accordance with this Subsection (2); and
- 1381 (ii) to be used for the purposes described in Subsection (3).
- 1382 (b) An agency title insurance producer and individual title insurance producer who is not
- 1383 an employee of a title insurer or who is not designated by an agency title insurance
- 1384 producer shall be assessed up to:
- 1385 (i) \$250 for the first office in each county in which the agency title insurance
- 1386 producer or individual title insurance producer maintains an office; and
- 1387 (ii) \$150 for each additional office the agency title insurance producer or individual
- 1388 title insurance producer maintains in the county described in Subsection (2)(b)(i).

- 1389 (c) A title insurer shall be assessed up to:
- 1390 (i) \$250 for the first office in each county in which the title insurer maintains an
- 1391 office;
- 1392 (ii) \$150 for each additional office the title insurer maintains in the county described
- 1393 in Subsection (2)(c)(i); and
- 1394 (iii) an amount calculated by:
- 1395 (A) aggregating the assessments imposed on:
- 1396 (I) agency title insurance producers and individual title insurance producers
- 1397 under Subsection (2)(b); and
- 1398 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);
- 1399 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the
- 1400 total costs and expenses determined under Subsection (2)(d); and
- 1401 (C) multiplying:
- 1402 (I) the amount calculated under Subsection (2)(c)(iii)(B); and
- 1403 (II) the percentage of total premiums for title insurance on Utah risk that are
- 1404 premiums of the title insurer.
- 1405 (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the
- 1406 first quarter of each fiscal year the Title and Escrow Commission shall approve the
- 1407 amount of costs and expenses described under Subsection (3) for the prior fiscal year
- 1408 that will be covered by the assessment.
- 1409 (e)(i) An individual licensed to practice law in Utah is exempt from the requirements
- 1410 of this Subsection (2) if that person issues 12 or less policies during a 12-month
- 1411 period.
- 1412 (ii) In determining the number of policies issued by an individual licensed to practice
- 1413 law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to
- 1414 more than one party to the same closing, the individual is considered to have
- 1415 issued only one policy.
- 1416 (3)(a) Money received by the state under this section shall be deposited into the Title
- 1417 Licensee Enforcement Restricted Account.
- 1418 (b) There is created in the General Fund a restricted account known as the "Title
- 1419 Licensee Enforcement Restricted Account."
- 1420 (c) The Title Licensee Enforcement Restricted Account shall consist of the money
- 1421 received by the state under this section.
- 1422 (d) The commissioner shall administer the Title Licensee Enforcement Restricted

1423 Account. Subject to appropriations by the Legislature, the commissioner shall use
 1424 the money deposited into the Title Licensee Enforcement Restricted Account only to
 1425 pay for a cost or expense incurred by the department in the administration,
 1426 investigation, and enforcement of laws governing individual title insurance
 1427 producers, agency title insurance producers, or title insurers.

1428 (e) An appropriation from the Title Licensee Enforcement Restricted Account is
 1429 nonlapsing.

1430 (4) The assessment imposed by this section shall be in addition to any premium assessment
 1431 imposed under Subsection 59-9-101(3).

1432 Section 21. Section **31A-26-202** is amended to read:

1433 **31A-26-202 . Application for license.**

1434 (1)(a) The application for a license as an independent adjuster or public adjuster shall be:

1435 (i) made to the commissioner on forms and in a manner the commissioner [~~prescribes~~]
 1436 requires; and

1437 (ii) except as provided in Subsection (4), accompanied by the applicable fee, which is
 1438 not refunded if the application is denied.

1439 (b) The application shall provide:

1440 (i) information about the applicant's identity, including:

1441 (A) the applicant's:

1442 (I) Social Security number; or

1443 (II) federal employer identification number;

1444 (B) the applicant's personal history, experience, education, and business record;

1445 (C) if the applicant is a natural person, whether the applicant is 18 years [~~of age~~]
 1446 old or older; and

1447 (D) whether the applicant has committed an act that is a ground for denial,
 1448 suspension, or revocation as set forth in Section [~~31A-25-208~~] 31A-26-213; and

1449 (ii) any other information as the commissioner reasonably requires.

1450 (2) The commissioner may require documents reasonably necessary to verify the
 1451 information contained in the application.

1452 (3) An applicant's Social Security number contained in an application filed under this
 1453 section is a private record under Section 63G-2-302.

1454 (4) The following individuals are exempt from paying a license fee:

1455 (a) an individual serving in the armed forces of the United States while the individual is
 1456 stationed within this state, if:

- 1457 (i) the individual holds a valid license to practice the regulated occupation or
 1458 profession issued by any other state or jurisdiction recognized by the department;
 1459 and
 1460 (ii) the license is current and the individual is in good standing in the state or
 1461 jurisdiction of licensure; and
 1462 (b) the spouse of an individual serving in the armed forces of the United States while the
 1463 individual is stationed within this state, if:
 1464 (i) the spouse holds a valid license to practice the regulated occupation or profession
 1465 issued by any other state or jurisdiction recognized by the department; and
 1466 (ii) the license is current and the spouse is in good standing in the state or jurisdiction
 1467 of licensure.

1468 Section 22. Section **31A-37-102** is amended to read:

1469 **31A-37-102 . Definitions.**

1470 As used in this chapter:

- 1471 (1)(a) "Affiliated company" means a business entity that because of common
 1472 ownership, control, operation, or management is in the same corporate or limited
 1473 liability company system as:
 1474 (i) a parent;
 1475 (ii) an industrial insured; or
 1476 (iii) a member organization.
 1477 (b) "Affiliated company" does not include a business entity for which the commissioner
 1478 issues an order finding that the business entity is not an affiliated company.
 1479 (2) "Alien captive insurance company" means an insurer:
 1480 (a) formed to write insurance business for a parent or affiliate of the insurer; and
 1481 (b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory
 1482 or regulatory standards:
 1483 (i) on a business entity transacting the business of insurance in the alien or foreign
 1484 jurisdiction; and
 1485 (ii) in a form acceptable to the commissioner.
 1486 (3) "Applicant captive insurance company" means an entity that has submitted an
 1487 application for a certificate of authority for a captive insurance company, unless the
 1488 application has been denied or withdrawn.
 1489 (4) "Association" means a legal association of two or more persons that meets the following
 1490 requirements:

- 1491 (a) the persons are exposed to similar or related liability because of related, similar, or
1492 common business trade, products, services, premises, or operations; and
- 1493 (b)(i) the association or the association's member organizations:
- 1494 (A) own, control, or hold [~~with~~] power to vote all of the outstanding voting
1495 securities of an association captive insurance company incorporated as a stock
1496 insurer;
- 1497 (B) have complete voting control over an association captive insurance company
1498 incorporated as a mutual insurer; or
- 1499 (C) have complete voting control over an association captive insurance company
1500 formed as a limited liability company; or
- 1501 (ii) the association's member organizations collectively constitute all of the
1502 subscribers of an association captive insurance company formed as a reciprocal
1503 insurer.
- 1504 (5) "Association captive insurance company" means a business entity that insures risks of:
- 1505 (a) a member organization of the association;
- 1506 (b) an affiliate of a member organization of the association; and
- 1507 (c) the association.
- 1508 (6) "Branch business" means an insurance business transacted by a branch captive
1509 insurance company in this state.
- 1510 (7) "Branch captive insurance company" means an alien captive insurance company that
1511 has a certificate of authority from the commissioner to transact the business of insurance
1512 in this state through a captive insurance company that is domiciled outside of this state.
- 1513 (8) "Branch operation" means a business operation of a branch captive insurance company
1514 in this state.
- 1515 (9)(a) "Captive insurance company" means the same as that term is defined in Section
1516 31A-1-301.
- 1517 (b) "Captive insurance company" includes any of the following formed or holding a
1518 certificate of authority under this chapter:
- 1519 (i) a branch captive insurance company;
- 1520 (ii) a pure captive insurance company;
- 1521 (iii) an association captive insurance company;
- 1522 (iv) a sponsored captive insurance company;
- 1523 (v) an industrial insured captive insurance company, including an industrial insured
1524 captive insurance company formed as a risk retention group captive in this state

- 1525 pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;
- 1526 (vi) a special purpose captive insurance company; or
- 1527 (vii) a special purpose financial captive insurance company.
- 1528 ~~(10)~~(a) "Cell" means a separate account for one or more participants formed and
- 1529 operating under the authority of a sponsored captive insurance company to write
- 1530 insurance coverage as described in this title.
- 1531 (b) "Cell" includes an account formed as either:
- 1532 (i) an incorporated cell; or
- 1533 (ii) a protected cell.
- 1534 ~~(11)~~ (11) "Commissioner" means Utah's Insurance Commissioner or the commissioner's
- 1535 designee.
- 1536 ~~(12)~~ (12) "Common ownership and control" means that two or more captive insurance
- 1537 companies are owned or controlled by the same person or group of persons as follows:
- 1538 (a) in the case of a captive insurance company that is a stock corporation, the direct or
- 1539 indirect ownership of 80% or more of the outstanding voting stock of the stock
- 1540 corporation;
- 1541 (b) in the case of a captive insurance company that is a mutual corporation, the direct or
- 1542 indirect ownership of 80% or more of the surplus and the voting power of the mutual
- 1543 corporation;
- 1544 (c) in the case of a captive insurance company that is a limited liability company, the
- 1545 direct or indirect ownership by the same member or members of 80% or more of the
- 1546 membership interests in the limited liability company; or
- 1547 (d) in the case of a sponsored captive insurance company, a protected cell is a separate
- 1548 captive insurance company owned and controlled by the protected cell's participant,
- 1549 only if:
- 1550 (i) the participant is the only participant with respect to the protected cell; and
- 1551 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored
- 1552 captive insurance company through common ownership and control.
- 1553 ~~(13)~~ (13) "Consolidated debt to total capital ratio" means the ratio of Subsection ~~[(12)(a)]~~
- 1554 ~~(13)(a)~~ to (b).
- 1555 (a) This Subsection ~~[(12)(a)]~~ (13)(a) is an amount equal to the sum of all debts and
- 1556 hybrid capital instruments including:
- 1557 (i) all borrowings from depository institutions;
- 1558 (ii) all senior debt;

- 1559 (iii) all subordinated debts;
- 1560 (iv) all trust preferred shares; and
- 1561 (v) all other hybrid capital instruments that are not included in the determination of
- 1562 consolidated GAAP net worth issued and outstanding.
- 1563 (b) This Subsection [~~(12)~~(b)] (13)(b) is an amount equal to the sum of:
- 1564 (i) total capital consisting of all debts and hybrid capital instruments as described in
- 1565 Subsection [~~(12)~~(a)] (13)(a); and
- 1566 (ii) shareholders' equity determined in accordance with generally accepted accounting
- 1567 principles for reporting to the United States Securities and Exchange Commission.
- 1568 [~~(13)~~] (14) "Consolidated GAAP net worth" means the consolidated shareholders' or
- 1569 members' equity determined in accordance with generally accepted accounting
- 1570 principles for reporting to the United States Securities and Exchange Commission.
- 1571 [~~(14)~~] (15) "Controlled unaffiliated business" means a business entity:
- 1572 (a)(i) in the case of a pure captive insurance company, that is not in the corporate or
- 1573 limited liability company system of a parent or the parent's affiliate; or
- 1574 (ii) in the case of an industrial insured captive insurance company, that is not in the
- 1575 corporate or limited liability company system of an industrial insured or an
- 1576 affiliated company of the industrial insured;
- 1577 (b)(i) in the case of a pure captive insurance company, that has a contractual
- 1578 relationship with a parent or affiliate; or
- 1579 (ii) in the case of an industrial insured captive insurance company, that has a
- 1580 contractual relationship with an industrial insured or an affiliated company of the
- 1581 industrial insured; and
- 1582 (c) whose risks that are or will be insured by a pure captive insurance company, an
- 1583 industrial insured captive insurance company, or both, are managed in accordance
- 1584 with Subsection 31A-37-106(1)(j) by:
- 1585 (i)(A) a pure captive insurance company; or
- 1586 (B) an industrial insured captive insurance company; or
- 1587 (ii) a parent or affiliate of:
- 1588 (A) a pure captive insurance company; or
- 1589 (B) an industrial insured captive insurance company.
- 1590 [~~(15)~~] (16) "Criminal act" means an act for which a person receives a verdict or finding of
- 1591 guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 1592 [~~(16)~~] (17) "Establisher" means a person who establishes a business entity or a trust.

- 1593 ~~[(17)]~~ (18) "Governing body" means the persons who hold the ultimate authority to direct
1594 and manage the affairs of an entity.
- 1595 (19) "Incorporated cell" means a separate account:
- 1596 (a) established and maintained by a sponsored captive insurance company for a
1597 participant; and
- 1598 (b) that has been organized as a corporation, a limited liability company, or a
1599 not-for-profit organization.
- 1600 ~~[(18)]~~ (20) "Industrial insured" means an insured:
- 1601 (a) that produces insurance:
- 1602 (i) by the services of a full-time employee acting as a risk manager or insurance
1603 manager; or
- 1604 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 1605 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000;
1606 and
- 1607 (c) that has at least 25 full-time employees.
- 1608 ~~[(19)]~~ (21) "Industrial insured captive insurance company" means a business entity that:
- 1609 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
1610 (b) may insure the risks of:
- 1611 (i) an affiliated company of an industrial insured; or
1612 (ii) a controlled unaffiliated business of:
- 1613 (A) an industrial insured; or
1614 (B) an affiliated company of an industrial insured.
- 1615 ~~[(20)]~~ (22) "Industrial insured group" means:
- 1616 (a) a group of industrial insureds that collectively:
- 1617 (i) own, control, or hold with power to vote all of the outstanding voting securities of
1618 an industrial insured captive insurance company incorporated or organized as a
1619 limited liability company as a stock insurer; or
- 1620 (ii) have complete voting control over an industrial insured captive insurance
1621 company incorporated or organized as a limited liability company as a mutual
1622 insurer;
- 1623 (b) a group that is:
- 1624 (i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec.
1625 3901 et seq., as amended, as a corporation or other limited liability association;
1626 and

- 1627 (ii) taxable under this title as a:
- 1628 (A) stock corporation; or
- 1629 (B) mutual insurer; or
- 1630 (c) a group that has complete voting control over an industrial captive insurance
- 1631 company formed as a limited liability company.
- 1632 ~~[(21)]~~ (23) "Member organization" means a person that belongs to an association.
- 1633 ~~[(22)]~~ (24) "Parent" means a person that directly or indirectly owns, controls, or holds with
- 1634 power to vote more than 50% of the outstanding securities of an organization.
- 1635 ~~[(23)]~~ (25) "Participant" means an entity that is insured by a sponsored captive insurance
- 1636 company:
- 1637 (a) if the losses of the participant are limited through a participant contract to the assets
- 1638 of a protected cell; and
- 1639 (b)(i) the entity is permitted to be a participant under Section 31A-37-403; or
- 1640 (ii) the entity is an affiliate of an entity permitted to be a participant under Section
- 1641 31A-37-403.
- 1642 ~~[(24)]~~ (26) "Participant contract" means a contract by which a sponsored captive insurance
- 1643 company:
- 1644 (a) insures the risks of a participant; and
- 1645 (b) limits the losses of the participant to the assets of a protected cell.
- 1646 ~~[(25)]~~ (27) "Protected cell" means a separate account:
- 1647 (a) established and maintained by a sponsored captive insurance company for ~~one~~ a
- 1648 participant[-]; and
- 1649 (b) that has been organized as an entity other than a corporation, a limited liability
- 1650 company, or a not-for-profit organization.
- 1651 ~~[(26)]~~ (28)(a) "Pure captive insurance company" means a business entity that insures
- 1652 risks of a parent ~~[or affiliate]~~ , affiliate, or controlled unaffiliated business of the
- 1653 business entity.
- 1654 (b) "Pure captive insurance company" includes an agency captive or a pooling captive.
- 1655 ~~[(27)]~~ (29) "Special purpose financial captive insurance company" means the same as that
- 1656 term is defined in Section 31A-37a-102.
- 1657 ~~[(28)]~~ (30) "Sponsor" means an entity that:
- 1658 (a) meets the requirements of Section 31A-37-402; and
- 1659 (b) is approved by the commissioner to:
- 1660 (i) provide all or part of the capital and surplus in an amount:

1661 (A) required by [applicable law in an amount of not less than \$350,000, which
 1662 amount the commissioner may increase by order if the commissioner considers
 1663 it necessary] Section 31A-37-204; or

1664 (B) greater than the amount required by Section 31A-37-204, if, by order, the
 1665 commissioner deems the increase necessary; and

1666 (ii) organize and operate a sponsored captive insurance company.

1667 [(29)] (31) "Sponsored captive insurance company" means a captive insurance company:

1668 (a) in which the minimum capital and surplus required by applicable law is provided by
 1669 one or more sponsors or participants;

1670 (b) that is formed or holding a certificate of authority under this chapter;

1671 (c) that insures the risks of a separate participant through the contract; and

1672 (d) that segregates each participant's liability through one or more [~~protected~~] cells.

1673 [(30)] (32) "Treasury rates" means the United States Treasury strip asked yield as published
 1674 in the Wall Street Journal as of a balance sheet date.

1675 Section 23. Section **31A-37-104** is amended to read:

1676 **31A-37-104 . Applicability of reorganization, receivership, and injunction**
 1677 **authority.**

1678 (1) Except as provided in Chapter 37a, Special Purpose Financial Captive Insurance
 1679 Company Act, and Subsection (2), Chapter 27a, Insurer Receivership Act, applies to a
 1680 captive insurance company formed or holding a certificate of authority under this
 1681 chapter.

1682 (2) In the case of a sponsored captive insurance company:

1683 (a) the assets of a [~~protected~~] cell may not be used to pay an expense or claim other than
 1684 one attributable to the [~~protected~~] cell; and

1685 (b) the capital and surplus of the sponsored captive insurance company:

1686 (i) shall at all times be available to pay:

1687 (A) an expense of the sponsored captive insurance company; or

1688 (B) a claim against the sponsored captive insurance company; and

1689 (ii) may not be used to pay an expense or claim attributable to a [~~protected~~] cell.

1690 Section 24. Section **31A-37-201** is amended to read:

1691 **31A-37-201 . Certificate of authority.**

1692 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to
 1693 a captive insurance company that meets the requirements of this chapter.

1694 (2) To conduct insurance business in this state, a captive insurance company shall:

- 1695 (a) obtain from the commissioner a certificate of authority authorizing ~~[it]~~ the captive
 1696 insurance company to conduct insurance business in this state;
- 1697 (b) ~~[hold at least once each year in the state a meeting of the governing body;]~~
 1698 (i) hold a meeting of the governing body:
 1699 (A) at least once each year;
 1700 (B) at which a quorum is present;
 1701 (C) in the state; and
 1702 (D) at which at least one out-of-state individual is physically present; or
 1703 (ii) become a member of the Utah Captive Insurance Association at the highest level
 1704 of membership;
- 1705 (c) maintain in this state:
 1706 (i) the principal place of business of the captive insurance company; or
 1707 (ii) in the case of a branch captive insurance company, the principal place of business
 1708 for the branch operations of the branch captive insurance company; and
- 1709 (d) except as provided in Subsection (3), appoint a resident registered agent to accept
 1710 service of process and to otherwise act on behalf of the captive insurance company in
 1711 the state.
- 1712 (3) In the case of a captive insurance company formed as a corporation, if the registered
 1713 agent cannot with reasonable diligence be found at the registered office of the captive
 1714 insurance company, the commissioner is the agent of the captive insurance company
 1715 upon whom process, notice, or demand may be served.
- 1716 (4)(a) Before receiving a certificate of authority, an applicant captive insurance
 1717 company shall file with the commissioner:
 1718 (i) a certified copy of the captive insurance company's organizational charter;
 1719 (ii) a statement under oath of the captive insurance company's president and secretary
 1720 or their equivalents showing the captive insurance company's financial condition;
 1721 and
 1722 (iii) any other statement or document required by the commissioner under Section
 1723 31A-37-106.
- 1724 (b) In addition to the information required under Subsection (4)(a), an applicant captive
 1725 insurance company shall file with the commissioner evidence of:
 1726 (i) the amount and liquidity of the assets of the applicant captive insurance company
 1727 relative to the risks to be assumed by the applicant captive insurance company;
 1728 (ii) the adequacy of the expertise, experience, and character of the person who will

- 1729 manage the applicant captive insurance company;
- 1730 (iii) the overall soundness of the plan of operation of the applicant captive insurance
1731 company;
- 1732 (iv) the adequacy of the loss prevention programs for the prospective insureds of the
1733 applicant captive insurance company as the commissioner deems necessary; and
- 1734 (v) any other factor the commissioner:
- 1735 (A) adopts by rule under Section 31A-37-106; and
- 1736 (B) considers relevant in ascertaining whether the applicant captive insurance
1737 company will be able to meet the policy obligations of the applicant captive
1738 insurance company.
- 1739 (c) In addition to the information required by Subsections (4)(a) and (b), an applicant
1740 sponsored captive insurance company shall file with the commissioner:
- 1741 (i) a business plan at the level of detail required by the commissioner under Section
1742 31A-37-106 demonstrating:
- 1743 (A) the manner in which the applicant sponsored captive insurance company will
1744 account for the losses and expenses of each ~~[protected-]~~cell; and
- 1745 (B) the manner in which the applicant sponsored captive insurance company will
1746 report to the commissioner the financial history, including losses and expenses,
1747 of each ~~[protected-]~~cell;
- 1748 (ii) a statement acknowledging that the applicant sponsored captive insurance
1749 company will make all financial records of the applicant sponsored captive
1750 insurance company, including records pertaining to a ~~[protected-]~~cell, available for
1751 inspection or examination by the commissioner;
- 1752 (iii) a contract or sample contract between the applicant sponsored captive insurance
1753 company and a participant; and
- 1754 (iv) evidence that expenses will be allocated to each ~~[protected-]~~cell in an equitable
1755 manner.
- 1756 (5)(a) Information submitted ~~[pursuant to]~~ in accordance with this section is classified as
1757 a protected record under Title 63G, Chapter 2, Government Records Access and
1758 Management Act.
- 1759 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and
1760 Management Act, the commissioner may disclose information submitted ~~[pursuant to]~~
1761 in accordance with this section to a public official having jurisdiction over the
1762 regulation of insurance in another state if:

- 1763 (i) the public official receiving the information agrees in writing to maintain the
 1764 confidentiality of the information; and
- 1765 (ii) the laws of the state in which the public official serves require the information to
 1766 be confidential.
- 1767 (c) This Subsection (5) does not apply to information provided by an industrial insured
 1768 captive insurance company insuring the risks of an industrial insured group.
- 1769 (6)(a) A captive insurance company shall pay to the department the following
 1770 nonrefundable fees established by the department under Sections 31A-3-103,
 1771 31A-3-304, and 63J-1-504:
- 1772 (i) a fee for examining, investigating, and processing, by a department employee, of
 1773 an application for a certificate of authority made by an applicant captive insurance
 1774 company;
- 1775 (ii) a fee for obtaining a certificate of authority for the year the captive insurance
 1776 company is issued a certificate of authority by the department; and
- 1777 (iii) a certificate of authority renewal fee, assessed annually.
- 1778 (b) The commissioner may:
- 1779 (i) assign a department employee or retain legal, financial, or examination services
 1780 from outside the department to perform the services described in:
- 1781 (A) Subsection (6)(a); and
 1782 (B) Section 31A-37-502; and
- 1783 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the
 1784 applicant captive insurance company.
- 1785 (7) If the commissioner is satisfied that the documents and statements filed by the applicant
 1786 captive insurance company comply with this chapter, the commissioner may grant a
 1787 certificate of authority authorizing the company to do insurance business in this state.
- 1788 (8) A certificate of authority granted under this section expires annually and shall be
 1789 renewed by July 1 of each year.
- 1790 Section 25. Section **31A-37-202** is amended to read:
- 1791 **31A-37-202 . Permissive areas of insurance.**
- 1792 (1) Except as provided in Subsections (2) and (3), a captive insurance company may not
 1793 directly insure a risk other than the risk of the captive insurance company's parent or
 1794 affiliated company.
- 1795 (2) In addition to the risks described in Subsection (1), an association captive insurance
 1796 company may insure the risk of:

- 1797 (a) a member organization of the association captive insurance company's association; or
 1798 (b) an affiliate of a member organization of the association captive insurance company's
 1799 association.
- 1800 (3) The following may insure a risk of a controlled unaffiliated business:
 1801 (a) an industrial insured captive insurance company;
 1802 (b) ~~[a protected cell]~~ an association captive insurance company;
 1803 (c) a pure captive insurance company; or
 1804 (d) a sponsored captive insurance company and the sponsored captive insurance
 1805 company's cells.
- 1806 (4) To the extent allowed by a captive insurance company's organizational charter, a captive
 1807 insurance company may provide any type of insurance described in this title, except:
 1808 (a) workers' compensation insurance;
 1809 (b) personal motor vehicle insurance;
 1810 (c) homeowners' insurance; and
 1811 (d) any component of the types of insurance described in Subsections (4)(a) through (c).
- 1812 (5) A captive insurance company may not provide coverage for:
 1813 (a) a wager or gaming risk;
 1814 (b) loss of an election; or
 1815 (c) the ~~[penal]~~ punitive consequences of a crime.
- 1816 (6) Unless the punitive damages award arises out of a criminal act of an insured, a captive
 1817 insurance company may provide coverage for punitive damages awarded, including
 1818 through adjudication or compromise, against the captive insurance company's:
 1819 (a) parent; or
 1820 (b) affiliated company.
- 1821 (7) Notwithstanding Subsection (4), if approved by the commissioner:
 1822 (a) a captive insurance company may insure as a reimbursement a limited layer or
 1823 deductible of workers' compensation coverage; and
 1824 (b) an association captive insurance company that satisfies the requirements of this
 1825 chapter may provide homeowners' insurance.
- 1826 Section 26. Section **31A-37-204** is amended to read:
 1827 **31A-37-204 . Paid-in capital -- Other capital.**
- 1828 (1) For purposes of this section, "marketable securities" means:
 1829 (a) a bond or other evidence of indebtedness of a governmental unit in the United States
 1830 or Canada or any instrumentality of the United States or Canada; or

- 1831 (b) securities:
- 1832 (i) traded on one or more of the following exchanges in the United States:
- 1833 (A) New York;
- 1834 (B) American; or
- 1835 (C) NASDAQ;
- 1836 (ii) when no particular security, or a substantially related security, applied toward the
- 1837 required minimum capital and surplus requirement of Subsection (2) represents
- 1838 more than 50% of the minimum capital and surplus requirement; and
- 1839 (iii) when no group of up to four particular securities, consolidating substantially
- 1840 related securities, applied toward the required minimum capital and surplus
- 1841 requirement of Subsection (2) represents more than 90% of the minimum capital
- 1842 and surplus requirement.
- 1843 [(+)] (2)(a) The commissioner may not issue a certificate of authority to a company
- 1844 described in Subsection [(+)(e)] (2)(c) unless the company possesses and [thereafter]
- 1845 maintains unimpaired paid-in capital and unimpaired paid-in surplus of:
- 1846 (i) in the case of a pure captive insurance company:
- 1847 (A) except as provided in Subsection [(+)(a)(i)(B)] (2)(a)(i)(B), not less than
- 1848 \$250,000; or
- 1849 (B) if the pure captive insurance company is not acting as a pool that facilitates
- 1850 risk distribution for other captive insurers, an amount that is the greater of:
- 1851 (I) not less than 20% of the company's total aggregate risk; or
- 1852 (II) \$50,000;
- 1853 (ii) in the case of an association captive insurance company, not less than [~~\$750,000~~]
- 1854 \$500,000;
- 1855 (iii) in the case of an industrial insured captive insurance company incorporated as a
- 1856 stock insurer, not less than \$700,000;
- 1857 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of
- 1858 which a minimum of \$50,000 is provided by the sponsor; or
- 1859 (v) in the case of a special purpose captive insurance company, an amount
- 1860 determined by the commissioner after giving due consideration to the company's
- 1861 business plan, feasibility study, and pro-formas, including the nature of the risks
- 1862 to be insured.
- 1863 (b) The paid-in capital and surplus required under this Subsection [(+)] (2) may be in the
- 1864 form of:

- 1865 (i)(A) cash; or
 1866 (B) cash equivalent;
 1867 (ii) an irrevocable letter of credit:
 1868 (A) issued by:
 1869 (I) a bank chartered by this state;
 1870 (II) a member bank of the Federal Reserve System; or
 1871 (III) a member bank of the Federal Deposit Insurance Corporation;
 1872 (B) approved by the commissioner;
 1873 (iii) marketable securities as determined by Subsection [~~(5)~~] (1); or
 1874 (iv) some other thing of value approved by the commissioner, for a period not to
 1875 exceed 45 days, to facilitate the formation of a captive insurance company in this
 1876 state pursuant to an approved plan of liquidation and reorganization of another
 1877 captive insurance company or alien captive insurance company in another
 1878 jurisdiction.
- 1879 (c) This Subsection [~~(1)~~] (2) applies to:
 1880 (i) a pure captive insurance company;
 1881 (ii) a sponsored captive insurance company;
 1882 (iii) a special purpose captive insurance company;
 1883 (iv) an association captive insurance company; or
 1884 (v) an industrial insured captive insurance company.
- 1885 [~~(2)~~] (3)(a) The commissioner may, under Section 31A-37-106, prescribe additional
 1886 capital based on the type, volume, and nature of insurance business transacted.
- 1887 (b) The capital prescribed by the commissioner under this Subsection [~~(2)~~] (3) may be in
 1888 the form of:
 1889 (i) cash;
 1890 (ii) an irrevocable letter of credit issued by:
 1891 (A) a bank chartered by this state; or
 1892 (B) a member bank of the Federal Reserve System; or
 1893 (iii) marketable securities as determined by Subsection [~~(5)~~] (1).
- 1894 [~~(3)~~] (4)(a) Except as provided in Subsection [~~(3)~~](e) (4)(c), a branch captive insurance
 1895 company, as security for the payment of liabilities attributable to branch operations,
 1896 shall, through [its] the branch captive insurance company's branch operations,
 1897 establish and maintain a trust fund:
 1898 (i) funded by an irrevocable letter of credit or other acceptable asset; and

- 1899 (ii) in the United States for the benefit of:
- 1900 (A) United States policyholders; and
- 1901 (B) United States ceding insurers under:
- 1902 (I) insurance policies issued; or
- 1903 (II) reinsurance contracts issued or assumed.
- 1904 (b) The amount of the security required under this Subsection [~~(3)~~] (4) shall be no less
- 1905 than:
- 1906 (i) the capital and surplus required by this chapter; and
- 1907 (ii) the reserves on the insurance policies or reinsurance contracts, including:
- 1908 (A) reserves for losses;
- 1909 (B) allocated loss adjustment expenses;
- 1910 (C) incurred but not reported losses; and
- 1911 (D) unearned premiums with regard to business written through branch operations.
- 1912 (c) Notwithstanding the other provisions of this Subsection [~~(3)~~] (4):
- 1913 (i) the commissioner may permit a branch captive insurance company that is required
- 1914 to post security for loss reserves on branch business by ~~its~~ the branch captive
- 1915 insurance company's reinsurer to reduce the funds in the trust account required by
- 1916 this section by the same amount as the security posted if the security remains
- 1917 posted with the reinsurer; and
- 1918 (ii) a branch captive insurance company that is the result of the licensure of an alien
- 1919 captive insurance company that is not formed in an alien jurisdiction is not subject
- 1920 to the requirements of this Subsection [~~(3)~~] (4).
- 1921 [~~(4)~~] (5)(a) A captive insurance company may not pay the following without the prior
- 1922 approval of the commissioner:
- 1923 (i) a dividend out of capital or surplus [~~in excess of the limits under Section~~
- 1924 ~~16-10a-640~~]; or
- 1925 (ii) a distribution with respect to capital or surplus [~~in excess of the limits under~~
- 1926 ~~Section 16-10a-640~~].
- 1927 (b) The commissioner shall condition approval of an ongoing plan for the payment of
- 1928 dividends or other distributions on the retention, at the time of each payment, of
- 1929 capital or surplus [~~in excess of:~~] .
- 1930 [~~(i) amounts specified by the commissioner under Section 31A-37-106; or]~~
- 1931 [~~(ii) determined in accordance with formulas approved by the commissioner under~~
- 1932 ~~Section 31A-37-106.~~]

- 1933 [~~(5) For purposes of this section, marketable securities means:~~
 1934 [~~(a) a bond or other evidence of indebtedness of a governmental unit in the United States
 1935 or Canada or any instrumentality of the United States or Canada; or]~~
 1936 [~~(b) securities:~~
 1937 [~~(i) traded on one or more of the following exchanges in the United States:~~
 1938 [~~(A) New York;~~
 1939 [~~(B) American; or]~~
 1940 [~~(C) NASDAQ;~~
 1941 [~~(ii) when no particular security, or a substantially related security, applied toward the
 1942 required minimum capital and surplus requirement of Subsection (1) represents more
 1943 than 50% of the minimum capital and surplus requirement; and]~~
 1944 [~~(iii) when no group of up to four particular securities, consolidating substantially related
 1945 securities, applied toward the required minimum capital and surplus requirement of
 1946 Subsection (1) represents more than 90% of the minimum capital and surplus
 1947 requirement.]~~
- 1948 (6) Notwithstanding Subsection [~~(5)~~] (1), to protect the solvency and liquidity of a captive
 1949 insurance company, the commissioner may reject the application of specific assets or
 1950 amounts of specific assets to satisfying the requirement of Subsection [~~(1)~~] (2).
 1951 Section 27. Section **31A-37-301** is amended to read:
 1952 **31A-37-301 . Formation.**
- 1953 (1) A captive insurance company, other than a branch captive insurance company, may [~~be~~
 1954 ~~formed]~~ form as a corporation~~[-or]~~ , a limited liability company~~[-]~~ , or a not-for-profit
 1955 organization.
- 1956 (2) The capital of a captive insurance company shall be held by:
 1957 (a) the interest holders of the captive insurance company; or
 1958 (b) a governing body elected by:
 1959 (i) the insureds;
 1960 (ii) one or more affiliates; or
 1961 (iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).
- 1962 (3) A captive insurance company formed in this state shall have at least one establisher who
 1963 is an individual and a resident of the state.
- 1964 (4)(a) An applicant captive insurance company's establishers shall obtain a certificate of
 1965 public good from the commissioner before filing [~~its~~] the applicant captive insurance
 1966 company's governing documents with the Division of Corporations and Commercial

- 1967 Code.
- 1968 (b) In considering a request for a certificate under Subsection (4)(a), the commissioner
- 1969 shall consider:
- 1970 (i) the character, reputation, financial standing, and purposes of the establishers;
- 1971 (ii) the character, reputation, financial responsibility, insurance experience, and
- 1972 business qualifications of the principal officers or members of the governing body;
- 1973 (iii) any information in:
- 1974 (A) the application for a certificate of authority; or
- 1975 (B) the department's files; and
- 1976 (iv) other aspects that the commissioner considers advisable.
- 1977 (5)(a) Except as otherwise provided in this title, the governing body of a captive
- 1978 insurance company shall consist of at least three individuals as members, at least one
- 1979 of whom is a resident of the state.
- 1980 (b) One-third of the members of the governing body of a captive insurance company
- 1981 constitutes a quorum of the governing body.
- 1982 (6) A captive insurance company shall have at least three separate individuals as principal
- 1983 officers with duties comparable to those of president, treasurer, and secretary.
- 1984 (7)(a)(i) A captive insurance company formed as a corporation is subject to the
- 1985 provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and
- 1986 this chapter.
- 1987 (ii) If a conflict exists between a provision of Title 16, Chapter 10a, Utah Revised
- 1988 Business Corporation Act, and a provision of this chapter, this chapter controls.
- 1989 (b) A captive insurance company formed as a limited liability company is subject to the
- 1990 provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company
- 1991 Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a,
- 1992 Utah Revised Uniform Limited Liability Company Act, and a provision of this
- 1993 chapter, this chapter controls.
- 1994 (c) Except as provided in Subsection (7)(d), the provisions of this title that govern a
- 1995 merger, consolidation, conversion, mutualization, and redomestication apply to a
- 1996 captive insurance company in carrying out any of the transactions described in those
- 1997 provisions.
- 1998 (d) Notwithstanding Subsection (7)(c), the commissioner may waive or modify the
- 1999 requirements for public notice and hearing in accordance with rules adopted under
- 2000 Section 31A-37-106.

2001 (e) If a notice of public hearing is required, but no one requests a hearing, the
2002 commissioner may cancel the public hearing.

2003 Section 28. Section **31A-37-302** is amended to read:

2004 **31A-37-302 . Investment requirements.**

2005 (1)(a) Except as provided in Subsection (1)(b), ~~[an association]~~ a captive insurance
2006 company~~[- a sponsored captive insurance company,]~~ and an industrial insured ~~[group]~~
2007 captive insurance company shall comply with the investment requirements contained
2008 in this title.

2009 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the
2010 commissioner may approve the use of alternative reliable methods of valuation and
2011 rating under Section 31A-37-106 for~~[:]~~

2012 ~~[(i) an association captive insurance company;]~~

2013 ~~[(ii) a sponsored captive insurance company; or]~~

2014 ~~[(iii) an industrial insured group]~~ a captive insurance company or an industrial
2015 insured captive insurance company.

2016 (2)(a) Except as provided in Subsection (2)(b), a pure captive insurance company or
2017 industrial insured captive insurance company is not subject to any restrictions on
2018 allowable investments ~~[contained in this title]~~ described in Section 31A-18-108.

2019 (b) ~~[Notwithstanding Subsection (2)(a), the commissioner may, under Section~~
2020 ~~31A-37-106,]~~ Under Section 31A-37-106, the commissioner may prohibit or limit an
2021 investment that threatens the solvency or liquidity of~~[:]~~

2022 ~~[(i) a pure captive insurance company; or]~~

2023 ~~[(ii) an industrial insured captive insurance company]~~ a captive insurance company
2024 or industrial insured captive insurance company.

2025 (3)(a)(i) Except as provided in Subsection (3)(a)(ii), a captive insurance company
2026 may not make loans to:

2027 (A) the parent company of the captive insurance company; or

2028 (B) an affiliate of the captive insurance company.

2029 (ii) ~~[Notwithstanding Subsection (3)(a)(i), a]~~ A pure captive insurance company and
2030 an incorporated cell of a sponsored captive insurance company may make loans to:

2031 (A) the parent company of the pure captive insurance company or incorporated
2032 cell of a sponsored captive insurance company; or

2033 (B) an affiliate of the pure captive insurance company or incorporated cell of a
2034 sponsored captive insurance company.

- 2035 (b) A loan under Subsection (3)(a):
 2036 (i) may be made only on the prior written approval of the commissioner and, when
 2037 applicable, the sponsor for an incorporated cell; and
 2038 (ii) shall be evidenced by a note in a form approved by the commissioner and, when
 2039 applicable, the sponsor for an incorporated cell.

2040 (c) A pure captive insurance company may not make a loan from the paid-in capital
 2041 required under Subsection [31A-37-204(1)] 31A-37-204(2).

2042 (4) If a captive insurer has excess surplus above the minimum capital required by Section
 2043 31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a
 2044 manner inconsistent with the authorized classes of investments described in Section
 2045 31A-18-110.

2046 (5) Nothing in this section empowers a captive insurer to make an investment that is illegal
 2047 or otherwise prohibited by this title.

2048 Section 29. Section **31A-37-303** is amended to read:

2049 **31A-37-303 . Reinsurance.**

2050 (1)(a) A captive insurance company may cede risks to any insurance company approved
 2051 by the commissioner.

2052 (b) Except as provided in Subsection (1)(c), a captive insurance company may provide
 2053 reinsurance on risks ceded by any other insurer with prior approval of the
 2054 commissioner.

2055 (c) A captive insurance company may not provide reinsurance on a punitive damages
 2056 risk ceded by an insurer, unless the punitive damages risk is the risk of the captive
 2057 insurance company's:

- 2058 (i) parent;
 2059 (ii) affiliated company; or
 2060 (iii) controlled unaffiliated business.

2061 (2) To facilitate the risk distribution of captive insurance companies participating in a
 2062 pooling arrangement, a captive insurance company licensed to operate as a pooling
 2063 captive insurance company may directly insure a risk that any pooling participant's
 2064 captive insurance company could otherwise directly insure in accordance with Section
 2065 31A-37-202.

2066 [~~2~~] (3)(a) A captive insurance company may take credit for reserves on risks or
 2067 portions of risks ceded to reinsurers if the captive insurance company complies with:

- 2068 (i) Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4; or

- 2069 (ii) other requirements as the commissioner may establish by rule made in
 2070 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2071 (b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1,
 2072 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection [(2)(a)(ii)]
 2073 (3)(a)(ii), a captive insurance company may not take credit for:
- 2074 (i) reserves on risks ceded to a reinsurer; or
 2075 (ii) portions of risks ceded to a reinsurer.
- 2076 Section 30. Section **31A-37-401** is amended to read:
- 2077 **31A-37-401 . Sponsored captive insurance companies -- Formation.**
- 2078 (1) One or more sponsors may form a sponsored captive insurance company under this
 2079 chapter.
- 2080 (2) A sponsored captive insurance company formed under this chapter may establish and
 2081 maintain, [a-protected-cell] with prior approval of the commissioner, a combination of
 2082 incorporated cells and protected cells to insure risks of a participant if:
- 2083 (a) the interest holders of a sponsored captive insurance company are limited to:
- 2084 (i) the participants of the sponsored captive insurance company; and
 2085 (ii) the sponsors of the sponsored captive insurance company;
- 2086 (b) each [~~protected~~]cell is accounted for separately on the books and records of the
 2087 sponsored cell captive insurance company to reflect:
- 2088 (i) the financial condition of each [~~individual protected~~]cell;
 2089 (ii) the results of operations of each [~~individual protected~~]cell;
 2090 (iii) the net income or loss of each [~~individual protected~~]cell;
 2091 (iv) the dividends or other distributions to participants of each [~~individual protected~~]
 2092 cell; and
- 2093 (v) other factors that may be:
- 2094 (A) provided in the participant contract; or
 2095 (B) required by the commissioner;
- 2096 (c) the assets of a [~~protected~~]cell are not chargeable with liabilities arising out of any
 2097 other insurance business the sponsored captive insurance company may conduct;
- 2098 (d) a sale, exchange, or other transfer of assets is not made by the sponsored captive
 2099 insurance company between or among any of the [~~protected~~]cells of the sponsored
 2100 captive insurance company without the consent of the [~~protected~~]cells;
- 2101 (e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a [
 2102 ~~protected~~]cell to a sponsor or participant without the commissioner's approval, which

2103 may not be given if the sale, exchange, transfer, dividend, or distribution would result
2104 in insolvency or impairment with respect to a ~~[protected]~~ cell;

2105 (f) a sponsored captive insurance company annually files with the commissioner
2106 financial reports the commissioner requires under Section 31A-37-106, including
2107 accounting statements detailing the financial experience of each ~~[protected]~~ cell;

2108 (g) a sponsored captive insurance company notifies the commissioner in writing within
2109 10 business days of a ~~[protected]~~ cell that is insolvent or otherwise unable to meet the
2110 claim or expense obligations of the ~~[protected]~~ cell;

2111 (h) a participant contract does not take effect without the commissioner's prior written
2112 approval; and

2113 (i) the addition of each new ~~[protected]~~ cell and withdrawal of a participant of any
2114 existing ~~[protected]~~ cell does not take effect without the commissioner's prior written
2115 approval~~[-and]~~ .

2116 ~~[(j)]~~ (3)~~[(i)]~~ ~~a protected~~ A cell of a sponsored captive insurance company shall pay to the
2117 department the following nonrefundable fees established by the department under
2118 Sections 31A-3-103, 31A-3-304, and 63J-1-504:

2119 ~~[(A)]~~ (a) a fee for examining, investigating, and processing ~~[by a department employee of]~~
2120 an application [for a certificate of authority] made by a [protected] cell to insure risks
2121 under the certificate of authority of a sponsored captive insurance company;

2122 ~~[(B)]~~ (b) a fee for obtaining a certificate to insure risks under the certificate of authority
2123 of a sponsored captive insurance company for the year the [protected] cell of the
2124 sponsored captive insurance company is issued a certificate[-of authority] by the
2125 department; and

2126 ~~[(C)]~~ (c) a certificate of authority renewal fee~~[-and]~~ .

2127 ~~[(ii)]~~ (4) ~~[a protected]~~ A sponsor may create a cell [may be created by the sponsor-] or [the
2128 sponsor may create-] a pooling insurance arrangement for the sponsor's cell participants
2129 to provide for pooling of risks to allow for risk distribution upon written approval from
2130 every[protected] cell under the sponsor and written approval of the commissioner.

2131 Section 31. Section **31A-37-402** is amended to read:

2132 **31A-37-402 . Sponsored captive insurance companies -- Certificate of authority**
2133 **mandatory.**

2134 (1) A sponsor of a sponsored captive insurance company shall be:

2135 (a) an insurer authorized or approved under the laws of a state;

2136 (b) a reinsurer authorized or approved under the laws of a state;

- 2137 (c) a captive insurance company holding a certificate of authority under this chapter;
- 2138 (d) an insurance holding company that:
- 2139 (i) controls an insurer licensed pursuant to the laws of a state; and
- 2140 (ii) is subject to registration pursuant to the holding company system of laws of the
- 2141 state of domicile of the insurer described in Subsection (1)(d)(i);
- 2142 (e) an approved captive management firm in Utah or its affiliates; or
- 2143 (f) another person approved by the commissioner after finding that the approval of the
- 2144 person as a sponsor is not inconsistent with the purposes of this chapter.
- 2145 (2)(a) The business written by a sponsored captive insurance company with respect to a
- 2146 protected cell shall be fronted by the ~~[sponsor]~~ sponsored captive insurance company
- 2147 through a controlled unaffiliated contract or an insurer that is:
- 2148 (i) authorized or approved:
- 2149 (A) under the laws of a state; or
- 2150 (B) under any jurisdiction if the insurance company is a wholly owned subsidiary
- 2151 of an insurance company licensed pursuant to the laws of a state;
- 2152 (ii) reinsured by a reinsurer authorized or approved by this state; or
- 2153 (iii) subject to Subsection (2)(b), secured by a trust fund:
- 2154 (A) in the United States;
- 2155 (B) for the benefit of policyholders and claimants;
- 2156 (C) funded by an irrevocable letter of credit or other asset acceptable to the
- 2157 commissioner; and
- 2158 (D) held by the sponsor as provided in Subsection 31A-17-404(1).
- 2159 (b)(i) The amount of security provided by the trust fund described in Subsection
- 2160 (2)(a)(iii) may not be less than the reserves associated with the liabilities of the
- 2161 trust fund, including:
- 2162 (A) reserves for losses;
- 2163 (B) allocated loss adjustment expenses;
- 2164 (C) incurred but unreported losses; and
- 2165 (D) unearned premiums for business written through the participant's protected
- 2166 cell.
- 2167 (ii) The commissioner may require the sponsored captive insurance company to
- 2168 increase the funding of a trust established pursuant to this Subsection (2).
- 2169 (iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of
- 2170 credit, the letter of credit shall be established, issued, or confirmed by a bank that

- 2171 is:
- 2172 (A) chartered in this state;
- 2173 (B) a member of the federal reserve system; or
- 2174 (C) chartered by another state if that state-chartered bank is acceptable to the
- 2175 commissioner.
- 2176 (iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in
- 2177 a form and upon terms approved by the commissioner.

- 2178 (3) The business written by a sponsored captive insurance company with respect to an
- 2179 incorporated cell may be:
- 2180 (a) fronted by the sponsored captive insurance company in accordance with Subsection
- 2181 (2)(a); or
- 2182 (b) with prior approval of the sponsored captive insurance company, written directly by
- 2183 the incorporated cell.

- 2184 [~~3~~] (4) A risk retention group may not be either a sponsor or a participant of a sponsored
- 2185 captive insurance company.

2186 Section 32. Section **31A-37-403** is amended to read:

2187 **31A-37-403 . Participants in sponsored captive insurance companies.**

- 2188 (1) Any of the following may be a participant in a sponsored captive insurance company
- 2189 holding a certificate of authority under this chapter:
- 2190 (a) an association;
- 2191 (b) a corporation that is for profit or nonprofit;
- 2192 (c) a limited liability company;
- 2193 (d) a partnership;
- 2194 (e) a trust; or
- 2195 (f) any other business entity.

- 2196 (2) A sponsor may be a participant in a sponsored captive insurance company.

- 2197 (3) A participant need not be:

- 2198 (a) a shareholder of the sponsored captive insurance company; or
- 2199 (b) an affiliate of the sponsored captive insurance company.

- 2200 [~~4~~] ~~A participant shall insure only the participant's own risks through a sponsored captive~~
- 2201 ~~insurance company unless otherwise approved by the commissioner.]~~

2202 Section 33. Section **31A-37-404** is amended to read:

2203 **31A-37-404 . Sponsored captive insurance companies -- Reserves opinion and**

2204 **discounting.**

- 2205 (1) A sponsored captive insurance company may discount [its] the sponsored captive
2206 insurance company's loss and loss adjustment expense reserves at treasury rates applied
2207 to the applicable payments projected through the use of the expected payment pattern
2208 associated with the reserves.
- 2209 (2)(a) A sponsored captive insurance company shall annually file with the department
2210 an actuarial opinion provided by an independent actuary on loss and loss adjustment
2211 expense reserves.
- 2212 (b) The independent actuary described in Subsection (2)(a) may not be an employee of:
2213 (i) the company filing the actuarial opinion; or
2214 (ii) an affiliate of the company filing the actuarial opinion.
- 2215 (3) The commissioner may disallow the discounting of reserves by a sponsored captive
2216 insurance company if the sponsored captive insurance company violates this title.
- 2217 Section 34. Section **31A-37-501** is amended to read:
2218 **31A-37-501 . Reports to commissioner.**
- 2219 (1) A captive insurance company is not required to make a report except those provided in
2220 this chapter.
- 2221 (2)(a) Before March 1 of each year, a captive insurance company shall submit to the
2222 commissioner a report of the financial condition of the captive insurance company,
2223 verified by oath of at least two individuals who are executive officers of the captive
2224 insurance company.
- 2225 (b) Except as provided in Section 31A-37-204, a captive insurance company shall report:
2226 (i) using generally accepted accounting principles, except to the extent that the
2227 commissioner requires, approves, or accepts the use of a statutory accounting
2228 principle;
2229 (ii) using a useful or necessary modification or adaptation to an accounting principle
2230 that is required, approved, or accepted by the commissioner for the type of
2231 insurance and kind of insurer to be reported upon; and
2232 (iii) supplemental or additional information required by the commissioner.
- 2233 (c) Except as otherwise provided:
2234 (i) a licensed captive insurance company shall file the report required by Section
2235 31A-4-113; and
2236 (ii) an industrial insured group shall comply with Section 31A-4-113.5.
- 2237 (3)(a) A pure captive insurance company may make written application to file the
2238 required report on a fiscal year end that is consistent with the fiscal year of the parent

- 2239 company of the pure captive insurance company.
- 2240 (b) If the commissioner grants an alternative reporting date for a pure captive insurance
 2241 company requested under Subsection (3)(a), the annual report is due 60 days after the
 2242 fiscal year end.
- 2243 (4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file
 2244 with the commissioner a copy of the reports and statements required to be filed under
 2245 the laws of the jurisdiction in which the alien captive insurance company is formed,
 2246 verified by oath by two of the alien captive insurance company's executive officers.
- 2247 (b) If the commissioner is satisfied that the annual report filed by the alien captive
 2248 insurance company in the jurisdiction in which the alien captive insurance company
 2249 is formed provides adequate information concerning the financial condition of the
 2250 alien captive insurance company, the commissioner may waive the requirement for
 2251 completion of the annual statement required for a captive insurance company under
 2252 this section with respect to business written in the alien or foreign jurisdiction.
- 2253 (c) A waiver by the commissioner under Subsection (4)(b):
 2254 (i) shall be in writing; and
 2255 (ii) is subject to public inspection.
- 2256 (5) Before March 1 of each year, a sponsored [~~cell~~]captive insurance company shall submit
 2257 to the commissioner a consolidated report of the financial condition of each [~~individual~~
 2258 ~~protected~~]cell, including a financial statement for each[~~protected~~] cell.
- 2259 (6)(a) A captive insurance company shall notify the commissioner in writing if there is:
 2260 (i) a material change to the captive insurance company's most recently filed report of
 2261 financial condition; or
 2262 (ii) an adverse material change in the financial condition of a captive insurance
 2263 company since the captive insurance company's most recently filed report of
 2264 financial condition.
- 2265 (b) A captive insurance company shall submit a notification described in this subsection
 2266 within 20 days after the day on which the captive insurance company learns of the
 2267 material change.
- 2268 Section 35. Section **31A-37-505** is amended to read:
 2269 **31A-37-505 . Suspension or revocation -- Grounds.**
- 2270 (1) The commissioner may suspend or revoke the certificate of authority of a captive
 2271 insurance company to conduct an insurance business in this state for:
 2272 (a) insolvency or impairment of capital or surplus;

- 2273 (b) failure to meet the requirements of Section 31A-37-204;
- 2274 (c) refusal or failure to submit:
- 2275 (i) an annual report required by Section 31A-37-501; or
- 2276 (ii) any other report or statement required by law or by lawful order of the
- 2277 commissioner;
- 2278 (d) failure to comply with the charter, bylaws, or other organizational document of the
- 2279 captive insurance company;
- 2280 (e) failure to submit to:
- 2281 (i) an examination under Section 31A-37-502; or
- 2282 (ii) any legal obligation relative to an examination under Section 31A-37-502;
- 2283 (f) refusal or failure to pay[~~the cost of examination under Section 31A-37-502;~~] :
- 2284 (i) an annual fee described in Section 31A-3-304;
- 2285 (ii) the cost of examination described in Section 31A-37-502; or
- 2286 (iii) any other fee prescribed by this title;
- 2287 (g) use of methods that, although not otherwise specifically prohibited by law, render:
- 2288 (i) the operation of the captive insurance company detrimental to the public or the
- 2289 policyholders of the captive insurance company; or
- 2290 (ii) the condition of the captive insurance company unsound with respect to the
- 2291 public or to the policyholders of the captive insurance company; or
- 2292 (h) failure otherwise to comply with laws of this state.
- 2293 (2) Notwithstanding any other provision of this title, if the commissioner finds, upon
- 2294 examination, hearing, or other evidence, that a captive insurance company has
- 2295 committed any of the acts specified in Subsection (1), the commissioner may suspend or
- 2296 revoke the certificate of authority of the captive insurance company if the commissioner
- 2297 considers it in the best interest of the public and the policyholders of the captive
- 2298 insurance company to revoke the certificate of authority.
- 2299 Section 36. Section **31A-37-701** is amended to read:
- 2300 **31A-37-701 . Certificate of dormancy.**
- 2301 (1) In accordance with the provisions of this section, a captive insurance company, other
- 2302 than a risk retention group, may apply, without fee, to the commissioner for a certificate
- 2303 of dormancy.
- 2304 (2)(a) A captive insurance company, other than [~~a risk retention group~~] an industrial
- 2305 insured captive insurance company or a cell of a sponsored captive insurance
- 2306 company, is eligible for a certificate of dormancy if the[~~captive insurance~~] company:

- 2307 (i) has ceased transacting the business of insurance, including the issuance of
 2308 insurance policies; and
- 2309 (ii) has no remaining insurance liabilities or obligations associated with insurance
 2310 business transactions or insurance policies.
- 2311 (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or
 2312 obligations for which the captive insurance company has withheld sufficient funds or
 2313 that are otherwise sufficiently secured.
- 2314 (3) Except as provided in Subsection (4), a captive insurance company that holds a
 2315 certificate of dormancy is subject to all requirements of this chapter.
- 2316 (4) A captive insurance company that holds a certificate of dormancy:
- 2317 (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus
 2318 of:
- 2319 (i) in the case of a pure captive insurance company or a special purpose captive
 2320 insurance company, not less than \$25,000;
- 2321 (ii) in the case of an association captive insurance company, not less than \$75,000; or
 2322 (iii) in the case of a sponsored captive insurance company, not less than \$50,000, of
 2323 which the sponsor provides at least \$20,000; and
- 2324 (b) is not required to:
- 2325 (i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;
 2326 (ii) maintain an active agreement with an independent auditor or actuary; or
 2327 (iii) hold an annual meeting of the captive insurance company in the state.
- 2328 (5) The commissioner may require a captive insurance company that holds a certificate of
 2329 dormancy to submit an annual audit if the commissioner determines that there are
 2330 concerns regarding the captive insurance company's solvency or liquidity.
- 2331 (6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal
 2332 fee, no later than July 1 of each year, a captive insurance company shall pay an annual
 2333 dormancy renewal fee that is equal to 50% of the captive insurance's company's
 2334 certificate of authority renewal fee.
- 2335 [~~(7) A captive insurance company may consecutively renew a certificate of dormancy no~~
 2336 ~~more than five times.]~~
- 2337 Section 37. Section **31A-37a-205** is amended to read:
- 2338 **31A-37a-205 . Sponsored captives.**
- 2339 (1) In addition to the other provisions of this chapter, this section applies to a
 2340 sponsored captive insurance company under Chapter 37, Captive Insurance Companies

2341 Act, that has a certificate of authority as a special purpose financial captive insurance
2342 company [~~pursuant to~~] in accordance with this chapter.

2343 [~~(1)~~] (2) A sponsored captive insurance company may have a certificate of authority as a
2344 special purpose financial captive insurance company under this chapter.

2345 [~~(2)~~] (3)(a) For purposes of a sponsored captive insurance company having a certificate
2346 of authority as a special purpose financial captive insurance company, "general
2347 account" means the assets and liabilities of the sponsored captive insurance company
2348 not attributable to a [~~protected~~] cell.

2349 (b) For purposes of applying Chapter 27a, Insurer Receivership Act, to a sponsored
2350 captive insurance company having a certificate of authority as a special purpose
2351 financial captive insurance company, the definition of "insolvency" and "insolvent"
2352 in Section 31A-37a-102 shall be applied separately to:

2353 (i) each [~~protected~~] cell; and

2354 (ii) the special purpose financial captive insurance company's general account.

2355 [~~(3)~~] (4)(a) A participant in a sponsored captive insurance company having a certificate
2356 of authority as a special purpose financial captive insurance company shall be a
2357 ceding insurer, unless approved by the commissioner before a person becomes a
2358 participant.

2359 (b) A change in a participant in a sponsored captive insurance company having a
2360 certificate of authority as a special purpose financial captive insurance company is
2361 subject to prior approval by the commissioner.

2362 [~~(4)~~] (5) Notwithstanding Section 31A-37-401, a special purpose financial captive insurance
2363 company that is a sponsored captive insurance company may issue a security to a person
2364 not described in Section 31A-37-401 if the issuance to that person is approved by the
2365 commissioner before the issuance of the security.

2366 [~~(5)~~] (6) Notwithstanding Section 31A-37a-302, a sponsored captive insurance company
2367 having a certificate of authority as a special purpose financial captive insurance
2368 company shall:

2369 (a) at the time of initial application for a certificate of authority as a special purpose
2370 financial captive insurance company, possess unimpaired paid-in capital and surplus
2371 of not less than \$500,000; and

2372 (b) maintain at least \$500,000 of unimpaired paid-in capital and surplus of not less than
2373 \$500,000 during the time that it holds a certificate of authority under this chapter.

2374 [~~(6)~~] (7)(a) For purposes of a sponsored captive insurance company having a certificate

- 2375 of authority as a special purpose financial captive insurance company, this
 2376 Subsection [(6)] (7) applies to:
- 2377 (i) a security issued by the special purpose financial captive insurance company with
 2378 respect to a [protected] cell; or
 - 2379 (ii) a contract or obligation of the special purpose financial captive insurance
 2380 company with respect to a [protected] cell.
- 2381 (b) A sponsored captive insurance company having a certificate of authority as a special
 2382 purpose financial captive insurance company shall include with a security, contract,
 2383 or obligation described in Subsection [(6)(a)] (7)(a):
- 2384 (i) the designation of the [protected] cell; and
 - 2385 (ii) a disclosure in a form and content satisfactory to the commissioner to the effect
 2386 that the holder of the security or a counterparty to the contract or obligation has no
 2387 right or recourse against the special purpose financial captive insurance company
 2388 and its assets other than against an asset properly attributable to the [protected]
 2389 cell.
- 2390 (c) Notwithstanding the requirements of this Subsection [(6)] (7) and subject to other
 2391 statutes or rules including this chapter and Chapter 37, Captive Insurance Companies
 2392 Act, a creditor, ceding insurer, or another person may not use a failure to include a
 2393 disclosure described in Subsection [(6)(b)] (7)(b), in whole or part, as the sole basis to
 2394 have recourse against:
- 2395 (i) the general account of the special purpose financial captive insurance company; or
 - 2396 (ii) the assets of another [protected] cell of the special financial captive insurance
 2397 company.
- 2398 [(7)] (8) In addition to Section 31A-37-401, a sponsored captive insurance company having
 2399 a certificate of authority as a special purpose financial captive insurance company is
 2400 subject to the following with respect to a [protected] cell:
- 2401 (a)(i) A sponsored captive insurance company having a certificate of authority as a
 2402 special purpose financial captive insurance company shall establish a [protected]
 2403 cell only for the purpose of insuring or reinsuring risks of one or more reinsurance
 2404 contracts with a ceding insurer with the intent of facilitating an insurance
 2405 securitization.
 - 2406 (ii) Subject to Subsection [(7)(a)(iii)] (8)(a)(iii), a sponsored captive insurance
 2407 company having a certificate of authority as a special purpose financial captive
 2408 insurance company shall establish a separate [protected] cell with respect to a

- 2409 ceding insurer described in Subsection [(7)(a)(i)] (8)(a).
- 2410 (iii) A sponsored captive insurance company having a certificate of authority as a
 2411 special purpose financial captive insurance company shall establish a separate [
 2412 ~~protected~~]cell with respect to each reinsurance contract that is funded in whole or
 2413 in part by a separate insurance securitization transaction.
- 2414 (b) A sponsored captive insurance company having a certificate of authority as a special
 2415 purpose financial captive insurance company may not sale, exchange, or transfer an
 2416 asset by, between, or among any of [~~its protected~~] the sponsored captive insurance
 2417 company's cells without the prior approval of the commissioner.
- 2418 [(8)] (9)(a) A sponsored captive insurance company having a certificate of authority as a
 2419 special purpose financial captive insurance company shall attribute an asset or
 2420 liability to a [~~protected~~]cell and to the general account in accordance with the plan of
 2421 operation approved by the commissioner.
- 2422 (b) Except as provided by Subsection [(8)(a)] (9)(a), a sponsored captive insurance
 2423 company having a certificate of authority as a special purpose financial captive
 2424 insurance company may not attribute an asset or liability between:
- 2425 (i) [~~its~~] the sponsored captive insurance company's general account and a [~~protected~~]
 2426 cell; or
- 2427 (ii) [~~its protected~~] the sponsored captive insurance company's cells.
- 2428 (c) A sponsored captive insurance company having a certificate of authority as a special
 2429 purpose financial captive insurance company shall attribute:
- 2430 (i) an insurance obligation, asset, or liability relating to a reinsurance contract entered
 2431 into with respect to a [~~protected~~]cell; and
- 2432 (ii) an insurance securitization transaction related to the obligation, asset, or liability
 2433 described in Subsection [(8)(e)(i)] (9)(c)(i), including a security issued by the
 2434 special purpose financial captive insurance company as part of the insurance
 2435 securitization, to the [~~protected~~]cell.
- 2436 (d) The following shall reflect an insurance obligation, asset, or liability relating to a
 2437 reinsurance contract and the insurance securitization transaction that are attributed to
 2438 a [~~protected~~]cell:
- 2439 (i) a right, benefit, obligation, or a liability of a security attributable to a [~~protected~~]
 2440 cell described in Subsection [(8)(e)] (9)(c);
- 2441 (ii) the performance under a reinsurance contract and the related insurance
 2442 securitization transaction; and

2443 (iii) a tax benefit, loss, refund, or credit allocated pursuant to a tax allocation
 2444 agreement to which the special purpose financial captive insurance company is a
 2445 party, including a payment made by or due to be made to the special purpose
 2446 financial captive insurance company pursuant to the terms of the tax allocation
 2447 agreement.

2448 [~~(9)~~] (10) In addition to Section 31A-37a-502:

2449 (a) Chapter 27a, Insurer Receivership Act, applies to each [~~protected~~]cell of a sponsored
 2450 captive insurance company having a certificate of authority as a special purpose
 2451 financial captive insurance company.

2452 (b) A proceeding or action taken by the commissioner pursuant to Chapter 27a, Insurer
 2453 Receivership Act, with respect to a [~~protected~~]cell of a sponsored captive insurance
 2454 company having a certificate of authority as a special purpose financial captive
 2455 insurance company may not be the sole basis for a proceeding pursuant to Chapter
 2456 27a, Insurer Receivership Act, with respect to:

2457 (i) another [~~protected~~]cell of the special purpose financial captive insurance
 2458 company; or

2459 (ii) the special purpose financial captive insurance company's general account.

2460 (c)(i) Except as provided in Subsection [~~(9)(e)(ii)~~] (10)(c)(ii), the receiver of a special
 2461 purpose financial captive insurance company shall ensure that the assets
 2462 attributable to one [~~protected~~]cell are not applied to the liabilities attributable to:

2463 (A) another [~~protected~~]cell; or

2464 (B) the special purpose financial captive insurance company's general account.

2465 (ii) Notwithstanding Subsection [~~(9)(e)(i)~~] (10)(c)(i), if an asset or liability is
 2466 attributable to more than one [~~protected~~]cell, the receiver shall deal with the asset
 2467 or liability in accordance with the terms of a relevant governing instrument or
 2468 contract.

2469 (d) The insolvency of a [~~protected~~]cell of a sponsored captive insurance company
 2470 having a certificate of authority as a special purpose financial captive insurance
 2471 company may not be the sole basis for the commissioner to prohibit:

2472 (i) a payment by the special purpose financial captive insurance company made
 2473 pursuant to a special purpose financial captive insurance company security or
 2474 reinsurance contract with respect to another [~~protected~~]cell; or

2475 (ii) an action required to make a payment described in Subsection [~~(9)(d)(i)~~] (10)(d)(i).

2476 Section 38. Section **61-2g-502** is amended to read:

2477 **61-2g-502 . Disciplinary action -- Grounds.**

- 2478 (1)(a) The board may order disciplinary action, with the concurrence of the division,
2479 against a person:
- 2480 (i) registered, licensed, or certified under this chapter; or
 - 2481 (ii) required to be registered, licensed, or certified under this chapter.
- 2482 (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action
2483 may include:
- 2484 (i) revoking, suspending, or placing a person's registration, license, or certification on
2485 probation;
 - 2486 (ii) denying a person's original registration, license, or certification;
 - 2487 (iii) denying a person's renewal license, certification, or registration;
 - 2488 (iv) in the case of denial or revocation of a registration, license, or certification,
2489 setting a waiting period for an applicant to apply for a registration, license, or
2490 certification under this chapter;
 - 2491 (v) ordering remedial education;
 - 2492 (vi) imposing a civil penalty upon a person not to exceed the greater of:
 - 2493 (A) \$5,000 for each violation; or
 - 2494 (B) the amount of any gain or economic benefit from a violation;
 - 2495 (vii) issuing a cease and desist order;
 - 2496 (viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the
2497 board, with the concurrence of the division, finds that the person complies with
2498 court ordered restitution; or
 - 2499 (ix) doing any combination of Subsections (1)(b)(i) through (viii).
- 2500 (c)(i) If the board or division issues an order that orders a fine or educational
2501 requirements as part of the disciplinary action against a person, including a
2502 stipulation and order, the board or division shall state in the order the deadline by
2503 which the person shall comply with the fine or educational requirements.
- 2504 (ii) If a person fails to comply with a stated deadline:
 - 2505 (A) the person's license, certificate, or registration is automatically suspended:
 - 2506 (I) beginning on the day specified in the order as the deadline for compliance;
 - 2507 and
 - 2508 (II) ending the day on which the person complies in full with the order; and
 - 2509 (B) if the person fails to pay a fine required by an order, the division may begin a
2510 collection process:

- 2511 (I) established by the division by rule made in accordance with Title 63G,
2512 Chapter 3, Utah Administrative Rulemaking Act; and
- 2513 (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- 2514 (2) The following are grounds for disciplinary action under this section:
- 2515 (a) procuring or attempting to procure a registration, license, or certification under this
2516 chapter:
- 2517 (i) by fraud; or
- 2518 (ii) by making a false statement, submitting false information, or making a material
2519 misrepresentation in an application filed with the division;
- 2520 (b) paying money or attempting to pay money other than a fee provided for by this
2521 chapter to a member or employee of the division to procure a registration, license, or
2522 certification under this chapter;
- 2523 (c) an act or omission in the practice of real estate appraising that constitutes dishonesty,
2524 fraud, or misrepresentation;
- 2525 (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of
2526 fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- 2527 (e) regardless of whether the crime is related to the appraisal business, to:
- 2528 (i) be convicted of a felony;
- 2529 (ii) be convicted of any of the following involving fraud, misrepresentation, theft, or
2530 dishonesty:
- 2531 (A) a class A misdemeanor;
- 2532 (B) a class B misdemeanor; or
- 2533 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2534 (iii) plead guilty or nolo contendere to a felony;
- 2535 (iv) plead guilty or nolo contendere to any of the following involving fraud,
2536 misrepresentation, theft, or dishonesty:
- 2537 (A) a class A misdemeanor;
- 2538 (B) a class B misdemeanor; or
- 2539 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2540 (v) enter into a plea in abeyance agreement involving a felony; or
- 2541 (vi) enter into a plea in abeyance agreement involving any of the following involving
2542 fraud, misrepresentation, theft, or dishonesty:
- 2543 (A) a class A misdemeanor;
- 2544 (B) a class B misdemeanor; or

- 2545 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 2546 (f) engaging in the business of real estate appraising under an assumed or fictitious name
- 2547 not properly registered in this state;
- 2548 (g) paying a finder's fee or a referral fee to a person not licensed or certified under this
- 2549 chapter in connection with an appraisal of real estate or real property in this state;
- 2550 (h) making a false or misleading statement in:
- 2551 (i) that portion of a written appraisal report that deals with professional
- 2552 qualifications; or
- 2553 (ii) testimony concerning professional qualifications;
- 2554 (i) violating or disregarding:
- 2555 (i) this chapter;
- 2556 (ii) an order of:
- 2557 (A) the board; or
- 2558 (B) the division, in a case when the board delegates to the division the authority to
- 2559 make a decision on behalf of the board; or
- 2560 (iii) a rule issued under this chapter;
- 2561 (j) violating the confidential nature of governmental records to which a person
- 2562 registered, licensed, or certified under this chapter gained access through
- 2563 employment or engagement as an appraiser by a governmental agency;
- 2564 (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was
- 2565 contingent upon:
- 2566 (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;
- 2567 (ii) the analysis, opinion, conclusion, or valuation reached; or
- 2568 (iii) the consequences resulting from the appraisal assignment;
- 2569 (l) unprofessional conduct as defined by statute or rule; or
- 2570 [~~(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:~~]
- 2571 [~~(i) providing a title insurance product or service without the approval required by~~
- 2572 ~~Section 31A-2-405; or]~~
- 2573 [~~(ii) knowingly providing false or misleading information in the statement required by~~
- 2574 ~~Subsection 31A-2-405(2); or]~~
- 2575 [~~(n)~~] (m) other conduct that constitutes dishonest dealing.
- 2576 (3) A person previously licensed, certified, or registered under this chapter remains
- 2577 responsible for, and is subject to disciplinary action for, an act that the person
- 2578 committed, while the person was licensed, certified, or registered, in violation of this

2579 chapter or an administrative rule in effect at the time that the person committed the act,
2580 regardless of whether the person is currently licensed, certified, or registered.

2581 Section 39. **Effective Date.**

2582 This bill takes effect on May 7, 2025.