

Family Leave Requirements Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nate Blouin

LONG TITLE**General Description:**

This bill addresses family leave insurance within the Insurance Code.

Highlighted Provisions:

This bill:

- defines terms;
- includes family leave insurance in the definition of income replacement and disability income insurance, making family leave insurance subject to the same statutory requirements as income replacement and disability income insurance; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-1-301, as last amended by Laws of Utah 2024, Chapter 120

31A-16-104.5, as enacted by Laws of Utah 2015, Chapter 244

31A-27a-104, as last amended by Laws of Utah 2022, Chapter 198

31A-27a-502, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section **31A-1-301** is amended to read:

31A-1-301 . Definitions.

As used in this title, unless otherwise specified:

(1)(a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

- 32 (B) the risk of disability;
- 33 (ii) accident; or
- 34 (iii) sickness.
- 35 (b) "Accident and health insurance":
- 36 (i) includes a contract with disability contingencies including:
- 37 (A) an income replacement contract;
- 38 (B) a health care contract;
- 39 (C) a fixed indemnity contract;
- 40 (D) a credit accident and health contract;
- 41 (E) a continuing care contract; and
- 42 (F) a long-term care contract; and
- 43 (ii) may provide:
- 44 (A) hospital coverage;
- 45 (B) surgical coverage;
- 46 (C) medical coverage;
- 47 (D) loss of income coverage;
- 48 (E) prescription drug coverage;
- 49 (F) dental coverage; or
- 50 (G) vision coverage.
- 51 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 52 (d) ~~[For purposes of a national licensing registry, "accident and health insurance"]~~
- 53 "Accident and health insurance" is the same as "accident and health or sickness
- 54 insurance[-:]" for purposes of a national licensing registry.
- 55 (2) "Actuary" ~~[is-as]~~ means the same as the term is defined by the commissioner by rule,
- 56 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 57 (3) "Administrator" means the same as that term is defined in Subsection ~~[(187)-]~~ (199).
- 58 (4) "Admitted insurer" or "authorized insurer" means an insurer:
- 59 (a) holding a valid certificate of authority to do an insurance business in this state; and
- 60 (b) transacting business as authorized by a valid certificate.
- 61 ~~[(4)]~~ (5) "Adult" means an individual who is 18 years old or older.
- 62 ~~[(5)]~~ (6) "Affiliate" means a person who controls, is controlled by, or is under common
- 63 control with, another person. A corporation is an affiliate of another corporation,
- 64 regardless of ownership, if substantially the same group of individuals manage the
- 65 corporations.

- 66 [~~(6)~~] (7) "Agency" means:
- 67 (a) a person other than an individual, including a sole proprietorship by which an
68 individual does business under an assumed name; and
- 69 (b) an insurance organization licensed or required to be licensed under Section
70 31A-23a-301, 31A-25-207, or 31A-26-209.
- 71 [~~(7)~~] (8) "Alien insurer" means an insurer domiciled outside the United States.
- 72 [~~(8)~~] (9) "Amendment" means an endorsement to an insurance policy or certificate.
- 73 [~~(9)~~] (10) "Annuity" means an agreement to make periodical payments for a period certain
74 or over the lifetime of one or more individuals if the making or continuance of all or
75 some of the series of the payments, or the amount of the payment, is dependent upon the
76 continuance of human life.
- 77 [~~(10)~~] (11) "Application" means a document:
- 78 (a)(i) completed by an applicant to provide information about the risk to be insured;
79 and
- 80 (ii) that contains information that is used by the insurer to evaluate risk and decide
81 whether to:
- 82 (A) insure the risk under:
- 83 (I) the coverage as originally offered; or
84 (II) a modification of the coverage as originally offered; or
- 85 (B) decline to insure the risk; or
- 86 (b) used by the insurer to gather information from the applicant before issuance of an
87 annuity contract.
- 88 [~~(11)~~] (12) "Articles" or "articles of incorporation" means:
- 89 (a) the original articles;
- 90 (b) a special law;
- 91 (c) a charter;
- 92 (d) an amendment;
- 93 (e) restated articles;
- 94 (f) articles of merger or consolidation;
- 95 (g) a trust instrument;
- 96 (h) another constitutive document for a trust or other entity that is not a corporation; and
- 97 (i) an amendment to an item listed in Subsections [~~(11)(a)-~~] (12)(a) through (h).
- 98 [~~(12)~~] (13) "Bail bond insurance" means a guarantee that a person will attend court when
99 required, up to and including surrender of the person in execution of a sentence imposed

- 100 under Subsection 77-20-501(1), as a condition to the release of that person from
101 confinement.
- 102 ~~[(13)]~~ (14) "Binder" means the same as that term is defined in Section 31A-21-102.
- 103 ~~[(14)]~~ (15) "Blanket insurance policy" or "blanket contract" means a group insurance policy
104 covering a defined class of persons:
- 105 (a) without individual underwriting or application; and
106 (b) that is determined by definition without designating each person covered.
- 107 ~~[(15)]~~ (16) "Board," "board of trustees," or "board of directors" means the group of persons
108 with responsibility over, or management of, a corporation, however designated.
- 109 ~~[(16)]~~ (17) "Bona fide office" means a physical office in this state:
- 110 (a) that is open to the public;
111 (b) that is staffed during regular business hours on regular business days; and
112 (c) at which the public may appear in person to obtain services.
- 113 ~~[(17)]~~ (18) "Business entity" means:
- 114 (a) a corporation;
115 (b) an association;
116 (c) a partnership;
117 (d) a limited liability company;
118 (e) a limited liability partnership; or
119 (f) another legal entity.
- 120 ~~[(18)]~~ (19) "Business of insurance" means the same as that term is defined in Subsection [
121 ~~(98)~~]; (103).
- 122 ~~[(19)]~~ (20) "Business plan" means the information required to be supplied to the
123 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information
124 required when these subsections apply by reference under:
- 125 (a) Section 31A-8-205; or
126 (b) Subsection 31A-9-205(2).
- 127 ~~[(20)]~~ (21)(a) "Bylaws" means the rules adopted for the regulation or management of a
128 corporation's affairs, however designated.
- 129 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
130 corporation.
- 131 ~~[(21)]~~ (22) "Captive insurance company" means:
- 132 (a) an insurer:
133 (i) owned by a parent organization; and

- 134 (ii) whose purpose is to insure risks of the parent organization and other risks as
 135 authorized under:
- 136 (A) Chapter 37, Captive Insurance Companies Act; and
 137 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or
- 138 (b) in the case of a group or association, an insurer:
- 139 (i) owned by the insureds; and
 140 (ii) whose purpose is to insure risks of:
- 141 (A) a member organization;
 142 (B) a group member; or
 143 (C) an affiliate of[~~;~~] a member organization or a group member.
 144 [~~(F) a member organization; or~~]
 145 [~~(H) a group member.~~]
- 146 [(22)] (23) "Casualty insurance" means liability insurance.
 147 [(23)] (24) "Certificate" means evidence of insurance given to:
- 148 (a) an insured under a group insurance policy; or
 149 (b) a third party.
- 150 [(24)] (25) "Certificate of authority" is included within the term "license."
 151 (26) "Child" means an individual who is:
 152 (a)(i) under 18 years old; or
 153 (ii) 18 years old or older and incapable of self-care because of a mental or physical
 154 disability; and
 155 (b)(i) related to the employee by blood, adoption, marriage, or legal partnership; or
 156 (ii) the legal ward of the employee.
- 157 [(25)] (27) "Claim," unless the context otherwise requires, means a request or demand on an
 158 insurer for payment of a benefit according to the terms of an insurance policy.
- 159 [(26)] (28) "Claims-made coverage" means an insurance contract or provision limiting
 160 coverage under a policy insuring against legal liability to claims that are first made
 161 against the insured while the policy is in force.
- 162 [(27)] (29)(a) "Commissioner" or "commissioner of insurance" means Utah's insurance
 163 commissioner.
 164 (b) When appropriate, the terms listed in Subsection [(27)(a)] (29)(a) apply to the
 165 equivalent supervisory official of another jurisdiction.
- 166 [(28)] (30)(a) "Continuing care insurance" means insurance that:
 167 (i) provides board and lodging;

- 168 (ii) provides one or more of the following:
- 169 (A) a personal service;
- 170 (B) a nursing service;
- 171 (C) a medical service; or
- 172 (D) any other health-related service; and
- 173 (iii) provides the coverage described in this Subsection ~~[(28)(a)]~~ (30)(a) under an
- 174 agreement effective:
- 175 (A) for the life of the insured; or
- 176 (B) for a period ~~[in excess of]~~ that exceeds one year.
- 177 (b) ~~[Insurance is continuing care insurance]~~ "Continuing care insurance" includes
- 178 insurance that meets the requirements described in Subsection (30)(a) regardless of
- 179 whether~~[or not]~~ the board and lodging are provided at the same location as a service
- 180 described in Subsection ~~[(28)(a)(ii)]~~ (30)(a)(ii).
- 181 ~~[(29)]~~ (31)(a) "Control," "controlling," "controlled," or "under common control" means
- 182 the direct or indirect possession of the power to direct or cause the direction of the
- 183 management and policies of a person~~[- This control may be]~~:
- 184 (i) by contract;
- 185 (ii) by common management;
- 186 (iii) through the ownership of voting securities; or
- 187 (iv) by a means other than those described in Subsections ~~[(29)(a)(i)]~~ (31)(a)(i)
- 188 through (iii).
- 189 (b) There is no presumption that an individual holding an official position with another
- 190 person controls that person solely by reason of the position.
- 191 (c) A person having a contract or arrangement giving control is considered to have
- 192 control despite the illegality or invalidity of the contract or arrangement.
- 193 (d) There is a rebuttable presumption of control in a person who directly or indirectly
- 194 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of
- 195 the voting securities of another person.
- 196 ~~[(30)]~~ (32) "Controlled insurer" means a licensed insurer that is either directly or indirectly
- 197 controlled by a producer.
- 198 ~~[(31)]~~ (33) "Controlling person" means a person that directly or indirectly has the power to
- 199 direct or cause to be directed, the management, control, or activities of a reinsurance
- 200 intermediary.
- 201 ~~[(32)]~~ (34) "Controlling producer" means a producer ~~[who]~~ that directly or indirectly controls

202 an insurer.

203 ~~[(33)]~~ (35) "Corporate governance annual disclosure" means a report an insurer or insurance
 204 group files in accordance with the requirements of Chapter 16b, Corporate Governance
 205 Annual Disclosure Act.

206 ~~[(34)]~~ (36)~~[(a)]~~ "Corporation" means an insurance corporation, except when referring to:
 207 ~~[(i)]~~ (a) a corporation doing business:
 208 ~~[(A)]~~ (i) as:
 209 ~~[(H)]~~ (A) an insurance producer;
 210 ~~[(H)]~~ (B) a surplus lines producer;
 211 ~~[(H)]~~ (C) a limited line producer;
 212 ~~[(H)]~~ (D) a consultant;
 213 ~~[(V)]~~ (E) a managing general agent;
 214 ~~[(V)]~~ (F) a reinsurance intermediary;
 215 ~~[(V)]~~ (G) a third party administrator; or
 216 ~~[(V)]~~ (H) an adjuster; and
 217 ~~[(B)]~~ (ii) under:
 218 ~~[(H)]~~ (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,
 219 and Reinsurance Intermediaries;
 220 ~~[(H)]~~ (B) Chapter 25, Third Party Administrators; or
 221 ~~[(H)]~~ (C) Chapter 26, Insurance Adjusters; or
 222 ~~[(ii)]~~ (b) a noninsurer that is part of a holding company system under Chapter 16,
 223 Insurance Holding Companies.

224 ~~[(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.]~~
 225 ~~[(e) "Stock corporation" means a stock insurance corporation.]~~

226 ~~[(35)]~~ (37)(a) "Creditable coverage" has the same meaning as provided in federal
 227 regulations adopted pursuant to the Health Insurance Portability and Accountability
 228 Act.

229 (b)(i) "Creditable coverage" includes coverage that is offered through a public health
 230 plan~~[-such as:]~~ .

231 (ii) "Creditable coverage" includes:
 232 ~~[(i)]~~ (A) the Primary Care Network Program under a Medicaid primary care
 233 network demonstration waiver obtained subject to Section 26B-3-108;
 234 ~~[(i)]~~ (B) the Children's Health Insurance Program under Section 26B-3-904; or
 235 ~~[(i)]~~ (C) the Ryan White Program Comprehensive AIDS Resources Emergency

236 Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment
237 Modernization Act of 2006, Pub. L. No. 109-415.

238 ~~[(36)]~~ (38) "Credit accident and health insurance" means insurance on a debtor to provide
239 indemnity for payments coming due on a specific loan or other credit transaction while
240 the debtor has a disability.

241 ~~[(37)]~~ (39)(a) "Credit insurance" means insurance offered in connection with an
242 extension of credit that is limited to partially or wholly extinguishing that credit
243 obligation.

244 (b) "Credit insurance" includes:

245 (i) credit accident and health insurance;

246 (ii) credit life insurance;

247 (iii) credit property insurance;

248 (iv) credit unemployment insurance;

249 (v) guaranteed automobile protection insurance;

250 (vi) involuntary unemployment insurance;

251 (vii) mortgage accident and health insurance;

252 (viii) mortgage guaranty insurance; and

253 (ix) mortgage life insurance.

254 ~~[(38)]~~ (40) "Credit life insurance" means insurance on the life of a debtor in connection with
255 an extension of credit that pays a person if the debtor dies.

256 ~~[(39)]~~ (41) "Creditor" means a person, including an insured, having a claim, whether:

257 (a) matured;

258 (b) unmatured;

259 (c) liquidated;

260 (d) unliquidated;

261 (e) secured;

262 (f) unsecured;

263 (g) absolute;

264 (h) fixed; or

265 (i) contingent.

266 ~~[(40)]~~ (42) "Credit property insurance" means insurance:

267 (a) offered in connection with an extension of credit; and

268 (b) that protects the property until the debt is paid.

269 ~~[(41)]~~ (43) "Credit unemployment insurance" means insurance:

- 270 (a) offered in connection with an extension of credit; and
- 271 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
- 272 (i) specific loan; or
- 273 (ii) credit transaction.
- 274 [(42)] (44)(a) "Crop insurance" means insurance providing protection against damage to
- 275 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect
- 276 infestation, disease, or other yield-reducing conditions or perils that is:
- 277 (i) provided by the private insurance market; or
- 278 (ii) subsidized by the Federal Crop Insurance Corporation.
- 279 (b) "Crop insurance" includes multiperil crop insurance.
- 280 [(43)] (45)(a) "Customer service representative" means a person that provides an
- 281 insurance service and insurance product information:
- 282 (i) for the customer service representative's:
- 283 (A) producer;
- 284 (B) surplus lines producer; or
- 285 (C) consultant employer; and
- 286 (ii) to the customer service representative's employer's:
- 287 (A) customer;
- 288 (B) client; or
- 289 (C) organization.
- 290 (b) A customer service representative may only operate within the scope of authority of
- 291 the customer service representative's producer, surplus lines producer, or consultant
- 292 employer.
- 293 [(44)] (46) "Deadline" means a final date or time:
- 294 (a) imposed by:
- 295 (i) statute;
- 296 (ii) rule; or
- 297 (iii) order; and
- 298 (b) by which the department shall receive a required filing or payment[~~must be received~~
- 299 ~~by the department~~].
- 300 [(45)] (47) "Deemer clause" means a provision under this title under which, upon the
- 301 occurrence of a condition precedent, the commissioner is considered to have taken a
- 302 specific action. If the statute so provides, a condition precedent may be the
- 303 commissioner's failure to take a specific action.

- 304 [(46)] (48) "Degree of relationship" means the number of steps between two [persons]
305 individuals determined by counting the generations separating one [person] individual
306 from a common ancestor and then counting the generations to the other [person]
307 individual.
- 308 [(47)] (49) "Department" means the Insurance Department.
- 309 [(48)] (50)(a) "Direct response solicitation" means an offer for life or accident and health
310 insurance coverage that allows the individual to apply for or enroll in the insurance
311 coverage on the basis of the offer.
- 312 (b) "Direct response solicitation" does not include an offer for:
- 313 (i) insurance through an employee benefit plan that is exempt from state regulation
314 under federal law; or
- 315 (ii) credit life insurance or credit accident and health insurance through [a] an
316 individual's creditor.
- 317 [(49)] (51) "Direct response insurance policy" means an insurance policy solicited and sold
318 without the policyholder having direct contact with a natural person intermediary.
- 319 [(50)] (52) "Director" means a member of the board of directors of a corporation.
- 320 [(51)] (53) "Disability" means a physiological or psychological condition that partially or
321 totally limits an individual's ability to:
- 322 (a) perform the duties of:
- 323 (i) that individual's occupation; or
- 324 (ii) an occupation for which the individual is reasonably suited by education, training,
325 or experience; or
- 326 (b) perform two or more of the following basic activities of daily living:
- 327 (i) eating;
- 328 (ii) toileting;
- 329 (iii) transferring;
- 330 (iv) bathing; or
- 331 (v) dressing.
- 332 [(52)] (54) "Disability income insurance" means the same as that term is defined in
333 Subsection [(89)-] (94).
- 334 [(53)] (55) "Domestic insurer" means an insurer organized under the laws of this state.
- 335 [(54)] (56) "Domiciliary state" means the state in which an insurer:
- 336 (a) is incorporated;
- 337 (b) is organized; or

- 338 (c) in the case of an alien insurer, enters into the United States.
- 339 [~~(55)~~] (57)(a) "Eligible employee" means:
- 340 (i) an employee who:
- 341 (A) works on a full-time basis; and
- 342 (B) has a normal work week of 30 or more hours; or
- 343 (ii) [~~a person~~] an individual described in Subsection [~~(55)(b)~~] (57)(b).
- 344 (b) "Eligible employee" includes:
- 345 (i) an owner, sole proprietor, or partner who:
- 346 (A) works on a full-time basis;
- 347 (B) has a normal work week of 30 or more hours; and
- 348 (C) employs at least one common employee; and
- 349 (ii) an independent contractor if the individual is included under a health benefit plan
- 350 of a small employer.
- 351 (c) "Eligible employee" does not include, unless eligible under Subsection [~~(55)(b)~~]:
- 352 (57)(b):
- 353 (i) an individual who works on a temporary or substitute basis for a small employer;
- 354 (ii) an employer's spouse who does not meet the requirements of Subsection [
- 355 ~~(55)(a)(i)~~] (57)(a)(i); or
- 356 (iii) a dependent of an employer who does not meet the requirements of Subsection [
- 357 ~~(55)(a)(i)~~] (57)(a)(i).
- 358 [~~(56)~~] (58) "Emergency medical condition" means a medical condition that:
- 359 (a) manifests itself by acute symptoms, including severe pain; and
- 360 (b) would cause a prudent layperson possessing an average knowledge of medicine and
- 361 health to reasonably expect the absence of immediate medical attention through a
- 362 hospital emergency department to result in:
- 363 (i) placing the layperson's health or the layperson's unborn child's health in serious
- 364 jeopardy;
- 365 (ii) serious impairment to bodily functions; or
- 366 (iii) serious dysfunction of any bodily organ or part.
- 367 [~~(57)~~] (59) "Employee" means:
- 368 (a) an individual employed by an employer; or
- 369 (b) an individual who meets the requirements of Subsection [~~(55)(b)~~] (57)(b).
- 370 [~~(58)~~] (60) "Employee benefits" means one or more benefits or services provided to:
- 371 (a) an employee; or

- 372 (b) a dependent of an employee.
- 373 [(59)] (61)(a) "Employee welfare fund" means a fund:
- 374 (i) established or maintained, whether directly or through a trustee, by:
- 375 (A) one or more employers;
- 376 (B) one or more labor organizations; or
- 377 (C) a combination of employers and labor organizations; and
- 378 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 379 from investments of the fund:
- 380 (A) by or on behalf of an employer doing business in this state; or
- 381 (B) for the benefit of a person employed in this state.
- 382 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 383 revenues.
- 384 [(60)] (62) "Endorsement" means a written agreement attached to a policy or certificate to
- 385 modify the policy or certificate coverage.
- 386 [(61)] (63)(a) "Enrollee" means:
- 387 (i) a policyholder;
- 388 (ii) a certificate holder;
- 389 (iii) a subscriber; or
- 390 (iv) a covered individual:
- 391 (A) who has entered into a contract with an organization for health care; or
- 392 (B) on whose behalf an arrangement for health care has been made.
- 393 (b) "Enrollee" includes an insured.
- 394 [(62)] (64) "Enrollment date," with respect to a health benefit plan, means:
- 395 (a) the first day of coverage; or
- 396 (b) if there is a waiting period, the first day of the waiting period.
- 397 [(63)] (65) "Enterprise risk" means an activity, circumstance, event, or series of events
- 398 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to
- 399 have a material adverse effect upon the financial condition or liquidity of the insurer or [
- 400 its] the insurer's insurance holding company system as a whole, including anything that
- 401 would cause:
- 402 (a) the insurer's risk-based capital to fall into an action or control level as set forth in
- 403 Sections 31A-17-601 through 31A-17-613; or
- 404 (b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.
- 405 [(64)] (66)(a) "Escrow" means:

406 (i) a transaction that [effects] affects the sale, transfer, encumbering, or leasing of real
 407 property, when a person not a party to the transaction, and neither having nor
 408 acquiring an interest in the title, performs, in accordance with the written
 409 instructions or terms of the written agreement between the parties to the
 410 transaction, any of the following actions:

411 (A) the explanation, holding, or creation of a document; or

412 (B) the receipt, deposit, and disbursement of money; or

413 (ii) a settlement or closing involving:

414 (A) a mobile home;

415 (B) a grazing right;

416 (C) a water right; or

417 (D) other personal property authorized by the commissioner.

418 (b) "Escrow" does not include:

419 (i) the following notarial acts performed by a notary within the state:

420 (A) an acknowledgment;

421 (B) a copy certification;

422 (C) jurat; and

423 (D) an oath or affirmation;

424 (ii) the receipt or delivery of a document; or

425 (iii) the receipt of money for delivery to the escrow agent.

426 [~~(65)~~] (67) "Escrow agent" means an agency title insurance producer meeting the
 427 requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, [who] that is acting
 428 through an individual title insurance producer licensed with an escrow subline of
 429 authority.

430 (68) "Excess surplus" means:

431 (a) for a life insurer, accident and health insurer, health organization, or property and
 432 casualty insurer as defined in Section 31A-17-601, the lesser of:

433 (i) that amount of an insurer's or health organization's total adjusted capital that
 434 exceeds the product of:

435 (A) 2.5; and

436 (B) the sum of the insurer's or health organization's minimum capital or permanent
 437 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

438 (ii) that amount of an insurer's or health organization's total adjusted capital that
 439 exceeds the product of:

- 440 (A) 3.0; and
- 441 (B) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a);
- 442 and
- 443 (b) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer,
- 444 the amount of an insurer's paid-in-capital and surplus that exceeds the product of:
- 445 (i) 1.5; and
- 446 (ii) the insurer's total adjusted capital required by Subsection 31A-17-609(1).
- 447 [(66)] (69)(a) "Excludes" is not exhaustive and does not mean that another thing is not
- 448 also excluded.
- 449 (b) The items listed in a list using the term "excludes" are representative examples for
- 450 use in interpretation of this title.
- 451 [(67)] (70) "Exclusion" means for the purposes of accident and health insurance that an
- 452 insurer does not provide insurance coverage, for whatever reason, for one of the
- 453 following:
- 454 (a) a specific physical condition;
- 455 (b) a specific medical procedure;
- 456 (c) a specific disease or disorder; or
- 457 (d) a specific prescription drug or class of prescription drugs.
- 458 (71) "Family leave insurance" means insurance that provides income replacement, medical
- 459 expense coverage, or other compensation or benefits to an employee who takes time
- 460 away from employment to care for:
- 461 (a) the employee's newborn, adopted, or foster child; or
- 462 (b) a family member with a serious health condition.
- 463 (72) "Family member" means:
- 464 (a) a spouse of the employee;
- 465 (b) a parent or child; or
- 466 (c) any other individual defined as a family member in the policy of insurance.
- 467 [(68)] (73) "Fidelity insurance" means insurance guaranteeing the fidelity of a person
- 468 holding a position of public or private trust.
- 469 [(69)] (74)(a) "Filed" means that a filing is:
- 470 (i) submitted to the department as required by and in accordance with applicable
- 471 statute, rule, or filing order;
- 472 (ii) received by the department within the time period provided in applicable statute,
- 473 rule, or filing order; and

- 474 (iii) accompanied by the appropriate fee in accordance with:
475 (A) Section 31A-3-103; or
476 (B) rule.
- 477 (b) "Filed" does not include a filing that is rejected by the department because [it] the
478 filing is not submitted in accordance with Subsection [~~(69)(a)~~] (74)(a).
479 [~~(70)~~] (75) "Filing," when used as a noun, means an item required to be filed with the
480 department, including:
481 (a) a policy;
482 (b) a rate;
483 (c) a form;
484 (d) a document;
485 (e) a plan;
486 (f) a manual;
487 (g) an application;
488 (h) a report;
489 (i) a certificate;
490 (j) an endorsement;
491 (k) an actuarial certification;
492 (l) a licensee annual statement;
493 (m) a licensee renewal application;
494 (n) an advertisement;
495 (o) a binder; or
496 (p) an outline of coverage.
- 497 [~~(71)~~] (76) "First party insurance" means an insurance policy or contract in which the
498 insurer agrees to pay a claim submitted to [it] the insurer by the insured for the insured's
499 losses.
- 500 [~~(72)~~] (77)(a) "Fixed indemnity insurance" means accident and health insurance written
501 to provide a fixed amount for a specified event relating to or resulting from an illness
502 or injury.
- 503 (b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.
- 504 [~~(73)~~] (78) "Foreign insurer" means an insurer domiciled outside of this state, including an
505 alien insurer.
- 506 [~~(74)~~] (79)(a) "Form" means one of the following prepared for general use:
507 (i) a policy;

- 508 (ii) a certificate;
- 509 (iii) an application;
- 510 (iv) an outline of coverage; or
- 511 (v) an endorsement.
- 512 (b) "Form" does not include a document specially prepared for use in an individual case.
- 513 ~~[(75)]~~ (80) "Franchise insurance" means an individual insurance policy provided through a
- 514 mass marketing arrangement involving a defined class of ~~[persons]~~ individuals related in
- 515 some way other than through the purchase of insurance.
- 516 ~~[(76)]~~ (81) "General lines of authority" include:
- 517 (a) the general lines of insurance in Subsection ~~[(77);]~~ (82);
- 518 (b) title insurance under one of the following sublines of authority:
- 519 (i) title examination, including authority to act as a title marketing representative;
- 520 (ii) escrow, including authority to act as a title marketing representative; and
- 521 (iii) title marketing representative only;
- 522 (c) surplus lines;
- 523 (d) workers' compensation; and
- 524 (e) another line of insurance that the commissioner considers necessary to recognize in
- 525 the public interest.
- 526 ~~[(77)]~~ (82) "General lines of insurance" include:
- 527 (a) accident and health;
- 528 (b) casualty;
- 529 (c) life;
- 530 (d) personal lines;
- 531 (e) property; and
- 532 (f) variable contracts, including variable life and annuity.
- 533 ~~[(78)]~~ (83) "Group health plan" means an employee welfare benefit plan to the extent that
- 534 the plan provides medical care:
- 535 (a)(i) to an employee; or
- 536 (ii) to a dependent of an employee; and
- 537 (b)(i) directly;
- 538 (ii) through insurance reimbursement; or
- 539 (iii) through another method.
- 540 ~~[(79)]~~ (84)(a) "Group insurance policy" means a policy covering a group of persons that
- 541 is issued:

- 542 (i) to a policyholder on behalf of the group; and
- 543 (ii) for the benefit of a member of the group who is selected under a procedure
- 544 defined in:
- 545 (A) the policy; or
- 546 (B) an agreement that is collateral to the policy.
- 547 (b) A group insurance policy may include a member of the policyholder's family or a
- 548 dependent.
- 549 ~~[(80)]~~ (85) "Group-wide supervisor" means the commissioner or other regulatory official
- 550 designated as the group-wide supervisor for an internationally active insurance group
- 551 under Section 31A-16-108.6.
- 552 ~~[(81)]~~ (86) "Guaranteed automobile protection insurance" means insurance offered in
- 553 connection with an extension of credit that pays the difference in amount between the
- 554 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 555 ~~[(82)]~~ (87)(a) "Health benefit plan" means a policy, contract, certificate, or agreement
- 556 offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse
- 557 any of the costs of health care, including major medical expense coverage.
- 558 (b) "Health benefit plan" does not include:
- 559 (i) coverage only for accident or disability income insurance, or any combination
- 560 thereof;
- 561 (ii) coverage issued as a supplement to liability insurance;
- 562 (iii) liability insurance, including general liability insurance and automobile liability
- 563 insurance;
- 564 (iv) workers' compensation or similar insurance;
- 565 (v) automobile medical payment insurance;
- 566 (vi) credit-only insurance;
- 567 (vii) coverage for on-site medical clinics;
- 568 (viii) other similar insurance coverage, specified in federal regulations issued
- 569 pursuant to Pub. L. No. 104-191, under which benefits for health care services are
- 570 secondary or incidental to other insurance benefits;
- 571 (ix) the following benefits if ~~[they]~~ the benefits are provided under a separate policy,
- 572 certificate, or contract of insurance or are otherwise not an integral part of the plan:
- 573 (A) limited scope dental or vision benefits;
- 574 (B) benefits for long-term care, nursing home care, home health care,
- 575 community-based care, or any combination thereof; or

- 576 (C) other similar limited benefits, specified in federal regulations issued pursuant
 577 to Pub. L. No. 104-191;
- 578 (x) the following benefits if the benefits are provided under a separate policy,
 579 certificate, or contract of insurance, there is no coordination between the provision
 580 of benefits and any exclusion of benefits under any health plan, and the benefits
 581 are paid with respect to an event without regard to whether benefits are provided
 582 under any health plan:
- 583 (A) coverage only for specified disease or illness; or
 584 (B) fixed indemnity insurance;
- 585 (xi) the following if offered as a separate policy, certificate, or contract of insurance:
- 586 (A) Medicare supplement insurance;
- 587 (B) coverage supplemental to the coverage provided under United States Code,
 588 Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services
 589 (CHAMPUS); or
- 590 (C) similar supplemental coverage provided to coverage under a group health
 591 insurance plan;
- 592 (xii) short-term limited duration health insurance; and
 593 (xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.
- 594 ~~[(83)]~~ (88) "Health care" means any of the following intended for use in the diagnosis,
 595 treatment, mitigation, or prevention of a human ailment or impairment:
- 596 (a) a professional service;
 597 (b) a personal service;
 598 (c) a facility;
 599 (d) equipment;
 600 (e) a device;
 601 (f) supplies; or
 602 (g) medicine.
- 603 ~~[(84)]~~ (89)(a) "Health care insurance" or "health insurance" means insurance providing:
- 604 (i) a health care benefit; or
 605 (ii) payment of an incurred health care expense.
- 606 (b) "Health care insurance" or "health insurance" does not include accident and health
 607 insurance providing a benefit for:
- 608 (i) replacement of income;
 609 (ii) short-term accident;

- 610 (iii) fixed indemnity;
611 (iv) credit accident and health;
612 (v) supplements to liability;
613 (vi) workers' compensation;
614 (vii) automobile medical payment;
615 (viii) no-fault automobile;
616 (ix) equivalent self-insurance; or
617 (x) a type of accident and health insurance coverage that is a part of or attached to
618 another type of policy.

619 ~~[(85)]~~ (90) "Health care provider" means the same as that term is defined in Section
620 78B-3-403.

621 ~~[(86)]~~ (91) "Health care sharing ministry" means an entity that:

- 622 (a) is a tax-exempt nonprofit entity under the Internal Revenue Code;
623 (b) limits participants to those who are of a similar faith;
624 (c) facilitates the sharing of a participant's qualified expenses, as defined by the entity,
625 among other participants by:
626 (i) matching a participant who has qualified expenses with one or more participants
627 who are able to contribute to paying for the qualified expenses; and
628 (ii) arranging, directly or indirectly, for each contributing participant's contribution to
629 be used to pay for the qualified expenses;
630 (d) requires an individual to make one or more minimum payments or contributions as a
631 condition of one or more of the following:
632 (i) becoming a participant;
633 (ii) remaining a participant; or
634 (iii) receiving a contribution to pay qualified expenses; and
635 (e) in carrying out the functions described in this Subsection ~~[(86)]~~ (91), makes no
636 assumption of risk or promise to pay any qualified expenses.

637 ~~[(87)]~~ (92) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec.
638 155.20.

639 ~~[(88)]~~ (93) "Health Insurance Portability and Accountability Act" means the Health
640 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.
641 1936, as amended.

642 ~~[(89)]~~ (94)(a) "Income replacement insurance" or "disability income insurance" means
643 insurance written to provide payments to replace income lost from accident or

644 sickness.

645 (b) "Income replacement insurance" or "disability income insurance" includes family
646 leave insurance.

647 [(90)] (95) "Indemnity" means the payment of an amount to offset all or part of an insured
648 loss.

649 [(91)] (96) "Independent adjuster" means an insurance adjuster required to be licensed under
650 Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

651 [(92)] (97) "Independently procured insurance" means insurance procured under Section
652 31A-15-104.

653 [(93)] (98) "Individual" means a natural person.

654 [(94)] (99) "Inland marine insurance" includes insurance covering:

655 (a) property in transit on or over land;

656 (b) property in transit over water by means other than boat or ship;

657 (c) bailee liability;

658 (d) fixed transportation property such as bridges, electric transmission systems, radio
659 and television transmission towers and tunnels; and

660 (e) personal and commercial property floaters.

661 [(95)] (100) "Insolvency" or "insolvent" means that:

662 (a) an insurer is unable to pay the insurer's obligations as the obligations are due;

663 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
664 RBC under Subsection 31A-17-601(8)(c); or

665 (c) an insurer's admitted assets are less than the insurer's liabilities.

666 [(96)] (101)(a) "Insurance" means:

667 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or
668 more persons to one or more other persons; or

669 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
670 group of persons that includes the person seeking to distribute that person's risk.

671 (b) "Insurance" includes:

672 (i) a risk distributing arrangement providing for compensation or replacement for
673 damages or loss through the provision of a service or a benefit in kind;

674 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
675 business and not as merely incidental to a business transaction; and

676 (iii) a plan in which the risk does not rest upon the person who makes an
677 arrangement, but with a class of persons who have agreed to share the risk.

678 [(97)] (102) "Insurance adjuster" means a person [whø] that directs or conducts the
679 investigation, negotiation, or settlement of a claim under an insurance policy other than
680 life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an
681 insurance policy.

682 [(98)] (103) "Insurance business" or "business of insurance" includes:

- 683 (a) providing health care insurance by an organization that is or is required to be
684 licensed under this title;
- 685 (b) providing a benefit to an employee in the event of a contingency not within the
686 control of the employee, in which the employee is entitled to the benefit as a right,
687 which benefit may be provided either:
 - 688 (i) by a single employer or by multiple employer groups; or
 - 689 (ii) through one or more trusts, associations, or other entities;
- 690 (c) providing an annuity:
 - 691 (i) including an annuity issued in return for a gift; and
 - 692 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
693 and (3);
- 694 (d) providing the characteristic services of a motor club;
- 695 (e) providing another person with insurance;
- 696 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or
697 surety, a contract or policy offering title insurance;
- 698 (g) transacting or proposing to transact any phase of title insurance, including:
 - 699 (i) solicitation;
 - 700 (ii) negotiation preliminary to execution;
 - 701 (iii) execution of a contract of title insurance;
 - 702 (iv) insuring; and
 - 703 (v) transacting matters subsequent to the execution of the contract and arising out of
704 the contract, including reinsurance;
- 705 (h) transacting or proposing a life settlement; and
- 706 (i) doing, or proposing to do, any business in substance equivalent to Subsections [
707 ~~(98)(a)~~] (103)(a) through (h) in a manner designed to evade this title.

708 [(99)] (104) "Insurance consultant" or "consultant" means a person who:

- 709 (a) advises another person about insurance needs and coverages;
- 710 (b) is compensated by the person advised on a basis not directly related to the insurance
711 placed; and

- 712 (c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly
 713 by an insurer or producer for advice given.
- 714 ~~[(100)]~~ (105) "Insurance group" means the persons that comprise an insurance holding
 715 company system.
- 716 ~~[(101)]~~ (106) "Insurance holding company system" means a group of two or more affiliated
 717 persons, at least one of whom is an insurer.
- 718 ~~[(102)]~~ (107)~~[(a)]~~ "Insurance producer"~~[- or "producer"]~~ means a person licensed or required to
 719 be licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 720 ~~[(b)(i) "Producer for the insurer" means a producer who is compensated directly or indirectly
 721 by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.]~~
- 722 ~~[(ii) "Producer for the insurer" may be referred to as an "agent."]~~
- 723 ~~[(e)(i) "Producer for the insured" means a producer who:]~~
- 724 ~~[(A) is compensated directly and only by an insurance customer or an insured; and]~~
- 725 ~~[(B) receives no compensation directly or indirectly from an insurer for selling, soliciting,
 or
 negotiating an insurance product of that insurer to an insurance customer or insured.]~~
- 726 ~~[(ii) "Producer for the insured" may be referred to as a "broker."]~~
- 727
- 728 ~~[(103)]~~ (108)(a) "Insured" means a person to whom or for whose benefit an insurer
 729 makes a promise in an insurance policy and includes:
- 730 (i) a policyholder;
- 731 (ii) a subscriber;
- 732 (iii) a member; and
- 733 (iv) a beneficiary.
- 734 (b) The definition in Subsection ~~[(103)(a):]~~ (108)(a):
- 735 (i) applies only to this title;
- 736 (ii) does not define the meaning of "insured" as used in an insurance policy or
 737 certificate; and
- 738 (iii) includes an enrollee.
- 739 ~~[(104)]~~ (109)(a) "Insurer," "carrier," "insurance carrier," or "insurance company" means
 740 a person doing an insurance business as a principal including:
- 741 (i) a fraternal benefit society;
- 742 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
 743 31A-22-1305(2) and (3);
- 744 (iii) a motor club;

- 745 (iv) an employee welfare plan;
- 746 (v) a person purporting or intending to do an insurance business as a principal on that
747 person's own account; and
- 748 (vi) a health maintenance organization.
- 749 (b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a
750 governmental entity.
- 751 ~~[(105)]~~ (110) "Interinsurance exchange" means the same as that term is defined in
752 Subsection ~~[(168)]~~ (179).
- 753 ~~[(106)]~~ (111) "Internationally active insurance group" means an insurance holding company
754 system:
- 755 (a) that includes an insurer registered under Section 31A-16-105;
- 756 (b) that has premiums written in at least three countries;
- 757 (c) whose percentage of gross premiums written outside the United States is at least 10%
758 of its total gross written premiums; and
- 759 (d) that, based on a three-year rolling average, has:
- 760 (i) total assets of at least \$50,000,000,000; or
- 761 (ii) total gross written premiums of at least \$10,000,000,000.
- 762 ~~[(107)]~~ (112) "Involuntary unemployment insurance" means insurance:
- 763 (a) offered in connection with an extension of credit; and
- 764 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
765 coming due on a:
- 766 (i) specific loan; or
- 767 (ii) credit transaction.
- 768 ~~[(108)]~~ (113) "Large employer," in connection with a health benefit plan, means an
769 employer who, with respect to a calendar year and to a plan year:
- 770 (a) employed an average of at least 51 employees on business days during the preceding
771 calendar year; and
- 772 (b) employs at least one employee on the first day of the plan year.
- 773 ~~[(109)]~~ (114) "Late enrollee," with respect to an employer health benefit plan, means an
774 individual whose enrollment is a late enrollment.
- 775 ~~[(110)]~~ (115) "Late enrollment," with respect to an employer health benefit plan, means
776 enrollment of an individual other than:
- 777 (a) on the earliest date on which coverage can become effective for the individual under
778 the terms of the plan; or

- 779 (b) through special enrollment.
- 780 ~~[(H1)]~~ (116)(a) Except for a retainer contract or legal assistance described in Section
781 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay
782 for a specified legal expense.
- 783 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
784 expectation of an enforceable right.
- 785 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
786 legal services incidental to other insurance coverage.
- 787 ~~[(H2)]~~ (117)(a) "Liability insurance" means insurance against liability:
- 788 (i) for death, injury, or disability of a human being, or for damage to property,
789 exclusive of the coverages under:
- 790 (A) medical malpractice insurance;
791 (B) professional liability insurance; and
792 (C) workers' compensation insurance;
- 793 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
794 insured who is injured, irrespective of legal liability of the insured, when issued
795 with or supplemental to insurance against legal liability for the death, injury, or
796 disability of a human being, exclusive of the coverages under:
- 797 (A) medical malpractice insurance;
798 (B) professional liability insurance; and
799 (C) workers' compensation insurance;
- 800 (iii) for loss or damage to property resulting from an accident to or explosion of a
801 boiler, pipe, pressure container, machinery, or apparatus;
- 802 (iv) for loss or damage to property caused by:
- 803 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
804 (B) water entering through a leak or opening in a building; or
- 805 (v) for other loss or damage properly the subject of insurance not within another kind
806 of insurance as defined in this chapter, if the insurance is not contrary to law or
807 public policy.
- 808 (b) "Liability insurance" includes:
- 809 (i) vehicle liability insurance;
810 (ii) residential dwelling liability insurance; and
811 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,
812 boiler, machinery, or apparatus of any kind when done in connection with

- 813 insurance on the elevator, boiler, machinery, or apparatus.
- 814 ~~[(H3)]~~ (118)(a) "License" means authorization issued by the commissioner to engage in
- 815 an activity that is part of or related to the insurance business.
- 816 (b) "License" includes a certificate of authority issued to an insurer.
- 817 ~~[(H4)]~~ (119)(a) "Life insurance" means:
- 818 (i) insurance on a human life; and
- 819 (ii) insurance pertaining to or connected with human life.
- 820 (b) The business of life insurance includes:
- 821 (i) granting a death benefit;
- 822 (ii) granting an annuity benefit;
- 823 (iii) granting an endowment benefit;
- 824 (iv) granting an additional benefit in the event of death by accident;
- 825 (v) granting an additional benefit to safeguard the policy against lapse; and
- 826 (vi) providing an optional method of settlement of proceeds.
- 827 ~~[(H5)]~~ (120) "Limited license" means a license that:
- 828 (a) is issued for a specific product of insurance; and
- 829 (b) limits an individual or agency to transact only for that product or insurance.
- 830 ~~[(H6)]~~ (121) "Limited line credit insurance" includes the following forms of insurance:
- 831 (a) credit life;
- 832 (b) credit accident and health;
- 833 (c) credit property;
- 834 (d) credit unemployment;
- 835 (e) involuntary unemployment;
- 836 (f) mortgage life;
- 837 (g) mortgage guaranty;
- 838 (h) mortgage accident and health;
- 839 (i) guaranteed automobile protection; and
- 840 (j) another form of insurance offered in connection with an extension of credit that:
- 841 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 842 (ii) the commissioner determines by rule should be designated as a form of limited
- 843 line credit insurance.
- 844 ~~[(H7)]~~ (122) "Limited line credit insurance producer" means a person ~~[who]~~ that sells,
- 845 solicits, or negotiates one or more forms of limited line credit insurance coverage to an
- 846 individual through a master, corporate, group, or individual policy.

- 847 [(118)] (123) "Limited line insurance" includes:
- 848 (a) bail bond;
 - 849 (b) limited line credit insurance;
 - 850 (c) legal expense insurance;
 - 851 (d) motor club insurance;
 - 852 (e) car rental related insurance;
 - 853 (f) travel insurance;
 - 854 (g) crop insurance;
 - 855 (h) self-service storage insurance;
 - 856 (i) guaranteed asset protection waiver;
 - 857 (j) portable electronics insurance; and
 - 858 (k) another form of limited insurance that the commissioner determines by rule should
 - 859 be designated a form of limited line insurance.
- 860 [(119)] (124) "Limited lines authority" includes the [~~lines of insurance~~] limited line insurance
- 861 listed in Subsection [(118)-] (123).
- 862 [(120)] (125) "Limited lines producer" means a person [~~who~~] that sells, solicits, or negotiates
- 863 limited lines insurance.
- 864 [(121)] (126)(a) "Long-term care insurance" means an insurance policy or rider
- 865 advertised, marketed, offered, or designated to provide coverage:
- 866 (i) in a setting other than an acute care unit of a hospital;
 - 867 (ii) for not less than 12 consecutive months for a covered person on the basis of:
 - 868 (A) expenses incurred;
 - 869 (B) indemnity;
 - 870 (C) prepayment; or
 - 871 (D) another method;
 - 872 (iii) for one or more necessary or medically necessary services that are:
 - 873 (A) diagnostic;
 - 874 (B) preventative;
 - 875 (C) therapeutic;
 - 876 (D) rehabilitative;
 - 877 (E) maintenance; or
 - 878 (F) personal care; and
 - 879 (iv) that may be issued by:
 - 880 (A) an insurer;

- 881 (B) a fraternal benefit society;
- 882 (C)(I) a nonprofit health hospital; and
- 883 (II) a medical service corporation;
- 884 (D) a prepaid health plan;
- 885 (E) a health maintenance organization; or
- 886 (F) an entity similar to the entities described in Subsections [~~(121)(a)(iv)(A)~~]
- 887 (126)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized
- 888 to issue life or health care insurance.
- 889 (b) "Long-term care insurance" includes:
- 890 (i) any of the following that provide directly or supplement long-term care insurance:
- 891 (A) a group or individual annuity or rider; or
- 892 (B) a life insurance policy or rider;
- 893 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 894 (A) cognitive impairment; or
- 895 (B) functional capacity; or
- 896 (iii) a qualified long-term care insurance contract.
- 897 (c) "Long-term care insurance" does not include:
- 898 (i) a policy that is offered primarily to provide basic Medicare supplement insurance;
- 899 (ii) basic hospital expense coverage;
- 900 (iii) basic medical/surgical expense coverage;
- 901 (iv) hospital confinement indemnity coverage;
- 902 (v) major medical expense coverage;
- 903 (vi) income replacement or related asset-protection coverage;
- 904 (vii) accident only coverage;
- 905 (viii) coverage for a specified:
- 906 (A) disease; or
- 907 (B) accident;
- 908 (ix) limited benefit health coverage;
- 909 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 910 lump sum payment:
- 911 (A) [~~if the following are~~] if the benefits or eligibility are not conditioned on the
- 912 receipt of long-term care[:] ; and
- 913 [~~(I) benefits; or~~]
- 914 [~~(II) eligibility; and~~]

- 915 (B) the coverage is for one or more the following qualifying events:
- 916 (I) terminal illness;
- 917 (II) medical conditions requiring extraordinary medical intervention; or
- 918 (III) permanent institutional confinement; or
- 919 (xi) limited long-term care as defined in Section 31A-22-2002.
- 920 ~~[(122)]~~ (127) "Managed care organization" means a person:
- 921 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
- 922 Organizations and Limited Health Plans; or
- 923 (b)(i) licensed under:
- 924 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 925 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 926 (C) Chapter 14, Foreign Insurers; and
- 927 (ii) that requires an enrollee to use, or offers incentives, including financial
- 928 incentives, for an enrollee to use, network providers.
- 929 ~~[(123)]~~ (128) "Medical malpractice insurance" means insurance against legal liability
- 930 incident to the practice and provision of a medical service other than the practice and
- 931 provision of a dental service.
- 932 ~~[(124)]~~ (129) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the
- 933 federal Social Security Act, as then constituted or later amended.
- 934 ~~[(125)]~~ (130)(a) "Medicare supplement insurance" means health insurance coverage that
- 935 is advertised, marketed, or designed primarily as a supplement to reimbursements
- 936 under Medicare for the hospital, medical, or surgical expenses of individuals eligible
- 937 for Medicare.
- 938 (b) "Medicare supplement insurance" does not include:
- 939 (i) a policy issued pursuant to a contract under Section 1876 of the federal Social
- 940 Security Act;
- 941 (ii) a policy issued under a demonstration project specified in 42 U.S.C. Sec.
- 942 1395ss(g)(1);
- 943 (iii) a Medicare Advantage plan established under Medicare Part C;
- 944 (iv) an outpatient prescription drug plan established under Medicare Part D; or
- 945 (v) any health care prepayment plan that provides benefits pursuant to an agreement
- 946 under Section 1833(a)(1)(A) of the Social Security Act.
- 947 ~~[(126)]~~ (131) "Member" means a person having membership rights in an insurance
- 948 corporation.

949 ~~[(127)]~~ (132) "Minimum capital" or "minimum required capital" means the capital that must
950 be constantly maintained by a stock insurance corporation as required by statute.

951 ~~[(128)]~~ (133) "Mortgage accident and health insurance" means insurance offered in
952 connection with an extension of credit that provides indemnity for payments coming due
953 on a mortgage while the debtor has a disability.

954 ~~[(129)]~~ (134) "Mortgage guaranty insurance" means surety insurance under which a
955 mortgagee or other creditor is indemnified against losses caused by the default of a
956 debtor.

957 ~~[(130)]~~ (135) "Mortgage life insurance" means insurance on the life of a debtor in
958 connection with an extension of credit that pays if the debtor dies.

959 ~~[(131)]~~ (136) "Motor club" means a person:

960 (a) licensed under:

961 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

962 (ii) Chapter 11, Motor Clubs; or

963 (iii) Chapter 14, Foreign Insurers; and

964 (b) that promises for an advance consideration to provide for a stated period of time one
965 or more:

966 (i) legal services under Subsection 31A-11-102(1)(b);

967 (ii) bail services under Subsection 31A-11-102(1)(c); or

968 (iii)(A) trip reimbursement;

969 (B) towing services;

970 (C) emergency road services;

971 (D) stolen automobile services;

972 (E) a combination of the services listed in Subsections ~~[(131)(b)(iii)(A)]~~

973 (136)(b)(iii)(A) through (D); or

974 (F) other services given in Subsections 31A-11-102(1)(b) through (f).

975 ~~[(132)]~~ (137) "Mutual" means a mutual insurance corporation.

976 (138) "Mutual corporation" means a mutual insurance corporation.

977 ~~[(133)]~~ (139) "NAIC" means the National Association of Insurance Commissioners.

978 ~~[(134)]~~ (140) "NAIC liquidity stress test framework" means a NAIC publication that
979 includes:

980 (a) a history of the NAIC's development of regulatory liquidity stress testing;

981 (b) the scope criteria applicable for a specific data year; and

982 (c) the liquidity stress test instructions and reporting templates for a specific data year,

983 as adopted by the NAIC and as amended by the NAIC in accordance with NAIC
984 procedures.

985 [~~(135)~~] (141) "Network plan" means health care insurance:

- 986 (a) that is issued by an insurer; and
987 (b) under which the financing and delivery of medical care is provided, in whole or in
988 part, through a defined set of providers under contract with the insurer, including the
989 financing and delivery of an item paid for as medical care.

990 [~~(136)~~] (142) "Network provider" means a health care provider who has an agreement with a
991 managed care organization to provide health care services to an enrollee with an
992 expectation of receiving payment, other than coinsurance, copayments, or deductibles,
993 directly from the managed care organization.

994 [~~(137)~~] (143) "Nonparticipating" means a plan of insurance under which the insured is not
995 entitled to receive a dividend representing a share of the surplus of the insurer.

996 [~~(138)~~] (144) "Ocean marine insurance" means insurance against loss of or damage to:

- 997 (a) ships or hulls of ships;
998 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
999 securities, choses in action, evidences of debt, valuable papers, bottomry,
1000 respondentia interests, or other cargoes in or awaiting transit over the oceans or
1001 inland waterways;
1002 (c) earnings such as freight, passage money, commissions, or profits derived from
1003 transporting goods or people upon or across the oceans or inland waterways; or
1004 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
1005 owners of other vessels, owners of fixed objects, customs or other authorities, or
1006 other persons in connection with maritime activity.

1007 [~~(139)~~] (145) "Order" means an order of the commissioner.

1008 [~~(140)~~] (146) "ORSA guidance manual" means the current version of the Own Risk and
1009 Solvency Assessment Guidance Manual developed and adopted by the National
1010 Association of Insurance Commissioners and as amended from time to time.

1011 [~~(141)~~] (147) "ORSA summary report" means a confidential high-level summary of an
1012 insurer or insurance group's own risk and solvency assessment.

1013 [~~(142)~~] (148) "Outline of coverage" means a summary that explains an accident and health
1014 insurance policy.

1015 [~~(143)~~] (149) "Own risk and solvency assessment" means an insurer or insurance group's
1016 confidential internal assessment:

- 1017 (a)(i) of each material and relevant risk associated with the insurer or insurance
1018 group;
- 1019 (ii) of the insurer or insurance group's current business plan to support each risk
1020 described in Subsection [~~(143)(a)(i);~~] (149)(a)(i); and
- 1021 (iii) of the sufficiency of capital resources to support each risk described in
1022 Subsection [~~(143)(a)(i);~~] (149)(a)(i); and
- 1023 (b) that is appropriate to the nature, scale, and complexity of an insurer or insurance
1024 group.
- 1025 (150) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian,
1026 or other individual who stood in the place of a parent to the employee when the
1027 employee was a child.
- 1028 [~~(144)~~] (151) "Participating" means a plan of insurance under which the insured is entitled
1029 to receive a dividend representing a share of the surplus of the insurer.
- 1030 [~~(145)~~] (152) "Participation," as used in a health benefit plan, means a requirement relating
1031 to the minimum percentage of eligible employees that must be enrolled in relation to the
1032 total number of eligible employees of an employer reduced by each eligible employee
1033 who voluntarily declines coverage under the plan because the employee:
- 1034 (a) has other group health care insurance coverage; or
1035 (b) receives:
- 1036 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social
1037 Security Amendments of 1965; or
1038 (ii) another government health benefit.
- 1039 (153)(a) "Permanent surplus" means the surplus of an insurer or organization that is
1040 designated by the insurer or organization as permanent.
- 1041 (b) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require
1042 that insurers or organizations doing business in this state maintain specified minimum
1043 levels of permanent surplus.
- 1044 (c) Except for assessable mutuals, the minimum permanent surplus requirement is the
1045 same as the minimum required capital requirement that applies to stock insurers.
- 1046 [~~(146)~~] (154) "Person" includes:
- 1047 (a) an individual;
1048 (b) a partnership;
1049 (c) a corporation;
1050 (d) an incorporated or unincorporated association;

- 1051 (e) a joint stock company;
- 1052 (f) a trust;
- 1053 (g) a limited liability company;
- 1054 (h) a reciprocal;
- 1055 (i) a syndicate; or
- 1056 (j) another similar entity or combination of entities acting in concert.
- 1057 ~~[(147)]~~ (155) "Personal lines insurance" means property and casualty insurance coverage
- 1058 sold for primarily noncommercial purposes to:
- 1059 (a) an individual; or
- 1060 (b) a family.
- 1061 ~~[(148)]~~ (156) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.
- 1062 1002(16)(B).
- 1063 ~~[(149)]~~ (157) "Plan year" means:
- 1064 (a) the year that is designated as the plan year in:
- 1065 (i) the plan document of a group health plan; or
- 1066 (ii) a summary plan description of a group health plan;
- 1067 (b) if the plan document or summary plan description does not designate a plan year or
- 1068 there is no plan document or summary plan description:
- 1069 (i) the year used to determine deductibles or limits;
- 1070 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 1071 or
- 1072 (iii) the employer's taxable year if:
- 1073 (A) the plan does not impose deductibles or limits on a yearly basis; and
- 1074 (B)(I) the plan is not insured; or
- 1075 (II) the insurance policy is not renewed on an annual basis; or
- 1076 (c) in a case not described in Subsection ~~[(149)(a)]~~ (157)(a) or (b), the calendar year.
- 1077 ~~[(150)]~~ (158)(a) "Policy" means a document, including an attached endorsement or
- 1078 application that:
- 1079 (i) purports to be an enforceable contract; and
- 1080 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 1081 (b) "Policy" includes a service contract issued by:
- 1082 (i) a motor club under Chapter 11, Motor Clubs;
- 1083 (ii) a service contract provided under Chapter 6a, Service Contracts; and
- 1084 (iii) a corporation licensed under:

- 1085 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 1086 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 1087 (c) "Policy" does not include:
- 1088 (i) a certificate under a group insurance contract; or
- 1089 (ii) a document that does not purport to have legal effect.
- 1090 ~~[(151)]~~ (159) "Policyholder" means a person ~~[who]~~ that controls a policy, binder, or oral
- 1091 contract by ownership, premium payment, or otherwise.
- 1092 ~~[(152)]~~ (160) "Policy illustration" means a presentation or depiction that includes
- 1093 nonguaranteed elements of a policy offering life insurance over a period of years.
- 1094 ~~[(153)]~~ (161) "Policy summary" means a synopsis describing the elements of a life
- 1095 insurance policy.
- 1096 ~~[(154)]~~ (162) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No.
- 1097 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No.
- 1098 111-152, and related federal regulations and guidance.
- 1099 ~~[(155)]~~ (163)(a) "Preexisting condition," with respect to health care insurance~~[:]~~ , means
- 1100 a condition that was present before the effective date of coverage, whether medical
- 1101 advice, diagnosis, care, or treatment was recommended or received before that day.
- 1102 (b) "Preexisting condition" does not include a condition indicated by genetic information
- 1103 unless an actual diagnosis of the condition by a physician has been made.
- 1104 ~~[(a) means a condition that was present before the effective date of coverage, whether or not~~
- 1105 ~~medical advice, diagnosis, care, or treatment was recommended or received before that day;~~
- 1106 ~~and]~~
- 1107 ~~[(b) does not include a condition indicated by genetic information unless an actual diagnosis~~
- 1108 ~~of the condition by a physician has been made.]~~
- 1109 ~~[(156)]~~ (164)(a) "Premium" means the monetary consideration for an insurance policy.
- 1110 (b) "Premium" includes, however designated:
- 1111 (i) an assessment;
- 1112 (ii) a membership fee;
- 1113 (iii) a required contribution; or
- 1114 (iv) monetary consideration.
- 1115 (c)(i) "Premium" does not include consideration paid to a third party administrator
- 1116 for the third party administrator's services.
- 1117 (ii) "Premium" includes an amount paid by a third party administrator to an insurer
- 1118 for insurance on the risks administered by the third party administrator.

- 1119 ~~[(157)]~~ (165) "Principal officers" for a corporation means the officers designated under
1120 Subsection 31A-5-203(3).
- 1121 ~~[(158)]~~ (166) "Proceeding" includes an action or special statutory proceeding.
- 1122 (167) "Producer" means the same thing as insurance producer.
- 1123 (168)(a) "Producer for the insured" means a producer who:
- 1124 (i) is compensated directly and only by an insurance customer or an insured; and
1125 (ii) receives no compensation directly or indirectly from an insurer for selling,
1126 soliciting, or negotiating an insurance product of that insurer to an insurance
1127 customer or insured.
- 1128 (b) "Producer for the insured" may be referred to as a "broker."
- 1129 (169)(a) "Producer for the insurer" means a producer who is compensated directly or
1130 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of
1131 that insurer.
- 1132 (b) "Producer for the insurer" may be referred to as an "agent."
- 1133 ~~[(159)]~~ (170) "Professional liability insurance" means insurance against legal liability
1134 incident to the practice of a profession and provision of a professional service.
- 1135 ~~[(160)]~~ (171)(a) "Property insurance" means insurance against loss or damage to real or
1136 personal property of every kind and any interest in that property:
- 1137 (i) from all hazards or causes; and
1138 (ii) against loss consequential upon the loss or damage including vehicle
1139 comprehensive and vehicle physical damage coverages.
- 1140 (b) "Property insurance" does not include:
- 1141 (i) inland marine insurance; and
1142 (ii) ocean marine insurance.
- 1143 ~~[(161)]~~ (172) "Qualified long-term care insurance contract" or "federally tax qualified
1144 long-term care insurance contract" means:
- 1145 (a) an individual or group insurance contract that meets the requirements of Section
1146 7702B(b), Internal Revenue Code; or
1147 (b) the portion of a life insurance contract that provides long-term care insurance:
1148 (i)(A) by rider; or
1149 (B) as a part of the contract; and
1150 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
1151 Code.
- 1152 ~~[(162)]~~ (173) "Qualified United States financial institution" means an institution that:

- 1153 (a) is:
- 1154 (i) organized under the laws of the United States or any state; or
- 1155 (ii) in the case of a United States office of a foreign banking organization, licensed
- 1156 under the laws of the United States or any state;
- 1157 (b) is regulated, supervised, and examined by a United States federal or state authority
- 1158 having regulatory authority over a bank or trust company; and
- 1159 (c) meets the standards of financial condition and standing that are considered necessary
- 1160 and appropriate to regulate the quality of a financial institution whose letters of credit
- 1161 will be acceptable to the commissioner as determined by:
- 1162 (i) the commissioner by rule; or
- 1163 (ii) the Securities Valuation Office of the National Association of Insurance
- 1164 Commissioners.
- 1165 ~~[(163)]~~ (174)(a) "Rate" means:
- 1166 (i) the cost of a given unit of insurance; or
- 1167 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
- 1168 expressed as:
- 1169 (A) a single number; or
- 1170 (B) a pure premium rate, adjusted before the application of individual risk
- 1171 variations based on loss or expense considerations to account for the treatment
- 1172 of:
- 1173 (I) expenses;
- 1174 (II) profit; and
- 1175 (III) individual insurer variation in loss experience.
- 1176 (b) "Rate" does not include a minimum premium.
- 1177 ~~[(164)]~~ (175)(a) "Rate service organization" means a person ~~[who]~~ that assists an insurer
- 1178 in rate making or filing by:
- 1179 (i) collecting, compiling, and furnishing loss or expense statistics;
- 1180 (ii) recommending, making, or filing rates or supplementary rate information; or
- 1181 (iii) advising about rate questions, except as an attorney giving legal advice.
- 1182 (b) "Rate service organization" does not include:
- 1183 (i) an employee of an insurer;
- 1184 (ii) a single insurer or group of insurers under common control;
- 1185 (iii) a joint underwriting group; or
- 1186 (iv) an individual serving as an actuarial or legal consultant.

- 1187 ~~[(165)]~~ (176) "Rating manual" means any of the following used to determine initial and
1188 renewal policy premiums:
- 1189 (a) a manual of rates;
 - 1190 (b) a classification;
 - 1191 (c) a rate-related underwriting rule; and
 - 1192 (d) a rating formula that describes steps, policies, and procedures for determining initial
1193 and renewal policy premiums.
- 1194 ~~[(166)]~~ (177)(a) "Rebate" means a licensee paying, allowing, giving, or offering to pay,
1195 allow, or give, directly or indirectly:
- 1196 (i) a refund of premium or portion of premium;
 - 1197 (ii) a refund of commission or portion of commission;
 - 1198 (iii) a refund of all or a portion of a consultant fee; or
 - 1199 (iv) providing services or other benefits not specified in an insurance or annuity
1200 contract.
- 1201 (b) "Rebate" does not include:
- 1202 (i) a refund due to termination or changes in coverage;
 - 1203 (ii) a refund due to overcharges made in error by the licensee; or
 - 1204 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 1205 ~~[(167)]~~ (178) "Received by the department" means:
- 1206 (a) the date delivered to and stamped received by the department, if delivered in person;
 - 1207 (b) the post mark date, if delivered by mail;
 - 1208 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
 - 1209 (d) the received date recorded on an item delivered, if delivered by:
 - 1210 (i) facsimile;
 - 1211 (ii) email; or
 - 1212 (iii) another electronic method; or
 - 1213 (e) a date specified in:
 - 1214 (i) a statute;
 - 1215 (ii) a rule; or
 - 1216 (iii) an order.
- 1217 ~~[(168)]~~ (179) "Reciprocal" or "interinsurance exchange" means an unincorporated
1218 association of persons:
- 1219 (a) operating through an attorney-in-fact common to all of the persons; and
 - 1220 (b) exchanging insurance contracts with one another that provide insurance coverage on

- 1221 each other.
- 1222 ~~[(169)]~~ (180) "Reinsurance" means an insurance transaction where an insurer, for
1223 consideration, transfers any portion of the risk it has assumed to another insurer. In
1224 referring to reinsurance transactions, this title sometimes refers to:
- 1225 (a) the insurer transferring the risk as the "ceding insurer"; and
1226 (b) the insurer assuming the risk as the:
- 1227 (i) "assuming insurer"; or
1228 (ii) "assuming reinsurer."
- 1229 ~~[(170)]~~ (181) "Reinsurer" means a person licensed in this state as an insurer with the
1230 authority to assume reinsurance.
- 1231 ~~[(171)]~~ (182) "Residential dwelling liability insurance" means insurance against liability
1232 resulting from or incident to the ownership, maintenance, or use of a residential dwelling
1233 that is a detached single family residence or multifamily residence up to four units.
- 1234 ~~[(172)]~~ (183)(a) "Retrocession" means reinsurance with another insurer of a liability
1235 assumed under a reinsurance contract.
- 1236 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a
1237 liability assumed under a reinsurance contract.
- 1238 ~~[(173)]~~ (184) "Rider" means an endorsement to:
- 1239 (a) an insurance policy; or
1240 (b) an insurance certificate.
- 1241 ~~[(174)]~~ (185) "Scope criteria" means the designated exposure bases and minimum
1242 magnitudes for a specified data year that are used to establish a preliminary list of
1243 insurers considered scoped into the NAIC liquidity stress test framework for that data
1244 year.
- 1245 ~~[(175)]~~ (186) "Secondary medical condition" means a complication related to an exclusion
1246 from coverage in accident and health insurance.
- 1247 ~~[(176)]~~ (187)(a) "Security" means a:
- 1248 (i) note;
1249 (ii) stock;
1250 (iii) bond;
1251 (iv) debenture;
1252 (v) evidence of indebtedness;
1253 (vi) certificate of interest or participation in a profit-sharing agreement;
1254 (vii) collateral-trust certificate;

- 1255 (viii) preorganization certificate or subscription;
- 1256 (ix) transferable share;
- 1257 (x) investment contract;
- 1258 (xi) voting trust certificate;
- 1259 (xii) certificate of deposit for a security;
- 1260 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1261 payments out of production under such a title or lease;
- 1262 (xiv) commodity contract or commodity option;
- 1263 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1264 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the
- 1265 items listed in Subsections [~~(176)(a)(i)~~] (187)(a)(i) through (xiv); or
- 1266 (xvi) another interest or instrument commonly known as a security.
- 1267 (b) "Security" does not include:
- 1268 (i) any of the following under which an insurance company promises to pay money in
- 1269 a specific lump sum or periodically for life or some other specified period:
- 1270 (A) insurance;
- 1271 (B) an endowment policy; or
- 1272 (C) an annuity contract; or
- 1273 (ii) a burial certificate or burial contract.
- 1274 [~~(177)~~] (188) "Securityholder" means a specified person [who] that owns a security of a
- 1275 person, including:
- 1276 (a) common stock;
- 1277 (b) preferred stock;
- 1278 (c) debt obligations; and
- 1279 (d) any other security convertible into or evidencing the right of any of the items listed
- 1280 in this Subsection [~~(177)~~] (188).
- 1281 [~~(178)~~] (189)(a) "Self-insurance" means an arrangement under which a person provides
- 1282 for spreading the person's own risks by a systematic plan.
- 1283 (b) "Self-insurance" includes:
- 1284 (i) an arrangement under which a governmental entity undertakes to indemnify an
- 1285 employee for liability arising out of the employee's employment; and
- 1286 (ii) an arrangement under which a person with a managed program of self-insurance
- 1287 and risk management undertakes to indemnify the person's affiliate, subsidiary,
- 1288 director, officer, or employee for liability or risk that arises out of the person's

- 1289 relationship with the affiliate, subsidiary, director, officer, or employee.
- 1290 (c) "Self-insurance" does not include:
- 1291 (i) an arrangement under which a number of persons spread their risks among
- 1292 themselves; or
- 1293 (ii) an arrangement with an independent contractor.
- 1294 ~~[(179)]~~ (190) "Sell" means to exchange a contract of insurance:
- 1295 (a) by any means;
- 1296 (b) for money or its equivalent; and
- 1297 (c) on behalf of an insurance company.
- 1298 ~~[(180)]~~ (191) "Short-term limited duration health insurance" means a health benefit product
- 1299 that:
- 1300 (a) after taking into account any renewals or extensions, has a total duration of no more
- 1301 than 36 months; and
- 1302 (b) has an expiration date specified in the contract that is less than 12 months after the
- 1303 original effective date of coverage under the health benefit product.
- 1304 ~~[(181)]~~ (192) "Significant break in coverage" means a period of 63 consecutive days during
- 1305 each of which an individual does not have creditable coverage.
- 1306 ~~[(182)]~~ (193)(a) "Small employer" means, in connection with a health benefit plan and
- 1307 with respect to a calendar year and to a plan year, an employer who:
- 1308 (i)(A) employed at least one but not more than 50 eligible employees on business
- 1309 days during the preceding calendar year; or
- 1310 (B) if the employer did not exist for the entirety of the preceding calendar year,
- 1311 reasonably expects to employ an average of at least one but not more than 50
- 1312 eligible employees on business days during the current calendar year;
- 1313 (ii) employs at least one employee on the first day of the plan year; and
- 1314 (iii) for an employer who has common ownership with one or more other employers,
- 1315 is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).
- 1316 (b) "Small employer" does not include an owner or a sole proprietor that does not
- 1317 employ at least one employee.
- 1318 ~~[(183)]~~ (194) "Special enrollment period," in connection with a health benefit plan, has the
- 1319 same meaning as provided in federal regulations adopted pursuant to the Health
- 1320 Insurance Portability and Accountability Act.
- 1321 (195) "Stock corporation" means a stock insurance corporation.
- 1322 ~~[(184)]~~ (196)~~[(a)]~~ "Subsidiary" of a person means an affiliate controlled by that person either

- 1323 directly or indirectly through one or more affiliates or intermediaries.
- 1324 [(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares
1325 are owned by that person either alone or with its affiliates, except for the minimum number
1326 of shares the law of the subsidiary's domicile requires to be owned by directors or others.]
- 1327 [(185)] (197) Subject to Subsection [(95)(b);] (100)(b), "surety insurance" includes:
- 1328 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1329 perform the principal's obligations to a creditor or other obligee;
- 1330 (b) bail bond insurance; and
- 1331 (c) fidelity insurance.
- 1332 [(186)] (198)[(a)] "Surplus" means the excess of assets over the sum of paid-in capital and
1333 liabilities.
- 1334 [(b)(i) "Permanent surplus" means the surplus of an insurer or organization that is designated
1335 by the insurer or organization as permanent.]
- 1336 [(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that
1337 insurers or organizations doing business in this state maintain specified minimum levels of
1338 permanent surplus.]
- 1339 [(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same
1340 as the minimum required capital requirement that applies to stock insurers.]
- 1341 [(e) "Excess surplus" means:]
- 1342 [(i) for a life insurer, accident and health insurer, health organization, or property and casualty
1343 insurer as defined in Section 31A-17-601, the lesser of:]
- 1344 [(A) that amount of an insurer's or health organization's total adjusted capital that exceeds
1345 the
1346 product of:]
1347 [(I) 2.5; and]
1348 [(II) the sum of the insurer's or health organization's minimum capital or permanent
1349 surplus
1350 required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or]
- 1349 [(B) that amount of an insurer's or health organization's total adjusted capital that exceeds
1350 the
1351 product of:]
1352 [(I) 3.0; and]
1353 [(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and]
- 1353 [(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that

1354 amount of an insurer's paid-in-capital and surplus that exceeds the product of:]
 1355 [(A) 1.5; and]
 1356 [(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).]

1357 [(187)] (199) "Third party administrator" [~~or "administrator"~~] means a person [who] that
 1358 collects charges or premiums from, or who, for consideration, adjusts or settles claims of
 1359 residents of the state in connection with insurance coverage, annuities, or service
 1360 insurance coverage, except:

1361 (a) a union on behalf of [its] the union's members;
 1362 (b) a person administering a:
 1363 (i) pension plan subject to the federal Employee Retirement Income Security Act of
 1364 1974;
 1365 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or
 1366 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;
 1367 (c) an employer on behalf of the employer's employees or the employees of one or more
 1368 of the subsidiary or affiliated corporations of the employer;
 1369 (d) an insurer licensed under the following, but only for a line of insurance for which the
 1370 insurer holds a license in this state:
 1371 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
 1372 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;
 1373 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 1374 (iv) Chapter 9, Insurance Fraternal; or
 1375 (v) Chapter 14, Foreign Insurers;
 1376 (e) a person:
 1377 (i) licensed or exempt from licensing under:
 1378 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
 1379 Reinsurance Intermediaries; or
 1380 (B) Chapter 26, Insurance Adjusters; and
 1381 (ii) [~~whose activities~~] the activities of which are limited to those authorized under the
 1382 license the person holds or for which the person is exempt; or
 1383 (f) an institution, bank, or financial institution:
 1384 (i) that is:
 1385 (A) an institution whose deposits and accounts are to any extent insured by a
 1386 federal deposit insurance agency, including the Federal Deposit Insurance
 1387 Corporation or National Credit Union Administration; or

1388 (B) a bank or other financial institution that is subject to supervision or
 1389 examination by a federal or state banking authority; and
 1390 (ii) that does not adjust claims without a third party administrator license.

1391 [(188)] (200) "Title insurance" means the insuring, guaranteeing, or indemnifying of an
 1392 owner of real or personal property or the holder of liens or encumbrances on that
 1393 property, or others interested in the property against loss or damage suffered by reason
 1394 of liens or encumbrances upon, defects in, or the unmarketability of the title to the
 1395 property, or invalidity or unenforceability of any liens or encumbrances on the property.

1396 [(189)] (201) "Total adjusted capital" means the sum of an insurer's or health organization's
 1397 statutory capital and surplus as determined in accordance with:

1398 (a) the statutory accounting applicable to the annual financial statements required to be
 1399 filed under Section 31A-4-113; and
 1400 (b) another item provided by the RBC instructions, as RBC instructions is defined in
 1401 Section 31A-17-601.

1402 [(190)] (202)(a) "Trustee" means "director" when referring to the board of directors of a
 1403 corporation.

1404 (b) "Trustee," when used in reference to an employee welfare fund, means an individual,
 1405 firm, association, organization, joint stock company, or corporation, whether acting
 1406 individually or jointly and whether designated by that name or any other, that is
 1407 charged with or has the overall management of an employee welfare fund.

1408 [(191)] (203)[(a)] "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
 1409 means an insurer:

1410 [(i)] (a) not holding a valid certificate of authority to do an insurance business in this
 1411 state; or
 1412 [(ii)] (b) transacting business not authorized by a valid certificate.

1413 [(b) "Admitted insurer" or "authorized insurer" means an insurer:]

1414 [(i) holding a valid certificate of authority to do an insurance business in this state; and]
 1415 [(ii) transacting business as authorized by a valid certificate.]

1416 [(192)] (204) "Underwrite" means the authority to accept or reject risk on behalf of the
 1417 insurer.

1418 [(193)] (205) "Vehicle liability insurance" means insurance against liability resulting from
 1419 or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a
 1420 vehicle comprehensive or vehicle physical damage coverage described in Subsection [
 1421 (160)-] (171).

- 1422 [(194)] (206)(a) "Voting security" means a security with voting rights~~[, and]~~ .
- 1423 (b) "Voting security" includes a security convertible into a security with a voting right
- 1424 associated with the security.
- 1425 [(195)] (207) "Waiting period" for a health benefit plan means the period that must pass
- 1426 before coverage for an individual, who is otherwise eligible to enroll under the terms of
- 1427 the health benefit plan, can become effective.
- 1428 (208) "Wholly owned subsidiary" means a subsidiary of which all of the voting shares are
- 1429 owned by that person either alone or with the person's affiliates, except for the minimum
- 1430 number of shares the law of the subsidiary's domicile requires to be owned by directors
- 1431 or others.
- 1432 [(196)] (209) "Workers' compensation insurance" means:
- 1433 (a) insurance for indemnification of an employer against liability for compensation
- 1434 based on:
- 1435 (i) a compensable accidental injury; and
- 1436 (ii) occupational disease disability;
- 1437 (b) employer's liability insurance incidental to workers' compensation insurance and
- 1438 written in connection with workers' compensation insurance; and
- 1439 (c) insurance assuring to a person entitled to workers' compensation benefits the
- 1440 compensation provided by law.
- 1441 Section 2. Section **31A-16-104.5** is amended to read:
- 1442 **31A-16-104.5 . Acquisitions involving insurers not otherwise covered.**
- 1443 (1) The following definitions apply for the purposes of this section only:
- 1444 (a) "Acquisition" means an agreement, arrangement, or activity the consummation of
- 1445 which results in a person acquiring directly or indirectly the control of another person
- 1446 and includes the acquisition of voting securities, the acquisition of assets, bulk
- 1447 reinsurance, and mergers.
- 1448 (b) "Insurer" includes any company or group of companies under common management,
- 1449 ownership, or control.
- 1450 (c) "Involved insurer" includes an insurer that either acquires or is acquired, is affiliated
- 1451 with an acquirer or acquired, or is the result of a merger.
- 1452 (d)(i) "Market" means the relevant product and geographical markets. In
- 1453 determining the relevant product and geographical markets, the commissioner
- 1454 shall give due consideration to, among other things, the definitions or guidelines,
- 1455 if any, promulgated by the National Association of Insurance Commissioners and

1456 to information, if any, submitted by parties to the acquisition. In the absence of
1457 sufficient information to the contrary, the relevant product market is assumed to
1458 be the direct written insurance premium for a line of business, such line being that
1459 used in the annual statement required to be filed by insurers doing business in this
1460 state, and the relevant geographical market is assumed to be this state.

1461 (ii) Notwithstanding Subsection (1)(d)(i), for purposes of Subsection (2)(b), "market"
1462 means direct written insurance premium in this state for a line of business as
1463 contained in the annual statement required to be filed by insurers licensed to do
1464 business in this state.

1465 (2)(a) This section applies to any acquisition in which there is a change in control of an
1466 insurer authorized to do business in Utah.

1467 (b) This section does not apply to the following:

1468 (i) securities purchased solely for investment purposes so long as the securities are
1469 not used by voting or otherwise to cause or attempt to cause the substantial
1470 lessening of competition in any insurance market in this state;

1471 (ii) if a purchase of securities results in a presumption of control under ~~Subsection~~
1472 ~~31A-1-301(29)(d)]~~ Section 31A-1-301, it is not solely for investment purposes
1473 unless the commissioner of the insurer's state of domicile accepts a disclaimer of
1474 control or affirmatively finds that control does not exist and the disclaimer action
1475 or affirmative finding is communicated by the domiciliary commissioner to the
1476 commissioner of this state;

1477 (iii) the acquisition of a person by another person when both persons are neither
1478 directly nor through affiliates primarily engaged in the business of insurance, if
1479 pre-acquisition notification is filed with the commissioner in accordance with
1480 Subsection (3)(a) 30 days before the proposed effective date of the acquisition;

1481 (iv) the acquisition of an already affiliated person;

1482 (v) an acquisition if, as an immediate result of the acquisition:

1483 (A) in no market would the combined market share of the involved insurers
1484 exceed 5% of the total market;

1485 (B) there would be no increase in any market share; or

1486 (C) in no market would the combined market share of the involved insurers
1487 exceeds 12% of the total market, and the market share increase by more than
1488 2% of the total market;

1489 (vi) an acquisition for which a pre-acquisition notification would be required

- 1490 pursuant to this section due solely to the resulting effect on the ocean marine
1491 insurance line of business; or
- 1492 (vii) an acquisition of an insurer whose domiciliary commissioner affirmatively finds
1493 that the insurer is in failing condition, and:
- 1494 (A) there is a lack of feasible alternative to improving such condition;
1495 (B) the public benefits of improving the insurer's condition through the acquisition
1496 exceed the public benefits that would arise from not lessening competition; and
1497 (C) the findings are communicated by the domiciliary commissioner to the
1498 commissioner of this state.
- 1499 (3) An acquisition covered by Subsection (2) may be subject to an order pursuant to
1500 Subsection (5) unless the acquiring person files a pre-acquisition notification and the
1501 waiting period has expired. The acquired person may file a pre-acquisition notification.
1502 The commissioner shall give confidential treatment to information submitted under this
1503 Subsection (3) in the same manner as provided in Section 31A-16-109.
- 1504 (a) The pre-acquisition notification shall be in the form and contain such information as
1505 prescribed by the National Association of Insurance Commissioners relating to those
1506 markets that, under Subsection (2)(b)(v), cause the acquisition not to be exempted
1507 from this section. The commissioner may require additional material and
1508 information as considered necessary to determine whether the proposed acquisition,
1509 if consummated, would violate the competitive standard of Subsection (4). The
1510 required information may include an opinion of an economist as to the competitive
1511 impact of the acquisition in this state accompanied by a summary of the education
1512 and experience of the economist indicating the economist's ability to render an
1513 informed opinion.
- 1514 (b) The waiting period required shall begin on the date of receipt of the commissioner of
1515 a pre-acquisition notification and shall end on the earlier of the 30th day after the date
1516 of receipt, or termination of the waiting period by the commissioner. Before the end
1517 of the waiting period, the commissioner on a one-time basis may require the
1518 submission of additional needed information relevant to the proposed acquisition, in
1519 which event the waiting period shall end on the earlier of the 30th day after receipt of
1520 the additional information by the commissioner or termination of the waiting period
1521 by the commissioner.
- 1522 (4)(a) The commissioner may enter an order under Subsection (5)(a) with respect to an
1523 acquisition if there is substantial evidence that the effect of the acquisition may be

1524 substantially to lessen competition in any line of insurance in this state, tend to create
 1525 a monopoly, or if the insurer fails to file adequate information in compliance with
 1526 this section.

1527 (b) In determining whether a proposed acquisition would violate the competitive
 1528 standard of Subsection (4)(a), the commissioner shall consider the following:

1529 (i) Any acquisition covered under this Subsection (4) involving two or more insurers
 1530 competing in the same market is prima facie evidence of violation of the
 1531 competitive standards if:

1532 (A) the market is highly concentrated and the involved insurers possess the
 1533 following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

1538 (B) the market is not highly concentrated and the involved insurers possess the
 1539 following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more.

1545 (ii) For purposes of this section, a highly concentrated market is one in which the
 1546 share of the four largest insurers is 75% or more of the market. Percentages not
 1547 shown in the tables are interpolated proportionately to the percentages that are
 1548 shown. If more than two insurers are involved, exceeding the total of the two
 1549 columns in the table is prima facie evidence of violation of the competitive
 1550 standard in Subsection (4)(a).

1551 (iii) For purposes of this section, the insurer with the largest share of the market shall
 1552 be considered to be Insurer A.

1553 (c) There is a significant trend toward increased concentration when the aggregate
 1554 market share of any grouping of the largest insurers in the market, from the two
 1555 largest to the eight largest, has increased by 7% or more of the market over a period

- 1556 of time extending from any base year 5 to 10 years before the acquisition up to the
1557 time of the acquisition. Any acquisition or merger covered under Subsection (1)
1558 involving two or more insurers competing in the same market is prima facie evidence
1559 of violation of the competitive standard in Subsection (4)(a) if:
- 1560 (i) there is a significant trend toward increased concentration in the market;
 - 1561 (ii) one of the insurers involved is one of the insurers in a grouping of large insurers
1562 showing the requisite increase in the market share; and
 - 1563 (iii) another involved insurer's market is 2% or more.
- 1564 (d) The burden of showing prima facie evidence of violation of the competitive standard
1565 rests upon the commissioner.
- 1566 (e) Even though an acquisition is not prima facie violative of the competitive standard
1567 under Subsections (4)(b) and (4)(c), the commissioner may establish the requisite
1568 anticompetitive effect based upon other substantial evidence.
- 1569 (f) Even though an acquisition is prima facie violative of the competitive standard under
1570 Subsections (4)(b) and (4)(c), a party may establish the absence of the requisite
1571 anticompetitive effect based upon other substantial evidence. Relevant factors in
1572 making a determination under this Subsection (4)(f) include the following:
- 1573 (i) market shares;
 - 1574 (ii) volatility of ranking of market leaders;
 - 1575 (iii) number of competitors;
 - 1576 (iv) concentration or trend of concentration in the industry; and
 - 1577 (v) ease of entry and exit into the market.
- 1578 (g) An order may not be entered under Subsection (5) if:
- 1579 (i) the acquisition will yield substantial economies of scale or economies in resource
1580 use that cannot be feasibly achieved in any other way, and the public benefits that
1581 would arise from the economies exceed the public benefits that would arise from
1582 not lessening competition; or
 - 1583 (ii) the acquisition will substantially increase the availability of insurance, and the
1584 public benefits of the increase exceed the public benefits that would arise from not
1585 lessening competition.
- 1586 (5)(a) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if an acquisition
1587 violates the standards of this section, the commissioner may enter an order:
- 1588 (i) requiring an involved insurer to cease and desist from doing business in this state
1589 with respect to the line or lines of insurance involved in the violation; or

- 1590 (ii) denying the application of an acquired or acquiring insurer for a license to do
1591 business in this state.
- 1592 (b) The commissioner shall accompany an order issued under this Subsection (5) with a
1593 written decision of the commissioner setting forth findings of fact and conclusions of
1594 law.
- 1595 (c) An order pursuant to this section may not apply if the acquisition is not
1596 consummated.
- 1597 (d) A person [who] that violates a cease and desist order of the commissioner under
1598 Subsection (5)(a)(i) and while the order is in effect may after notice and hearing and
1599 upon order of the commissioner be subject at the discretion of the commissioner to
1600 one or more of the following:
- 1601 (i) notwithstanding Section 31A-2-308, a monetary penalty of not more than \$10,000
1602 for every day of violation; or
- 1603 (ii) suspension or revocation of the person's license.
- 1604 (e) An insurer or other person [who] that fails to make any filing required by this section,
1605 and who fails to demonstrate a good faith effort to comply with a filing requirement,
1606 is subject to a fine of not more than \$50,000 notwithstanding Section 31A-2-308.

1607 Section 3. Section **31A-27a-104** is amended to read:

1608 **31A-27a-104 . Persons covered.**

- 1609 (1) This chapter applies to:
- 1610 (a) an insurer [who] that:
- 1611 (i) is doing, or has done, an insurance business in this state; and
1612 (ii) against whom a claim arising from that business may exist;
- 1613 (b) a person subject to examination by the commissioner;
- 1614 (c) an insurer [who] that purports to do an insurance business in this state;
- 1615 (d) an insurer [who] that has an insured [who] that is resident in this state; and
1616 (e) in addition to Subsections (1)(a) through (d), a person doing business as follows:
- 1617 (i) under Chapter 6a, Service Contracts;
1618 (ii) under Chapter 7, Nonprofit Health Service Insurance Corporations;
1619 (iii) under Chapter 8a, Health Discount Program Consumer Protection Act;
1620 (iv) under Chapter 9, Insurance Fraternal;
1621 (v) under Chapter 11, Motor Clubs;
1622 (vi) under Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention
1623 Groups;

- 1624 (vii) as a bail bond surety company under Chapter 35, Bail Bond Act;
 1625 (viii) under Chapter 37, Captive Insurance Companies Act;
 1626 (ix) a title insurance company;
 1627 (x) a prepaid health care delivery plan; and
 1628 (xi) a person not described in Subsections (1)(e)(i) through (x) that is organized or
 1629 doing insurance business, or in the process of organizing with the intent to do
 1630 insurance business in this state.

1631 (2) Notwithstanding Sections 31A-1-301 and 31A-27a-102, this chapter does not apply to a
 1632 person licensed by the insurance commissioner as one or more of the following in this
 1633 state unless the person engages in the business of insurance as an insurer, is an affiliate
 1634 as defined in [~~Subsection 31A-1-301(5)~~] Section 31A-1-301, or is a person under the
 1635 control of an affiliate:

- 1636 (a) an insurance agency;
 1637 (b) an insurance producer;
 1638 (c) a limited line producer;
 1639 (d) an insurance consultant;
 1640 (e) a managing general agent;
 1641 (f) reinsurance intermediary;
 1642 (g) an individual title insurance producer or agency title insurance producer;
 1643 (h) a third party administrator;
 1644 (i) an insurance adjustor;
 1645 (j) a life settlement provider; or
 1646 (k) a life settlement producer.

1647 Section 4. Section **31A-27a-502** is amended to read:

1648 **31A-27a-502 . Recovery from affiliates.**

- 1649 (1)(a) If a receivership order is entered under this chapter, the receiver appointed under
 1650 the receivership order may recover on behalf of the insurer from an affiliate as
 1651 defined in [~~Subsection 31A-1-301(5)~~] Section 31A-1-301 the value received by the
 1652 affiliate at any time during the five years preceding the filing date of the delinquency
 1653 proceedings.
 1654 (b) A person disputing that person's status as an affiliate shall prove by clear and
 1655 convincing evidence the person's nonaffiliate status.
 1656 (c) Recovery from an affiliate is subject to the limitations of Subsections (2) and (6).
 1657 (2) If the insurer is a stock corporation, a stock dividend distribution to an affiliate is not

- 1658 recoverable if the recipient shows by a preponderance of the evidence that:
- 1659 (a) when paid, the stock dividend distribution to an affiliate is lawful and reasonable;
- 1660 (b) the department had notice to and approved the stock dividend; and
- 1661 (c) the insurer did not know and could not reasonably have known that the stock
- 1662 dividend distribution to the affiliate might adversely affect the solvency of the insurer.
- 1663 (3) The maximum amount recoverable under this section is the amount needed to pay all
- 1664 claims under the receivership:
- 1665 (a) in excess of all other available recoverable assets; and
- 1666 (b) reduced for each recipient affiliate by any amount that the recipient affiliate pays to
- 1667 any receiver under similar laws of other states.
- 1668 (4)(a) A person [~~who~~] that is an affiliate at the time value is received is liable up to the
- 1669 amount of value received by the affiliate.
- 1670 (b) If two or more affiliates are liable regarding the same value received, [~~they are~~
- 1671 ~~jointly and severally liable~~] each affiliate is jointly and severally liable.
- 1672 (5) If any affiliate liable under Subsection (4) is insolvent or unable to pay within one year,
- 1673 all affiliates at the time the value is received are jointly and severally liable for any
- 1674 resulting deficiency in the amount that would have been recovered from the nonpaying
- 1675 affiliate.
- 1676 (6) This section does not enlarge the personal liability of a director under existing law.
- 1677 (7) An action or proceeding under this section may not be commenced after the earlier of:
- 1678 (a) six years after the day on which a receiver is appointed; or
- 1679 (b) the day on which the receivership is terminated.

1680 Section 5. **Effective Date.**

1681 This bill takes effect on May 7, 2025.