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Insurance Code Modifications
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes an insurance fraud investigator that the Insurance Department (department) employs to investigate crimes committed by a department licensee;
- ▶ amends provisions relating to a captive insurance company that is organized as a risk retention group;
- ▶ provides the type of experts the Insurance Commissioner (commissioner) may hire to conduct an examination of a licensee;
- ▶ provides that an entity that is subject to examination (examinee) shall pay the costs of an examination;
- ▶ provides that the commissioner may use a deposit an examinee makes to pay an examination cost an examinee fails to pay;
- ▶ requires that a deposit an examinee makes shall first be used to pay for an unpaid examination cost;
- ▶ amends provisions relating to the service of process through a state officer;
- ▶ authorizes the commissioner to make rules governing the process for winding down the business of a resident agency title insurance producer;
- ▶ exempts a risk retention group from paying an annual fee with the department;
- ▶ amends provisions relating to money appropriated from the Captive Insurance Restricted Account;
- ▶ requires that an insurer file with the commissioner and the National Association of

28 Insurance Commissioners a quarterly statement of the insurer's financial condition;

29 ▶ amends provisions relating to the payment of dividends to include domestic mutual
30 insurance holding companies;

31 ▶ requires that a mutual insurer or mutual insurance company provide the commissioner
32 with a notification before a dividend distribution;

33 ▶ removes a civil penalty for a director or officer of an insurance holding company that
34 commits certain violations;

35 ▶ provides that an insurer may issue a group insurance policy offering life insurance to the
36 trustees of a fund established, created, and maintained for the benefit of members of an
37 association group;

38 ▶ changes the day on which an insurer shall make an annual report;

39 ▶ increases the liability coverage a title insurance producer shall maintain;

40 ▶ amends provisions relating to the type of policies an individual title insurance producer
41 and agency title insurance producer shall maintain;

42 ▶ increases the amount of coverage an individual title insurance producer or agency title
43 insurance producer shall maintain;

44 ▶ provides that if an agency title insurance producer becomes aware of facts that indicate an
45 electronic wire funds transfer did not reach the electronic wire funds transfer's intended
46 recipient, the agency title insurance producer make a report of the facts;

47 ▶ requires that a title insurer report to the commissioner the termination of an appointment
48 of a title insurance producer;

49 ▶ requires that a nonresident title insurance agency deposit a Utah home buyer's escrow in a
50 depository institution's Utah branch;

51 ▶ provides that an individual title insurance producer or agency title insurance producer
52 notify the parties to a real estate transaction of a closing protection letter;

53 ▶ provides that a title insurance licensee is not required to deposit money in a depository
54 institution under certain circumstances;

55 ▶ repeals certain reporting requirements relating to licensee compensation;

56 ▶ provides that an insurer shall pay each claim submitted by an insured and a provider;

57 ▶ amends provisions relating to required contracts involving a public adjuster;

58 ▶ amends provisions relating to the compensation of a public adjuster;

59 ▶ enacts provisions that authorize a property insurance policy to prohibit the assignment of
60 property insurance policy rights and benefits;

- 61 ▶ provides requirements for the funds a public adjuster holds;
- 62 ▶ establishes public adjuster standards of conduct;
- 63 ▶ establishes record retention requirements for a public adjuster;
- 64 ▶ amends the standards for the conduct of a hearing the commissioner undertakes while
65 engaging in an administrative action against an insurer;
- 66 ▶ provides for the applicability of certain statutes to a risk retention group;
- 67 ▶ amends the definition of the excess surplus of a captive insurance company;
- 68 ▶ expands the authority of the commissioner to suspend or revoke the certificate of
69 authority of a captive insurance company to conduct business in this state;
- 70 ▶ changes the day on which an agency title insurance producer is required to pay an
71 assessment;
- 72 ▶ amends provisions relating to the actions the commissioner may take against a licensee;
- 73 ▶ amends provisions relating to who is required to complete continuing education
74 requirements;
- 75 ▶ repeals training requirements related to a resident producer;
- 76 ▶ provides that an ambulance membership organization is a limited health plan under Title
77 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 78 ▶ provides the registration requirements for an ambulance membership organization;
- 79 ▶ provides the renewal process for an ambulance membership organization;
- 80 ▶ provides that an ambulance membership organization shall submit an annual report to the
81 commissioner;
- 82 ▶ prohibits an ambulance membership organization from selling, offering for sale, or
83 providing an ambulance membership contract to an individual enrolled in Medicaid;
- 84 ▶ enacts marketing requirements and required disclosures for an ambulance membership
85 organization;
- 86 ▶ authorizes the commissioner to revoke or suspend an ambulance membership
87 organization's license;
- 88 ▶ exempts foreign ambulance membership organizations from certain sections of code;
- 89 ▶ removes the director of the Department of Health and Human Services from an annual
90 audit of internal quality control for an organization;
- 91 ▶ repeals and amends provisions related to long-term care and long-term care insurance;
- 92 ▶ addresses requirements for insurers that provide dental services to residents in Utah;
- 93 ▶ requires insurers to allow dental providers to opt out of participation in dental plans under

- 94 certain circumstances;
- 95 ▸ addresses a dental insurer's obligation when a paper check is sent to a provider and is
- 96 returned to the insurer;
- 97 ▸ prohibits a dental insurer from imposing a fee for paying with a paper check;
- 98 ▸ prohibits an insurer from interfering with an agreement for service between a patient and
- 99 dental provider;
- 100 ▸ addresses claim form requirements;
- 101 ▸ requires an insurer to provide an explanation of benefits that addresses non-covered
- 102 services to a patient and provider; and
- 103 ▸ makes technical and conforming changes.

104 **Money Appropriated in this Bill:**

105 None

106 **Other Special Clauses:**

107 None

108 **Utah Code Sections Affected:**

109 AMENDS:

- 110 **31A-2-104**, as last amended by Laws of Utah 2020, Chapter 32
- 111 **31A-2-203**, as last amended by Laws of Utah 2009, Chapter 349
- 112 **31A-2-205**, as last amended by Laws of Utah 2009, Chapter 355
- 113 **31A-2-206**, as last amended by Laws of Utah 2007, Chapter 309
- 114 **31A-2-207**, as last amended by Laws of Utah 2019, Chapter 254
- 115 **31A-2-310**, as last amended by Laws of Utah 2023, Chapter 194
- 116 **31A-2-404**, as last amended by Laws of Utah 2025, Chapter 175
- 117 **31A-3-304**, as last amended by Laws of Utah 2025, Chapter 175
- 118 **31A-4-113**, as last amended by Laws of Utah 2004, Chapter 2
- 119 **31A-4-113.5**, as last amended by Laws of Utah 2024, Chapter 120
- 120 **31A-5-420**, as enacted by Laws of Utah 1985, Chapter 242
- 121 **31A-8-101**, as last amended by Laws of Utah 2017, Chapter 292
- 122 **31A-8-102**, as enacted by Laws of Utah 1986, Chapter 204
- 123 **31A-8-103**, as last amended by Laws of Utah 2018, Chapter 391
- 124 **31A-8-105**, as last amended by Laws of Utah 1998, Chapter 329
- 125 **31A-8-209**, as last amended by Laws of Utah 2002, Chapter 308
- 126 **31A-8-211**, as last amended by Laws of Utah 2020, Chapter 32
- 127 **31A-8-301**, as last amended by Laws of Utah 2013, Chapter 319

128 **31A-8-404**, as last amended by Laws of Utah 1994, Chapter 314
129 **31A-11-104**, as last amended by Laws of Utah 2007, Chapter 309
130 **31A-14-206**, as last amended by Laws of Utah 2007, Chapter 309
131 **31A-16-111**, as last amended by Laws of Utah 2023, Chapter 401 and last amended by
132 Coordination Clause, Laws of Utah 2023, Chapter 401
133 **31A-17-201**, as last amended by Laws of Utah 2003, Chapter 252
134 **31A-17-202**, as last amended by Laws of Utah 1999, Chapter 131
135 **31A-18-117**, as enacted by Laws of Utah 2025, Chapter 368
136 **31A-20-108**, as last amended by Laws of Utah 2024, Chapter 120
137 **31A-21-310**, as last amended by Laws of Utah 2025, Chapter 302
138 **31A-22-309**, as last amended by Laws of Utah 2020, Chapter 130
139 **31A-22-505**, as last amended by Laws of Utah 2021, Chapter 252
140 **31A-22-605**, as last amended by Laws of Utah 2024, Chapter 120
141 **31A-22-646**, as enacted by Laws of Utah 2017, Chapter 101
142 **31A-22-650**, as last amended by Laws of Utah 2025, Chapter 473
143 **31A-22-701**, as last amended by Laws of Utah 2025, Chapter 175
144 **31A-22-2002**, as last amended by Laws of Utah 2024, Chapter 120
145 **31A-22-2006**, as enacted by Laws of Utah 2020, Chapter 32
146 **31A-23a-111**, as last amended by Laws of Utah 2025, Chapter 175
147 **31A-23a-202**, as last amended by Laws of Utah 2016, Chapter 138
148 **31A-23a-203**, as last amended by Laws of Utah 2017, Chapter 168
149 **31A-23a-203.5**, as last amended by Laws of Utah 2015, Chapter 312
150 **31A-23a-204**, as last amended by Laws of Utah 2024, Chapter 196
151 **31A-23a-401**, as last amended by Laws of Utah 2009, Chapter 12
152 **31A-23a-406**, as last amended by Laws of Utah 2024, Chapter 120
153 **31A-23a-409**, as last amended by Laws of Utah 2023, Chapters 111, 194
154 **31A-23a-501**, as last amended by Laws of Utah 2023, Chapter 16
155 **31A-26-301**, as last amended by Laws of Utah 2002, Chapter 309
156 **31A-26-301.6**, as last amended by Laws of Utah 2025, Chapter 276
157 **31A-26-301.7**, as last amended by Laws of Utah 2025, Chapter 276
158 **31A-26-401**, as enacted by Laws of Utah 2017, Chapter 168
159 **31A-26-402**, as enacted by Laws of Utah 2017, Chapter 168
160 **31A-28-203**, as last amended by Laws of Utah 2002, Chapter 308
161 **31A-35-103**, as last amended by Laws of Utah 2021, Chapter 64

- 162 **31A-37-102**, as last amended by Laws of Utah 2025, Chapter 175
- 163 **31A-37-103**, as last amended by Laws of Utah 2019, Chapter 193
- 164 **31A-37-201**, as last amended by Laws of Utah 2025, Chapter 175
- 165 **31A-37-204**, as last amended by Laws of Utah 2025, Chapter 175
- 166 **31A-37-302**, as last amended by Laws of Utah 2025, Chapter 175
- 167 **31A-37-501**, as last amended by Laws of Utah 2025, Chapter 175
- 168 **31A-37-505**, as last amended by Laws of Utah 2025, Chapter 175
- 169 **31A-37-701**, as last amended by Laws of Utah 2025, Chapter 175
- 170 **31A-41-202**, as last amended by Laws of Utah 2016, Chapter 138
- 171 **63G-2-305**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

172 ENACTS:

- 173 **31A-8-303**, Utah Code Annotated 1953
- 174 **31A-8-601**, Utah Code Annotated 1953
- 175 **31A-8-602**, Utah Code Annotated 1953
- 176 **31A-8-603**, Utah Code Annotated 1953
- 177 **31A-8-604**, Utah Code Annotated 1953
- 178 **31A-8-605**, Utah Code Annotated 1953
- 179 **31A-22-646.2**, Utah Code Annotated 1953
- 180 **31A-26-301.8**, Utah Code Annotated 1953
- 181 **31A-26-403.1**, Utah Code Annotated 1953
- 182 **31A-26-404**, Utah Code Annotated 1953
- 183 **31A-26-405**, Utah Code Annotated 1953
- 184 **31A-26-406**, Utah Code Annotated 1953

185 RENUMBERS AND AMENDS:

- 186 **31A-26-407**, (Renumbered from 31A-26-403, as enacted by Laws of Utah 2017,
- 187 Chapter 168)

188 REPEALS:

- 189 **31A-20-109**, as enacted by Laws of Utah 1985, Chapter 242
- 190 **31A-22-2001**, as enacted by Laws of Utah 2020, Chapter 32
- 191 **31A-22-2003**, as enacted by Laws of Utah 2020, Chapter 32
- 192 **31A-22-2004**, as enacted by Laws of Utah 2020, Chapter 32
- 193 **31A-22-2005**, as enacted by Laws of Utah 2020, Chapter 32

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

196 Section 1. Section **31A-2-104** is amended to read:

197 **31A-2-104 . Other employees -- Insurance fraud investigators.**

198 (1) The department shall employ professional, technical, and clerical employees as
199 necessary to carry out the duties of the department.

200 (2) An insurance fraud investigator employed in accordance with Subsection (1) may as the
201 commissioner approves:

202 (a) be designated a law enforcement officer, as defined in Section 53-13-103;[~~and~~]

203 (b) be eligible for retirement benefits under the Public Safety Employee's Retirement
204 System[~~]~~ ; and

205 (c) investigate crimes a department licensee commits while performing an activity
206 regulated under this title.

207 Section 2. Section **31A-2-203** is amended to read:

208 **31A-2-203 . Examinations and alternatives.**

209 (1)(a) When the commissioner determines that information is needed about a matter
210 related to the enforcement of this title, the commissioner may examine the affairs and
211 condition of:

212 (i) a licensee under this title;

213 (ii) an applicant for a license under this title;

214 (iii) a person or organization of persons doing or in process of organizing to do an
215 insurance business in this state; or

216 (iv) a person who is not, but is required to be, licensed under this title.

217 (b) When reasonably necessary for an examination under Subsection (1)(a), the
218 commissioner may examine:

219 (i) so far as it relates to the examinee, an account, record, document, or evidence of a
220 transaction of:

221 (A) the insurer or other licensee;

222 (B) an officer or other person who has executive authority over or is in charge of
223 any segment of the examinee's affairs; or

224 (C) an affiliate of the examinee; or

225 (ii) a third party model or product used by the examinee.

226 (c)(i) On demand, an examinee under Subsection (1)(a) shall make available to the
227 commissioner for examination:

228 (A) the examinee's own account, record, file, document, or evidence of a
229 transaction; and

- 230 (B) to the extent reasonably necessary for an examination, an account, record, file,
231 document, or evidence of a transaction of a person described under Subsection
232 (1)(b).
- 233 (ii) Except as provided in Subsection (1)(c)(iii), failure to make an item described in
234 Subsection (1)(c)(i) available is concealment of records under Subsection
235 31A-27a-207(1)(e).
- 236 (iii) If an examinee is unable to obtain an account, record, file, document, or evidence
237 of a transaction from a person described under Subsection (1)(b), that failure is not
238 concealment of records if the examinee immediately terminates the relationship
239 with the other person.
- 240 (d)(i) The commissioner or an examiner may not remove an account, record, file,
241 document, evidence of a transaction, or other property of an examinee from the
242 examinee's offices unless:
- 243 (A) the examinee consents in writing; or
244 (B) a court grants permission.
- 245 (ii) The commissioner may make and remove a copy or abstract of the following
246 described in Subsection (1)(d)(i):
- 247 (A) an account;
248 (B) a record;
249 (C) a file;
250 (D) a document;
251 (E) evidence of a transaction; or
252 (F) other property.
- 253 (2)(a) Subject to the other provisions of this section, the commissioner shall examine as
254 needed and as otherwise provided by law:
- 255 (i) every insurer, both domestic and nondomestic;
256 (ii) every licensed rate service organization; and
257 (iii) any other licensee.
- 258 (b) The commissioner shall examine an insurer, both domestic and nondomestic, no less
259 frequently than once every five years, but the commissioner may use in lieu an
260 examination under Subsection (4) to satisfy this requirement.
- 261 (c) The commissioner shall revoke the certificate of authority of an insurer or the license
262 of a rate service organization that has not been examined, or submitted an acceptable
263 in lieu report under Subsection (4), within the past five years.

- 264 (d)(i) Any 25 persons who are policyholders, shareholders, or creditors of a domestic
265 insurer may by verified petition demand a hearing under Section 31A-2-301 to
266 determine whether the commissioner should conduct an unscheduled examination
267 of the insurer.
- 268 (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an
269 opportunity in the hearing to present evidence that an examination of the insurer is
270 necessary.
- 271 (iii) If the evidence justifies an examination, the commissioner shall order an
272 examination.
- 273 (e)(i) If the board of directors of a domestic insurer requests that the commissioner
274 examine the insurer, the commissioner shall examine the insurer as soon as
275 reasonably possible.
- 276 (ii) If the examination requested under this Subsection (2)(e) is conducted within two
277 years after completion of a comprehensive examination by the commissioner,
278 costs of the requested examination may not be deducted from premium taxes
279 under Section 59-9-102 unless the commissioner's order specifically provides for
280 the deduction.
- 281 (f) A bail bond surety company, as defined in Section 31A-35-102, is exempt from:
- 282 (i) the five-year examination requirement in Subsection (2)(b);
- 283 (ii) the revocation under Subsection (2)(c); and
- 284 (iii) Subsections (2)(d) and (2)(e).
- 285 (3)(a) The commissioner may order an independent audit or examination by one or more [
286 ~~technical experts, including a certified public accountant or actuary]~~ independent
287 contractors, including certified public accountants, investment specialists, and
288 information technology specialists:
- 289 (i) in lieu of all or part of an examination under Subsection (1) or (2); or
- 290 (ii) in addition to an examination under Subsection (1) or (2).
- 291 (b) The commissioner may employ one or more independent contractors who are
292 qualified by knowledge, skill, experience, training, or education to provide
293 specialized assistance in an examination.
- 294 [(b)] (c) [~~An audit or evaluation under-~~] A service performed in accordance with this
295 Subsection (3) is subject to Subsection (5), Section 31A-2-204, and Subsection
296 31A-2-205(4).
- 297 (4)(a) In lieu of all or a part of an examination under this section, the commissioner may

- 298 accept the report of an examination made by:
- 299 (i) the insurance department of another state; or
- 300 (ii) another government agency in:
- 301 (A) this state;
- 302 (B) the federal government; or
- 303 (C) another state.
- 304 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by the
- 305 commissioner under this Subsection (4) may use:
- 306 (i) an audit completed by a certified public accountant; or
- 307 (ii) an actuarial evaluation made by an actuary approved by the commissioner.
- 308 (5)(a) An examination may be comprehensive or limited with respect to the examinee's
- 309 affairs and condition. The commissioner shall determine the nature and scope of an
- 310 examination, taking into account all relevant factors, including:
- 311 (i) the length of time the examinee has been licensed in this state;
- 312 (ii) the nature of the business being examined;
- 313 (iii) the nature of the accounting or other records available;
- 314 (iv) one or more reports from:
- 315 (A) independent auditors; and
- 316 (B) self-certification entities; and
- 317 (v) the nature of examinations performed elsewhere.
- 318 (b) The examination of an alien insurer is limited to one or more insurance transactions
- 319 and assets in the United States, unless the commissioner orders otherwise after
- 320 finding that extraordinary circumstances necessitate a broader examination.
- 321 (6) To effectively administer this section, the commissioner:
- 322 (a) shall:
- 323 (i) maintain one or more effective financial condition and market regulation
- 324 surveillance systems including:
- 325 (A) financial and market analysis; and
- 326 (B) a review of insurance regulatory information system reports;
- 327 (ii) employ a priority scheduling method that focuses on insurers and other licensees
- 328 most in need of examination; and
- 329 (iii) use examination management techniques similar to those outlined in the
- 330 Financial Condition Examination Handbook of the National Association of
- 331 Insurance Commissioners; and

332 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may
333 make rules pertaining to:

334 (i) a financial condition and market regulation surveillance system; and

335 (ii) annual financial reporting requirements similar to those outlined in the Annual
336 Financial Reporting Model Regulation of the National Association of Insurance
337 Commissioners.

338 Section 3. Section **31A-2-205** is amended to read:

339 **31A-2-205 . Examination costs.**

340 (1)~~[(a)]~~ Except as provided in ~~[Subsection (3)]~~ Subsection (7), an examinee that is one of
341 the following shall ~~[reimburse the department]~~ pay for the reasonable costs of [
342 examinations] an examination made under Sections 31A-2-203 and 31A-2-204:

343 ~~[(i)]~~ (a) an insurer;

344 ~~[(ii)]~~ (b) a rate service organization;

345 ~~[(iii)]~~ (c) a subsidiary of an insurer or rate service organization; or

346 ~~[(iv)]~~ (d) a life settlement provider.

347 ~~[(b)]~~ (2) ~~[The following costs shall be reimbursed under this-]~~ An examinee shall pay the
348 following costs of the department under Subsection (1):

349 ~~[(i)]~~ (a) an examiner's actual travel [expenses] expenses;

350 ~~[(ii)]~~ (b) an examiner's reasonable living expense allowance;

351 ~~[(iii)]~~ (c) ~~[compensation at reasonable rates for all professionals reasonably employed for~~
352 ~~the examination under Subsection (4);]~~ an examiner's actual rate of compensation;

353 ~~[(iv)]~~ ~~the administration and supervisory expense of:]~~

354 ~~[(A)]~~ ~~the department; and]~~

355 ~~[(B)]~~ ~~the attorney general's office; and]~~

356 (d) each administration expense, support expense, and supervisory expense of the
357 department for the examination; and

358 ~~[(v)]~~ (e) an amount necessary to cover fringe benefits [authorized by-] that the
359 commissioner authorizes or as provided by law.

360 (3) An examinee shall pay the following costs of an independent contractor that the
361 commissioner employs in accordance with Subsection 31A-2-203(3):

362 (a) the independent contractor's actual travel expenses;

363 (b) the independent contractor's reasonable living expense;

364 (c) the independent contractor's compensation; and

365 (d) an expense that the independent contractor necessarily incurs that the commissioner

366 approves.

367 ~~[(e)]~~ (4) In determining rates, the commissioner shall consider the rates recommended and
368 outlined in the examination manual sponsored by the National Association of Insurance
369 Commissioners.

370 ~~[(d)]~~ (5) ~~[This Subsection (1) applies]~~ Subsections (1) through (4) apply to a surplus lines
371 producer to the extent that the examinations are of the surplus line producer's surplus
372 lines business.

373 ~~[(2)]~~ (6)(a) An insurer requesting the examination of one of ~~[its]~~ the insurer's producers
374 shall pay the cost of the examination to the extent described in Subsections (2)
375 through (4).~~[-]~~

376 (b) ~~[Otherwise]~~ If an insurer does not request the examination of one of the insurer's
377 producers as described in Subsection (6)(a), the department shall pay the cost of
378 examining a licensee ~~[other than those specified under]~~ except for a licensee listed in
379 Subsection (1).

380 ~~[(3)]~~ (7)(a) On the examinee's request or at the commissioner's discretion, the department
381 may pay all or part of the costs of an examination whenever the commissioner finds
382 that ~~[because of]~~ based on the frequency of examinations or the examinee's financial
383 condition~~[-of the examinee,]~~ :

384 (i) the imposition of the costs of an examination would place an unreasonable burden
385 on the examinee; and

386 (ii) the department has sufficient funds to pay the costs of an examination.

387 (b) The commissioner shall include in the commissioner's annual report information
388 about any instance in which the commissioner has applied this Subsection ~~[(3)]~~ (7).

389 ~~[(4)]~~ (8)(a) ~~[A technical expert employed]~~ An independent contractor the commissioner
390 employs under Subsection 31A-2-203(3) shall present to the commissioner ~~[a~~
391 ~~statement of all expenses incurred by the technical expert in conjunction with an~~
392 ~~examination]~~ an invoice for each cost described in Subsection (3).

393 (b) The ~~[examined insurer]~~ examinee shall~~[-, at the commissioner's direction, pay to a~~
394 ~~technical expert]~~ pay the invoice described in Subsection (8)(a) after the
395 commissioner:

396 (i) reviews the invoice;

397 (ii) approves the invoice for payment; and

398 (iii) delivers the invoice to the examinee with a direction to pay the invoice.

399 ~~[(i)(A) actual travel expenses;]~~

400 ~~[(B) reasonable living expenses; and]~~
401 ~~[(C) compensation; and]~~
402 ~~[(ii) for expenses necessarily incurred as approved by the commissioner.]~~
403 (c) An invoice dispute shall be resolved in accordance with rules the department makes
404 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
405 ~~[(e) The examined insurer shall reimburse the department for:]~~
406 ~~[(i) a department examiner's:]~~
407 ~~[(A) actual travel expenses; and]~~
408 ~~[(B) reasonable living expenses; and]~~
409 ~~[(ii) the compensation of department examiners involved in the examination.]~~
410 ~~[(d)(i) The examined insurer shall certify the consolidated account of all charges and~~
411 ~~expenses for the examination.]~~
412 ~~[(ii) The examined insurer shall:]~~
413 ~~[(A) retain a copy of the consolidated account; and]~~
414 ~~[(B) file a copy of the consolidated account with the department as a public record.]~~
415 ~~[(e) An annual report of examination charges paid by examined insurers directly to~~
416 ~~persons employed under Subsection 31A-2-203(3) or to department examiners shall~~
417 ~~be included with the department's budget request.]~~
418 ~~[(f)]~~ (9) ~~[Amounts paid directly by examined insurers to persons employed]~~ An amount an
419 examinee pays to an independent contractor the commissioner employs under
420 Subsection 31A-2-203(3) or to a department [examiners] examiner may not be deducted
421 from the department's appropriation.
422 ~~[(5)]~~ (10)(a) The amount payable under ~~[Subsection (1)]~~ Subsections (1) through (3) is
423 due 10 days after the day on which [the examinee is served with a detailed account of
424 ~~the costs] the commissioner directs the examinee to pay the invoice.
425 (b) Payments ~~[received by]~~the department receives under this Subsection ~~[(5)]~~ (10) shall
426 be handled as provided by Section 31A-3-101.
427 ~~[(6)]~~ (11)(a) The commissioner may require an examinee under Subsection (1), or an
428 insurer requesting an examination under Subsection ~~[(2)]~~ (6), either before or during
429 an examination, to make deposits with the state treasurer to pay the costs of
430 examination.
431 (b) ~~[Any-]~~ The state treasurer shall hold a deposit [made] an examinee or an insurer makes
432 under this Subsection [(6) shall be held] (11) in trust [by the state treasurer-]until [
433 ~~applied]~~ the state treasurer applies the deposit to pay the department the costs payable~~

434 under this section.

435 (c) If a deposit made under this Subsection [~~(6)~~] (11) exceeds examination costs, the state
436 treasurer shall refund the surplus.

437 (12) If an examinee does not timely pay examination costs, the commissioner may satisfy
438 the debt by drawing on a statutory deposit the examinee files in accordance with Section
439 31A-2-206.

440 [~~(7)~~] (13) A domestic insurer may offset the examination expenses paid under this section
441 against premium taxes under Subsection 59-9-102(2).

442 Section 4. Section **31A-2-206** is amended to read:

443 **31A-2-206 . Receipt and handling of deposits.**

444 (1) As used in this chapter:

445 (a) "Custodian institution" means a financial institution in this state as defined under
446 Section 7-1-103 that:

447 (i) has authority under Title 7, Chapter 5, Trust Business, to engage in a trust
448 business; and

449 (ii) [~~is approved by~~]the commissioner approves to have custody of deposited
450 securities, whether physically, through the Federal Reserve book-entry system, or
451 through a clearing corporation as defined under Subsection 70A-8-101(1).

452 (b) "Federal Reserve book-entry system" means the computerized system sponsored by
453 the United States Department of the Treasury and certain other agencies and
454 instrumentalities of the United States for holding and transferring securities of the
455 United States government and other agencies and instrumentalities.

456 (2) Subject to the commissioner's approval and to the requirements of this section, the state
457 treasurer shall accept, and a custodian institution qualified under Subsection (1)(a) may
458 accept:

459 (a) deposits required or permitted under this title or rules adopted under this title;

460 (b) deposits of domestic insurers or of alien insurers domiciled in this state if required by
461 the laws of other states as a prerequisite to authority to do an insurance business in
462 other states; and

463 (c) deposits resulting from application of any retaliatory provisions of this title.

464 (3) Deposits authorized under Subsection (2) shall be of securities described in Subsection
465 (7).

466 (4) Unless otherwise provided by the law requiring or permitting the deposit, each deposit
467 shall be held in trust:

468 (a) first, for an examination cost that an insurer has not paid in under Section 31A-2-205;
469 [~~(a)~~] (b) [~~first~~] second, for administrative costs under Subsection 31A-27a-701(2)(a);
470 [~~(b)~~] (c) [~~second~~] third, for the claimants under Subsection 31A-27a-701(2)(c);
471 [~~(c)~~] (d) [~~third~~] fourth, for the claimants under Subsection 31A-27a-701(2)(d); and
472 [~~(d)~~] (e) [~~fourth~~] fifth, for all other creditors in the order of priority established under
473 Section 31A-27a-701.

474 (5) A claim may be made against the deposit of an alien insurer only if [~~it~~] the claim arises
475 out of a transaction in the United States.

476 (6) Deposits may be made by:

477 (a) delivering physical custody and control of the deposited security to the state treasurer
478 or a custodian institution, accompanied by a statement signed by the depositor
479 indicating that the deposit shall be held in trust under the terms of this section and
480 subject to the commissioner's exclusive direction until control is released by the
481 commissioner; or

482 (b) delivering to the commissioner, on a form adopted by rule, a signed certificate of a
483 custodian institution, describing securities qualifying for deposit under Subsection (7)
484 that are on deposit with a clearing corporation or held in the Federal Reserve
485 book-entry system in the name of the custodian institution, in trust for the purposes
486 stated under this section, and that these securities are subject to the exclusive
487 direction of the commissioner and [~~may not be withdrawn or transferred by any~~
488 ~~person~~] a person may not withdraw or transfer the securities, including the insurer
489 owning the securities, without the commissioner's written approval.

490 (7)(a) [~~Deposits-~~] A deposit may consist of [~~any securities~~] a security authorized in
491 Subsection (7)(b) for which there is a ready market if [~~they~~] the deposit:

492 (i) [~~are-~~] is expressly approved by the commissioner;

493 (ii) [~~are-~~] is subject to disposition by the state treasurer or custodian institution only
494 with the concurrence of the commissioner; and

495 (iii) [~~are-~~] is not available to any other person except as expressly provided by law.

496 (b) The authorized securities are:

497 (i) deposits or certificates of deposit [~~insured by~~] that the Federal Deposit Insurance
498 Corporation insures;

499 (ii) bonds or other evidences of indebtedness that are guaranteed as to principal and
500 interest by the United States;

501 (iii) tax anticipation bonds or notes, general obligation bonds, or revenue bonds of

502 this state or of any county, incorporated city or town, school district, or other
503 political subdivision of this state, if the bonds or notes are rated AAA by Standard
504 and Poor's or an equivalent nationally recognized rating agency;

505 (iv) bonds or other evidences of indebtedness issued or guaranteed by an agency or
506 instrumentality of the United States; and

507 (v) any other security ~~[approved by]~~the commissioner approves that the
508 commissioner considers an equivalent grade investment to ~~[those]~~ an authorized
509 security enumerated under Subsections (7)(b)(i) through (iv) based on tests of the
510 safety of principal and liquidity.

511 (8)(a) Securities held on deposit shall be valued under Section 31A-17-401 as those
512 investments are valued for life insurers, or at market, whichever is lower.

513 (b) ~~[-]~~The securities shall be revalued whenever the commissioner requests to ensure
514 continued compliance with the requirements of this title.

515 (9)(a) The state treasurer or custodian institution shall:

516 (i) deliver to the depositor a receipt for all securities deposited or held;

517 (ii) issue a duplicate copy of the receipt to the commissioner; and

518 (iii) permit the depositor to inspect ~~[its]~~ the depositor's physically held securities at
519 any reasonable time.

520 (b) On application of the depositor or when required by the law of any state or country
521 or by the order of ~~[any court of competent]~~ a court with jurisdiction, the state treasurer
522 or custodian institution shall certify that the deposit was made and what is on deposit.

523 (c)(i) Depositors, the state treasurer, ~~[any]~~ a custodian institution, and the
524 commissioner shall each keep a permanent record of securities deposited or held
525 under this section and of any substitutions or withdrawals.

526 (ii) ~~[-They]~~ Each person described in Subsection (9)(c)(i) shall compare records at
527 least annually.

528 (10) A transfer of a deposited security, whether voluntary or by operation of law, is valid
529 only ~~[if approved in writing by]~~ if the commissioner approves the transfer in writing and [
530 ~~countersigned by]~~the state treasurer or custodian institution countersigns the transfer.

531 (11) Neither a judgment creditor nor other person may levy upon ~~[any]~~ a deposit held under
532 this section.

533 (12) A depositor that ~~[has complied]~~ complies with all provisions of this title intended to
534 preserve ~~[its]~~ the depositor's financial solidity is, while solvent and complying with the
535 laws of this state, entitled to:

- 536 (a) receive interest and cash dividends accruing on the securities held for [its] the
537 depositor's account; and
- 538 (b) substitute for deposited securities other eligible securities, as the commissioner
539 expressly [approved by the commissioner] approves.
- 540 (13) Within 45 days after the day on which the commissioner gives notice to a depositor
541 that a deposit is not an acceptable deposit under Subsection (7), the depositor shall
542 substitute other eligible securities [~~expressly approved by~~]the commissioner expressly
543 approves and allowed under Subsection (7).
- 544 (14) A depositor may voluntarily deposit or transfer control of eligible securities in excess
545 of requirements to absorb fluctuations in value and to facilitate substitution of securities.
- 546 (15)(a) Upon the depositor's request and upon approval of the commissioner, any deposit
547 or part of a deposit shall be released to, or on order of, the depositor to the extent not
548 needed to satisfy requirements of this title.
- 549 (b) After a hearing, the commissioner may issue an order requiring that a deposit or an
550 appropriate part of the deposit be released to the commissioner to pay an examination
551 cost described in Subsection (4)(a).
- 552 (c) [-]On the order of a court [~~of competent~~] with jurisdiction, the deposit or appropriate
553 part of the deposit shall be released to the person for whom [~~it~~] the deposit is held.
- 554 (16) Each depositor shall pay the cost of custody of securities by a custodian institution or
555 by the state treasurer.
- 556 (17) The commissioner shall adopt rules to implement this section.
- 557 Section 5. Section **31A-2-207** is amended to read:
- 558 **31A-2-207 . Commissioner's records and reports -- Protection from disclosure of**
559 **certain records.**
- 560 (1) The commissioner shall maintain all department records that are:
- 561 (a) required by law;
- 562 (b) necessary for the effective operation of the department; or
- 563 (c) necessary to maintain a full record of department activities.
- 564 (2) The records of the department may be preserved, managed, stored, and made available
565 for review consistent with:
- 566 (a) another Utah statute;
- 567 (b) the rules made under Section 63A-12-104;
- 568 (c) the decisions of the Records Management Committee made under Section
569 63A-12-113; or

- 570 (d) the needs of the public.
- 571 (3) A department record may not be destroyed, damaged, or disposed of without:
- 572 (a) authorization of the commissioner; and
- 573 (b) compliance with all other applicable laws.
- 574 (4) The commissioner shall maintain a permanent record of the commissioner's proceedings
- 575 and important activities, including:
- 576 (a) a concise statement of the condition of each insurer examined by the commissioner;
- 577 and
- 578 (b) a record of all certificates of authority and licenses issued by the commissioner.
- 579 (5)(a) ~~[Prior to]~~ Before October 1 of each year, the commissioner shall prepare an annual
- 580 report to the governor which shall include, for the preceding calendar year, the
- 581 information concerning the department and the insurance industry which the
- 582 commissioner believes will be useful to the governor and the public.
- 583 (b) The report required by this Subsection (5) shall include the information required
- 584 under Chapter 27a, Insurer Receivership Act, and Subsections 31A-2-106(2), [
- 585 ~~31A-2-205(3)]~~ 31A-2-205(7), and 31A-2-208(3).
- 586 (c) The commissioner shall make the report required by this Subsection (5) available to
- 587 the public and industry in electronic format.
- 588 (6) All department records and reports are open to public inspection unless specifically
- 589 provided otherwise by statute or by Title 63G, Chapter 2, Government Records Access
- 590 and Management Act.
- 591 (7) On request, the commissioner shall provide to any person certified or uncertified copies
- 592 of any record in the department that is open to public inspection.
- 593 (8) Notwithstanding Subsection (6) and Title 63G, Chapter 2, Government Records Access
- 594 and Management Act, the commissioner shall protect from disclosure any record, as
- 595 defined in Section 63G-2-103, or other document received from an insurance regulator
- 596 of another jurisdiction:
- 597 (a) at least to the same extent the record or document is protected from disclosure under
- 598 the laws applicable to the insurance regulator providing the record or document; or
- 599 (b) under the same terms and conditions of confidentiality as the National Association of
- 600 Insurance Commissioners requires as a condition of participating in any of the
- 601 National Association of Insurance Commissioners' programs.
- 602 Section 6. Section **31A-2-310** is amended to read:
- 603 **31A-2-310 . Procedure for service of process through state officer.**

- 604 (1) Service upon the commissioner or lieutenant governor under Section 31A-2-309 is
605 service on the principal, if:
- 606 (a) ~~[the following]~~ two copies of the process to be served and the required processing fee
607 are delivered personally or to the office of the official designated in Section
608 31A-2-309~~[:] ; and~~
- 609 ~~[(i) two copies of the process to be served; and]~~
610 ~~[(ii) a certificate of proof of service that meets the requirements of Subsection (3),~~
611 ~~dated and signed by the official designated in Section 31A-2-309; and]~~
- 612 (b) that official mails a copy of the process to the person to be served according to [
613 ~~Subsection (2)(b)] Subsection (2)(c)(i).~~
- 614 (2)(a) ~~[The]~~ Upon request, the commissioner [and] or the lieutenant governor shall give [
615 ~~receipts]~~ a receipt for [and keep records of] all process served through [them] the
616 commissioner or the lieutenant governor.
- 617 (b) The commissioner or the lieutenant governor shall keep a record of process served
618 through the commissioner or the lieutenant governor.
- 619 ~~[(b)]~~ (c)(i) The commissioner or the lieutenant governor shall [immediately] send by
620 certified mail [one] a copy of the process [received] the commissioner or the
621 lieutenant governor receives to the person to be served at that person's last known
622 principal place of business, residence, or post-office address.
- 623 (ii) ~~[-]~~ The commissioner or the lieutenant governor shall retain [the other] a copy [for
624 his files] of the process in a file.
- 625 ~~[(e)]~~ (d) No plaintiff or complainant may take a judgment by default in [any] a proceeding
626 in which process is served under this section and Section 31A-2-309 until the
627 expiration of 40 days from the date of service of process under [Subsection (2)(b)]
628 Subsection (2)(c)(i).
- 629 (3)(a) ~~[Proof]~~ The official designated in Section 31A-2-309 shall evidence proof of
630 service [shall be evidenced] by a certificate:
- 631 (i) ~~[by the official designated in Section 31A-2-309,]~~ showing service made upon [
632 him] the official and mailing by [him,] the official; and
- 633 (ii) ~~[-]~~ that is attached to a copy of the process presented to [him] the official for that
634 purpose.
- 635 (b) A person seeking evidence of proof of service shall:
- 636 (i) prepare the certificate described in Subsection (3)(a); and
- 637 (ii) obtain the signature of the official designated in Section 31A-2-309.

638 (4) When process is served under this section, the words "twenty days" in the first sentence
 639 of Rule 12(a) of the Utah Rules of Civil Procedure shall be changed to read "forty days."

640 Section 7. Section **31A-2-404** is amended to read:

641 **31A-2-404 . Duties of the commissioner and Title and Escrow Commission.**

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

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

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

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

649 (C) that [~~is enforced by~~]the commissioner enforces.

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

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

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

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

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

664 (ii) the commission shall review the report [~~submitted by~~]the commissioner submits
 665 under this Subsection (1)(d)[;] and:

666 (A) concur with the report; or

667 (B) provide a reason for not concurring with the report and provide
 668 recommendations to the commissioner.

669 (e) When this title requires concurrence between the commissioner and commission
 670 under Subsection (2), (3), or (4):

671 (i) the commission shall report to and update the commissioner on a regular basis

- 672 related to that title insurance matter; and
- 673 (ii) the commissioner shall review a report [~~submitted by~~]the commission submits
- 674 under this Subsection (1)(e) and concur with the report or:
- 675 (A) provide a reason for not concurring with the report; and
- 676 (B) provide recommendations to the commission.
- 677 (2) The commission shall:
- 678 (a) subject to Subsection (4), make rules for the administration of the provisions in this
- 679 title related to title insurance matters including rules related to:
- 680 (i) rating standards and rating methods for a title licensee, as provided in Section
- 681 31A-19a-209;
- 682 (ii) the licensing for a title licensee, including the licensing requirements of Section
- 683 31A-23a-204;
- 684 (iii) continuing education requirements of Section 31A-23a-202; and
- 685 (iv) standards of conduct for a title licensee;
- 686 (b) concur in the issuance and renewal of a license in accordance with Section
- 687 31A-23a-105 or 31A-26-203;
- 688 (c) with the concurrence of the commissioner, approve a continuing education program
- 689 required by Section 31A-23a-202;
- 690 (d) on a regular basis advise the commissioner of the most critical matters affecting the
- 691 title insurance industry and request the commissioner to direct the department's
- 692 investigative resources to investigate and enforce those matters;
- 693 (e) in accordance with Section 31A-23a-204, participate in the annual license testing
- 694 evaluation [~~conducted by~~]the commissioner's test administrator conducts;
- 695 (f) advise the commissioner on matters affecting the commissioner's budget related to
- 696 title insurance; and
- 697 (g) perform other duties as provided in this title.
- 698 (3) The commission may make rules establishing an examination for a license that will
- 699 satisfy Section 31A-23a-204:
- 700 (a) after consultation with the commissioner's test administrator; and
- 701 (b) subject to Subsection (4).
- 702 (4)(a) The commission may make a rule under this title only:
- 703 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 704 (ii) with the concurrence of the commissioner, except that if concurrence cannot be
- 705 reached, the commissioner has final authority; and

- 706 (iii) if at the time the commission files the commission's proposed rule and rule
 707 analysis with the Office of Administrative Rules in accordance with Section
 708 63G-3-301, the commission provides the Real Estate Commission that same
 709 information.
- 710 (b) The commission may not make a rule regarding adjudicative procedures.
- 711 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
 712 adjudicative procedures.
- 713 (5)(a) The commissioner shall annually report the information described in Subsection
 714 (5)(b) in writing to the commission.
- 715 (b) The information required to be reported under this Subsection (5):
- 716 (i) may not identify a person; and
- 717 (ii) shall include:
- 718 (A) the number of complaints the commissioner receives with regard to
 719 transactions involving title insurance or a title licensee during the calendar year
 720 immediately preceding the report;
- 721 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
- 722 (C) for each complaint described in Subsection (5)(b)(ii)(A):
- 723 (I) any action taken by the commissioner with regard to the complaint; and
- 724 (II) the time-period beginning the day on which a complaint is made and
 725 ending the day on which the commissioner determines ~~[it]~~ that the
 726 commissioner will take no further action with regard to the complaint.
- 727 (6) The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah
 728 Administrative Rulemaking Act, that govern the process for winding down the business
 729 of a resident agency title insurance producer.

730 Section 8. Section **31A-3-304** is amended to read:

731 **31A-3-304 . Annual fees -- Other taxes or fees prohibited -- Captive Insurance**
 732 **Restricted Account.**

- 733 (1)(a) A captive insurance company, other than a risk retention group, shall pay an
 734 annual fee imposed under this section to obtain or renew a certificate of authority.
- 735 (b) ~~[The]~~ Except as provided in Subsection (1)(c), the commissioner shall:
- 736 (i) determine the annual fee in accordance with Section 31A-3-103; and
- 737 (ii) consider whether the annual fee is competitive with fees imposed by other states
 738 on captive insurance companies.
- 739 (c) The annual fee for a captive insurance company organized as a risk retention group

- 740 formed in this state as a corporation or other limited liability entity under the
 741 Liability Risk Retention Act of 1986, 15 U.S.C. Sec. 3901 et seq.:
 742 (i) subject to Subsection (1)(c)(ii), shall be 2% of the company's gross written
 743 premiums; and
 744 (ii) may not exceed \$200,000.
- 745 (2) A captive insurance company that fails to pay the fee required by this section is subject
 746 to the relevant sanctions of this title.
- 747 (3)(a) A captive insurance company that pays one of the following fees is exempt from
 748 Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9,
 749 Taxation of Admitted Insurers:
- 750 (i) a fee under this section;
 751 (ii) a fee under Chapter 37, Captive Insurance Companies Act; or
 752 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company
 753 Act.
- 754 (b) The state or a county, city, or town within the state may not levy or collect an
 755 occupation tax or other fee or charge not described in Subsections (3)(a)(i) through
 756 (iii) against a captive insurance company.
- 757 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115
 758 against a captive insurance company.
- 759 (4) A captive insurance company shall pay the fee imposed by this section to the
 760 commissioner by June 1 of each year.
- 761 (5)(a) The commissioner shall deposit money received from a fee described in
 762 Subsection (3)(a) into the Captive Insurance Restricted Account.
- 763 (b) There is created in the General Fund a restricted account known as the "Captive
 764 Insurance Restricted Account."
- 765 (c) The Captive Insurance Restricted Account shall consist of the fees described in
 766 Subsection (3)(a).
- 767 (d)(i) The commissioner shall administer the Captive Insurance Restricted Account.
 768 (ii) ~~[-]~~Subject to appropriations by the Legislature, the commissioner shall use the
 769 money ~~[deposited]~~ the commissioner deposits into the Captive Insurance
 770 Restricted Account to:
 771 ~~[(i)]~~ (A) administer and enforce[:]
 772 ~~[(A)]~~ Chapter 37, Captive Insurance Companies Act[:] and
 773 ~~[(B)]~~ Chapter 37a, Special Purpose Financial Captive Insurance Company Act;

- 774 and
- 775 ~~[(ii)]~~ (B) promote the captive insurance industry in Utah.
- 776 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing,
- 777 except that at the end of each fiscal year, money ~~[received by]~~ the commissioner
- 778 receives in excess of the legislative appropriation for the fiscal year that just ended
- 779 shall be treated as free revenue in the General Fund:
- 780 ~~[(i) for fiscal year 2025, in excess of \$1,650,000; and]~~
- 781 ~~[(ii)]~~ (i) for fiscal year 2026~~[and subsequent fiscal years]~~, in excess of \$1,668,500~~[-]~~ ;
- 782 and
- 783 (ii) for fiscal year 2027 and subsequent fiscal years, in excess of \$1,687,500.

784 Section 9. Section **31A-4-113** is amended to read:

785 **31A-4-113 . Annual and quarterly statements.**

- 786 (1)(a) Each authorized insurer shall annually, on or before March 1, file with the
- 787 commissioner and the NAIC a true statement of the authorized insurer's financial
- 788 condition, transactions, and affairs as of December 31 of the preceding year.
- 789 (b) The statement required by Subsection (1)(a) shall be:
- 790 (i) verified by the oaths of at least two of the insurer's principal officers; and
- 791 (ii) in the general form and provide the information as prescribed by the
- 792 commissioner by rule.
- 793 ~~[(c) The commissioner may, for good cause shown, extend the date for filing the~~
- 794 ~~statement required by Subsection (1)(a).]~~
- 795 (2)(a) Each authorized insurer shall file with the commissioner and the NAIC a true
- 796 statement of the insurer's financial condition, transactions, and affairs within 45 days
- 797 after the close of the first, second, and third quarters of a calendar year.
- 798 (b) A statement required by this Subsection (2) shall be:
- 799 (i) verified by the oath of at least two of the insurer's principal officers; and
- 800 (ii) in the general form and provide the information the commissioner requires by
- 801 rule.
- 802 ~~[(2)]~~ (3) The annual statement of an alien insurer shall:
- 803 (a) relate only to the alien insurer's transactions and affairs in the United States unless
- 804 the commissioner requires otherwise; and
- 805 (b) be verified by:
- 806 (i) the insurer's United States manager; or
- 807 (ii) the insurer's authorized officers.

808 (4) The commissioner may, for good cause shown, extend the date for filing a statement
809 required by this section.

810 Section 10. Section **31A-4-113.5** is amended to read:

811 **31A-4-113.5 . Filing requirements -- National Association of Insurance**

812 **Commissioners.**

813 (1)(a) Each domestic, foreign, and alien insurer who is authorized to transact insurance
814 business in this state shall annually file with the NAIC:

815 (i) [-]a copy of the insurer's:

816 [(i)] (A) annual statement convention blank on or before March 1;

817 [(ii)] (B) market conduct annual statements on or before the applicable date
818 determined by the NAIC; and

819 (C) quarterly report required by Subsection 31A-4-113(2); and

820 [(iii)] (ii) any additional [~~filings required by~~] filing the commissioner requires for the
821 preceding year.

822 (b)(i) The information [~~filed~~] an insurer files with the NAIC under Subsection [

823 ~~(1)(a)(i)] (1)(a)(i)(A) shall:~~

824 (A) be prepared in accordance with the NAIC's:

825 (I) annual statement instructions; and

826 (II) Accounting Practices and Procedures Manual; and

827 (B) include:

828 (I) the signed jurat page; and

829 (II) the actuarial certification.

830 (ii) An insurer shall file with the NAIC amendments and addenda to information filed
831 with the commissioner under Subsection [~~(1)(a)(i)] (1)(a)(i)(A).~~

832 (c) [~~The-~~] An insurer shall prepare the information [~~filed~~] an insurer files with the NAIC
833 under [~~Subsection (1)(a)(ii) shall be prepared~~] Subsections (1)(a)(i)(B) and (C) in
834 accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.

835 (d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay
836 any filing fees assessed by the NAIC.

837 (e) A foreign insurer that is domiciled in a state that has a law substantially similar to
838 this section shall be considered to be in compliance with this section.

839 (2) All financial analysis ratios and examination synopses concerning insurance companies
840 that are submitted to the department by the Insurance Regulatory Information System
841 are confidential and may not be disclosed by the department.

- 842 (3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority
 843 of ~~[any]~~ an insurer ~~[failing]~~ that fails to:
- 844 (a) submit the filings under Subsection (1)(a) when due or within any extension of time
 845 granted for good cause by:
- 846 (i) the commissioner; or
 847 (ii) the NAIC; or
- 848 (b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay
 849 under this section to:
- 850 (i) the commissioner; or
 851 (ii) the NAIC.

852 Section 11. Section **31A-5-420** is amended to read:

853 **31A-5-420 . Payment of dividends by mutual insurers and mutual insurance**
 854 **holding companies.**

- 855 (1) When ~~[it]~~ doing so is in the best interests of the company, the directors of a domestic
 856 mutual insurer or a domestic mutual insurance holding company shall declare,
 857 apportion, and pay to ~~[its]~~ the domestic mutual insurer's or the domestic mutual insurance
 858 holding company's members dividends from ~~[its]~~ the domestic mutual insurer's or the
 859 domestic mutual insurance holding company's net savings and earnings.
- 860 (2)(a) The mutual insurer or mutual insurance holding company shall make a reasonable
 861 classification of ~~[its]~~ the mutual insurer's or the mutual insurance holding company's
 862 participating policies and ~~[its]~~ the mutual insurer's or the mutual insurance holding
 863 company's assumed risks.
- 864 (b) ~~[-]~~No dividend shall be paid that is inequitable, unfairly discriminates between
 865 classifications of insurance contracts, or unfairly discriminates between policies
 866 within the same classification.
- 867 (3) Unless stated in the policy, no dividend, otherwise earned, shall be contingent upon the
 868 payment of the renewal premium on ~~[any]~~ a policy.
- 869 (4) Subsection (1) may not be construed to require ~~[an insurer determined by-]~~ a mutual
 870 insurer or mutual insurance holding company that the United States Internal Revenue
 871 Service determines to be a nonprofit organization to pay a dividend in a manner which
 872 would jeopardize that status.
- 873 (5)(a) At least 30 days before the day on which a dividend distribution occurs, a mutual
 874 insurer or mutual insurance holding company shall file with the commissioner a
 875 schedule explaining the basis for the dividend distribution.

876 (b) The commissioner shall keep a schedule a mutual insurer or mutual insurance
877 holding company files in accordance with this Subsection (5) confidential unless the
878 commissioner finds that the interests of insureds and the public require that the
879 commissioner make the schedule public.

880 Section 12. Section **31A-8-101** is amended to read:

881 **31A-8-101 . Definitions.**

882 [~~For purposes of~~] As used in this chapter:

883 (1)(a) "Ambulance membership organization" means a person that offers an ambulance
884 membership plan.

885 (b) "Ambulance membership organization" does not include a person that offers
886 ambulance services.

887 (2) "Ambulance membership plan" means a contract in which one party agrees to reimburse
888 the following expenses for another party in the event of an emergency:

889 (a) air ambulance charges;

890 (b) ground ambulance charges;

891 (c) transportation expenses to return the member to the member's primary residence;

892 (d) transportation expenses to return a member's companion to the companion's primary
893 residence;

894 (e) vehicle return expenses; and

895 (f) other transportation and related services, if:

896 (i) the commissioner approves the transportation and related services; and

897 (ii) the transportation and related services are consistent with this chapter.

898 [(4)] (3) "Basic health care services" means:

899 (a) emergency care;

900 (b) inpatient hospital and physician care;

901 (c) outpatient medical services; and

902 (d) out-of-area coverage.

903 (4) "Companion" means an individual who travels with a member.

904 (5) "Governmental entity" means the governing body of a county or municipality in this
905 state.

906 [(2)] (6) "Health maintenance organization" means any person:

907 (a) other than:

908 (i) an insurer licensed under Chapter 7, Nonprofit Health Service Insurance
909 Corporations; or

- 910 (ii) an individual who contracts to render professional or personal services that the
 911 individual directly performs; and
- 912 (b) that:
- 913 (i) furnishes at a minimum, either directly or through arrangements with others, basic
 914 health care services to an enrollee in return for prepaid periodic payments agreed
 915 to in amount [~~prior to~~] before the time during which the health care may be
 916 furnished; and
- 917 (ii) is obligated to the enrollee to arrange for or to directly provide available and
 918 accessible health care.
- 919 [~~(3)~~] (7)(a) "Limited health plan" means, except as [~~limited under~~] provided in
 920 Subsection [~~(3)(b);~~] (7)(b):
- 921 (i) [-]a person who furnishes dental or vision services, either directly or through
 922 arrangements with others:
- 923 [(i)] (A) to an enrollee;
- 924 [(ii)] (B) in return for prepaid periodic payments agreed to in amount [~~prior to~~]
 925 before the time during which the services may be furnished; and
- 926 [(iii)] (C) for which the person is obligated to the enrollee to arrange for or directly
 927 provide the available and accessible services described in this Subsection [
 928 ~~(3)(a);~~] (7)(a); or
- 929 (ii) an ambulance membership plan.
- 930 (b) "Limited health plan" does not include:
- 931 (i) a health maintenance organization;
- 932 (ii) an insurer licensed under Chapter 7, Nonprofit Health Service Insurance
 933 Corporations; or
- 934 (iii) an individual who contracts to render professional or personal services that the
 935 individual performs.
- 936 (8) "Medicaid program" means the same as that term is defined in Section 26B-3-101.
- 937 [~~(4)~~] (9)(a) "Nonprofit organization" or "nonprofit corporation" means an organization no
 938 part of the income of which is distributable to its members, trustees, or officers, or a
 939 nonprofit cooperative association, except in a manner allowed under Section
 940 31A-8-406.
- 941 (b) "Nonprofit health maintenance organization" and "nonprofit limited health plan" are
 942 used when referring specifically to one of the types of organizations with "nonprofit"
 943 status.

944 [~~(5)~~] (10) "Organization" means a health maintenance organization and limited health plan,
945 unless used in the context of:

946 (a) "organization expenses," which is described in Section 31A-8-208[-] ; or

947 (b) "organization permit," which is described in Sections 31A-8-204 and 31A-8-206[~~;~~ or] .

948 [~~(6)~~] (11) "Uncovered expenditures" means the costs of health care services that are covered
949 by an organization for which an enrollee is liable in the event of the organization's
950 insolvency.

951 [~~(7)~~] (12) "Unusual or infrequently used health services" means those health services that
952 are projected to involve fewer than 10% of the organization's enrollees' encounters with
953 providers, measured on an annual basis over the organization's entire enrollment.

954 Section 13. Section **31A-8-102** is amended to read:

955 **31A-8-102 . Scope and purposes.**

956 (1) No person may operate an organization in this state without complying with and
957 obtaining a certificate of authority under this chapter.

958 (2) The purposes of this chapter include to:

959 (a) provide for the establishment of health maintenance organizations which provide
960 readily available, accessible, and quality comprehensive health care to their enrollees;

961 (b) provide for the establishment of limited health plans which provide readily available,
962 accessible, and quality care to their enrollees;

963 (c) encourage the development of organizations as an alternative method of health care
964 delivery; and

965 (d) assure that organizations [~~offering health plans~~]within this state are financially and
966 administratively sound and that these organizations are in fact able to deliver the
967 benefits as promised.

968 Section 14. Section **31A-8-103** is amended to read:

969 **31A-8-103 . Applicability to other provisions of law.**

970 (1)(a) Except for exemptions specifically granted under this title, an organization is
971 subject to regulation under all of the provisions of this title.

972 (b) Notwithstanding any provision of this title, an organization licensed under this
973 chapter:

974 (i) is wholly exempt from:

975 (A) Chapter 7, Nonprofit Health Service Insurance Corporations;

976 (B) Chapter 9, Insurance Fraternal;

977 (C) Chapter 10, Annuities;

- 978 (D) Chapter 11, Motor Clubs;
 979 (E) Chapter 12, State Risk Management Fund; and
 980 (F) Chapter 19a, Utah Rate Regulation Act; and
 981 (ii) is not subject to:
 982 (A) Chapter 3, Department Funding, Fees, and Taxes, except for Part 1, Funding
 983 the Insurance Department;
 984 (B) Section 31A-4-107;
 985 (C) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except for
 986 provisions specifically made applicable by this chapter;
 987 (D) Chapter 14, Foreign Insurers, except for provisions specifically made
 988 applicable by this chapter;
 989 (E) Chapter 17, Determination of Financial Condition, except:
 990 (I) Part 2, Qualified Assets, and Part 6, Risk-Based Capital; or
 991 (II) as made applicable by the commissioner by rule consistent with this
 992 chapter;
 993 (F) Chapter 18, Investments, except as made applicable by the commissioner by
 994 rule consistent with this chapter; and
 995 (G) Chapter 22, Contracts in Specific Lines, except for Part 6, Accident and
 996 Health Insurance, Part 7, Group Accident and Health Insurance, and Part 12,
 997 Reinsurance.
- 998 (2) The commissioner may by rule waive other specific provisions of this title that the
 999 commissioner considers inapplicable to limited health plans, upon a finding that the
 1000 waiver will not endanger the interests of:
 1001 (a) enrollees;
 1002 (b) investors; or
 1003 (c) the public.
- 1004 (3) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter
 1005 10a, Utah Revised Business Corporation Act, do not apply to an organization except as
 1006 specifically made applicable by:
 1007 (a) this chapter;
 1008 (b) a provision referenced under this chapter; or
 1009 (c) a rule adopted by the commissioner to deal with corporate law issues of health
 1010 maintenance organizations that are not settled under this chapter.
- 1011 (4)(a) Whenever in this chapter, Chapter 5, Domestic Stock and Mutual Insurance

- 1012 Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization,
1013 the application is:
- 1014 (i) of those provisions that apply to a mutual corporation if the organization is
1015 nonprofit; and
- 1016 (ii) of those that apply to a stock corporation if the organization is for profit.
- 1017 (b) When Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14,
1018 Foreign Insurers, is made applicable to an organization under this chapter, "mutual"
1019 means nonprofit organization.
- 1020 (5) Solicitation of enrollees by an organization is not a violation of any provision of law
1021 relating to solicitation or advertising by health professionals if that solicitation is made
1022 in accordance with:
- 1023 (a) this chapter; and
- 1024 (b) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1025 Reinsurance Intermediaries.
- 1026 (6) This title does not prohibit any health maintenance organization from meeting the
1027 requirements of any federal law that enables the health maintenance organization to:
- 1028 (a) receive federal funds; or
- 1029 (b) obtain or maintain federal qualification status.
- 1030 (7) Except as provided in Chapter 45, Managed Care Organizations, an organization is
1031 exempt from statutes in this title or department rules that restrict or limit the
1032 organization's freedom of choice in contracting with or selecting health care providers,
1033 including Section 31A-22-618.
- 1034 (8) An organization is exempt from the assessment or payment of premium taxes imposed
1035 by Sections 59-9-101 through 59-9-104.
- 1036 (9) An ambulance membership organization that complies with this chapter is exempt from
1037 the requirements of Section 31A-4-113.5.
- 1038 Section 15. Section **31A-8-105** is amended to read:
- 1039 **31A-8-105 . General powers of organizations.**
- 1040 [~~Organizations~~]
- 1041 (1) Except as provided in Subsection (2), an organization may:
- 1042 [~~(1)~~] (a) buy, sell, lease, encumber, construct, renovate, operate, or maintain hospitals,
1043 health care clinics, other health care facilities, and other real and personal property
1044 incidental to and reasonably necessary for the transaction of the business and for the
1045 accomplishment of the purposes of the organization;

- 1080 (2)(a) [The] Except as provided in Subsection (3), the minimum required capital or
1081 minimum permanent surplus for a limited health plan may not:
- 1082 (i) be less than \$10,000; or
 - 1083 (ii) exceed \$100,000.
- 1084 (b) The initial minimum required capital or minimum permanent surplus for a limited
1085 health plan required by Subsection (2)(a) shall be set by the commissioner, after:
- 1086 (i) a hearing; and
 - 1087 (ii) consideration of:
 - 1088 (A) the services to be provided by the limited health plan;
 - 1089 (B) the size and geographical distribution of the population the limited health plan
1090 anticipates serving;
 - 1091 (C) the nature of the limited health plan's arrangements with providers; and
 - 1092 (D) the arrangements, agreements, and relationships of the limited health plan in
1093 place or reasonably anticipated with respect to:
 - 1094 (I) insolvency insurance;
 - 1095 (II) reinsurance;
 - 1096 (III) lenders subordinating to the interests of enrollees and trade creditors;
 - 1097 (IV) personal and corporate financial guarantees;
 - 1098 (V) provider withholds and assessments;
 - 1099 (VI) surety bonds;
 - 1100 (VII) hold harmless agreements in provider contracts; and
 - 1101 (VIII) other arrangements, agreements, and relationships impacting the security
1102 of enrollees.
- 1103 (c) Upon a material change in the scope or nature of a limited health plan's operations,
1104 the commissioner may, after a hearing, alter the limited health plan's minimum
1105 required capital or minimum permanent surplus.
- 1106 (3)(a) An ambulance membership organization organized under this chapter shall:
- 1107 (i) establish and maintain a funded reserve account consisting of unencumbered
1108 assets of either cash or cash equivalents, equal to at least 20% of the gross earned
1109 fee income the ambulance membership organization receives on all active
1110 ambulance membership contracts that the ambulance membership organization
1111 sells or renews in this state on or after May 6, 2026;
 - 1112 (ii) post a surety bond with one or more surety companies that the commissioner
1113 approves in an amount of at least \$5,000 for every 100 members of the ambulance

1114 membership organization who are residents of this state;
 1115 (iii) maintain additional securities the commissioner requires by rule in accordance
 1116 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 1117 (iv) pay the costs of collection upon a judgment in favor of a member and attorney
 1118 fees in a successful action brought by member against the ambulance membership
 1119 organization.

1120 (b) The reserve account described in Subsection (3)(a) shall be:

1121 (i) maintained in a financial institution that the commissioner approves; and
 1122 (ii) a separate, auditable account for the ambulance membership organization's
 1123 ambulance membership contracts in force in this state.

1124 [~~3~~] (4) The commissioner may allow the minimum capital or permanent surplus account of
 1125 an organization to be designated by some other name.

1126 [~~4~~] (5) A pattern of persistent deviation from the accounting and investment standards
 1127 under this section may be grounds for the commissioner to find that the one or more
 1128 persons with authority to make the organization's accounting or investment decisions are
 1129 incompetent for purposes of Subsection 31A-5-410(3).

1130 Section 17. Section **31A-8-211** is amended to read:

1131 **31A-8-211 . Deposit.**

1132 (1) Except as provided in Subsection (2), each health maintenance organization authorized
 1133 in this state shall maintain a deposit with the commissioner under Section 31A-2-206 in
 1134 an amount equal to the sum of:

1135 (a) \$100,000; and

1136 (b) 50% of the greater of:

1137 (i) \$900,000;

1138 (ii) 2% of the annual premium revenues as reported on the most recent annual
 1139 financial statement filed with the commissioner; or

1140 (iii) an amount equal to the sum of three months uncovered health care expenditures
 1141 as reported on the most recent financial statement filed with the commissioner.

1142 (2)(a) The commissioner may exempt a health maintenance organization from the
 1143 deposit requirement of Subsection (1) if:

1144 (i) the commissioner determines that the enrollees' interests are adequately protected;

1145 (ii) the health maintenance organization has been continuously authorized to do
 1146 business in this state for at least five years; and

1147 (iii) the health maintenance organization has \$5,000,000 surplus in excess of the

1148 health maintenance organization's company action level RBC as defined in
1149 Subsection 31A-17-601(8)(b).

1150 (b) The commissioner may rescind an exemption given under Subsection (2)(a).

1151 (3)(a) ~~[Each]~~ Subject to Subsection (3)(c), each limited health plan authorized in this
1152 state shall maintain a deposit with the commissioner under Section 31A-2-206 in an
1153 amount equal to the minimum capital or permanent surplus plus 50% of the greater of:

1154 (i) .5 times minimum required capital or minimum permanent surplus; or

1155 (ii)(A) during the first year of operation, 10% of the limited health plan's projected
1156 uncovered expenditures for the first year of operation;

1157 (B) during the second year of operation, 12% of the limited health plan's projected
1158 uncovered expenditures for the second year of operation;

1159 (C) during the third year of operation, 14% of the limited health plan's projected
1160 uncovered expenditures for the third year of operation;

1161 (D) during the fourth year of operation, 18% of the limited health plan's projected
1162 uncovered expenditures during the fourth year of operation; or

1163 (E) during the fifth year of operation, and during all subsequent years, 20% of the
1164 limited health plan's projected uncovered expenditures for the previous 12
1165 months.

1166 (b) Projections of future uncovered expenditures shall be established in a manner that is
1167 approved by the commissioner.

1168 (c) This Subsection (3) does not apply to an ambulance membership organization.

1169 (4) A deposit required by this section may be counted toward the minimum capital or
1170 minimum permanent surplus required under Section 31A-8-209.

1171 Section 18. Section **31A-8-301** is amended to read:

1172 **31A-8-301 . Requirements for doing business in state.**

1173 (1) Only a corporation incorporated and licensed under Part 2, Domestic Organizations,
1174 may do business in this state as an organization.

1175 (2)(a) To do business in this state as an organization, a foreign corporation doing a
1176 similar business in other states shall incorporate a subsidiary and license ~~[it]~~ the
1177 subsidiary under Part 2, Domestic Organizations, for ~~[its]~~ the foreign organization's
1178 Utah business.

1179 (b) ~~[-]~~Except as ~~[to]~~ provided in Chapter 16, Insurance Holding Companies, the laws
1180 applicable to a domestic organization apply only to the domestic organization and not
1181 to ~~[its]~~ the domestic organization's foreign parent corporation.

1182 (3) A foreign ambulance membership organization with a limited health plan certificate of
 1183 authority that complies with Part 2, Domestic Organizations, is exempt from this part.

1184 Section 19. Section **31A-8-303** is enacted to read:

1185 **31A-8-303 . Foreign ambulance membership organizations.**

1186 A foreign ambulance membership organization limited health plan is exempt from:

1187 (1) Section 31A-8-204;

1188 (2) Section 31A-8-205;

1189 (3) Section 31A-8-206;

1190 (4) Section 31A-8-211;

1191 (5) Section 31A-8-214;

1192 (6) Section 31A-8-215;

1193 (7) Section 31A-8-216; and

1194 (8) Section 31A-8-217.

1195 Section 20. Section **31A-8-404** is amended to read:

1196 **31A-8-404 . Annual audit of internal quality control.**

1197 (1) Each organization shall prepare an annual report of the effectiveness of the
 1198 organization's internal quality control.

1199 (2) ~~[-]~~The annual report shall be:

1200 (a) ~~[-]~~in a form ~~[prescribed by]~~the commissioner ~~[after consultation with the director of~~
 1201 ~~the Department of Health,]~~ approves; and

1202 (b) ~~[-shall be]~~certified and signed by two officers of the organization.

1203 (3) ~~[-]~~The commissioner may at any time require an audit of an organization's quality
 1204 control system.

1205 (4) ~~[-]~~The audit shall be performed by qualified persons designated by the commissioner.

1206 (5) ~~[-]~~Auditors shall have full access to all records of the organization and ~~[its]~~ the
 1207 organization's providers, including medical records of individual patients.

1208 (6) ~~[-]~~The information contained in the medical records of individual patients shall remain
 1209 confidential, and information derived from those records may not be used in a manner
 1210 that could directly or indirectly identify an individual.

1211 (7) ~~[-]~~All information, interviews, reports, statements, memoranda, or other data furnished
 1212 by reason of the audit and any findings or conclusions of the auditors are privileged and
 1213 are not subject to discovery, use, or receipt in evidence in ~~[any]~~ a legal proceeding except
 1214 hearings before the commissioner ~~[or the director of the Department of Health]~~
 1215 concerning alleged violations of the provisions of this chapter.

1216 Section 21. Section **31A-8-601** is enacted to read:

1217 **Part 6. Ambulance Membership Plans**

1218 **31A-8-601 . Definitions.**

1219 Reserved.

1220 Section 22. Section **31A-8-602** is enacted to read:

1221 **31A-8-602 . Ambulance membership plan requirements.**

1222 (1) An ambulance membership organization may assess a one-time application processing
1223 fee to the ambulance membership organization's members that may not exceed \$25.

1224 (2) If an ambulance membership organization cancels an ambulance membership plan for
1225 any reason other than nonpayment of charges by a member, the ambulance membership
1226 organization shall issue a pro rata refund of all periodic charges and membership fees to
1227 the member.

1228 (3) An ambulance membership organization, or a person that sells an ambulance
1229 membership plan for an ambulance membership organization, shall disclose each charge
1230 and fee for each ambulance membership plan to each prospective member.

1231 (4) An ambulance membership organization shall provide the terms and conditions of an
1232 ambulance membership plan to each prospective enrollee before the day on which the
1233 prospective enrollee enters into the ambulance membership plan.

1234 (5) An ambulance membership organization shall file a copy of each ambulance
1235 membership plan with the commissioner before the ambulance membership plan goes
1236 into effect.

1237 (6) An ambulance membership plan described in Subsection (5) shall:

1238 (a) identify the ambulance membership organization, including the ambulance
1239 membership organization's:

1240 (i) physical address;

1241 (ii) website address; and

1242 (iii) toll-free phone number;

1243 (b) conspicuously state:

1244 (i) the total purchase price of the ambulance membership plan, including any
1245 membership fees; and

1246 (ii) that the ambulance membership plan is not an insurance contract;

1247 (c) state:

1248 (i) the terms under which the ambulance membership plan is to be paid;

1249 (ii) any cost sharing requirements;

- 1250 (iii) the services the ambulance membership organization shall provide under the
 1251 ambulance membership plan, and any limitation, exception, or exclusion;
 1252 (iv) any term, restriction, or condition that governs the cancellation of the ambulance
 1253 membership plan by either the enrollee or the ambulance membership
 1254 organization;
 1255 (v) that if the enrollee cancels the ambulance membership plan within 30 days after
 1256 the day on which the enrollee purchases the ambulance membership plan, the
 1257 ambulance membership organization shall refund to the enrollee:
 1258 (A) any one-time charge the enrollee pays that exceeds \$25; and
 1259 (B) each periodic charge and membership fee the enrollee pays; and
 1260 (vi) what constitutes acceptable insurance coverage if eligibility for the ambulance
 1261 membership plan is conditioned on the member's current and continuing health
 1262 insurance coverage; and
 1263 (d) define "medical necessity," if membership coverage of a transport is conditioned on
 1264 a finding of medical necessity.

1265 Section 23. Section **31A-8-603** is enacted to read:

1266 **31A-8-603 . Certificate of authority renewal -- Reporting requirements.**

- 1267 (1) At least 90 days before the day on which an ambulance membership organization's
 1268 certificate of authority expires, the ambulance membership organization seeking renewal
 1269 of the ambulance membership organization's certificate of authority shall submit an
 1270 annual report to the commission in a form the commissioner approves.
 1271 (2) The report described in Subsection (1) shall include:
 1272 (a) an updated list of the name and address of each ambulance provider of the ambulance
 1273 membership organization, including:
 1274 (i) the extent and nature of any contract or arrangement with the ambulance provider;
 1275 and
 1276 (ii) any possible conflict of interest between the ambulance membership organization
 1277 and ambulance provider;
 1278 (b) the number of members in this state who are enrolled in an ambulance membership
 1279 plan that the ambulance membership organization offers;
 1280 (c) a list of each ambulance membership plan currently active or entered into with a
 1281 governmental entity that provides membership of the ambulance membership
 1282 organization to each resident of the governmental entity; and
 1283 (d) any other information related to the ambulance membership organization that the

1284 commissioner requires to ensure compliance with this chapter.

1285 (3)(a) The commissioner may not renew an ambulance membership organization's
1286 certificate of authority if the ambulance membership organization fails to file a
1287 complete annual report in accordance with Subsection (1).

1288 (b) If the commissioner does not renew an ambulance membership organization's
1289 certificate of authority in accordance with Subsection (3)(a), the ambulance
1290 membership organization may not enroll new members or do business in this state
1291 until:

1292 (i) the ambulance membership organization submits a new application for a
1293 certificate of authority; and

1294 (ii) the commissioner approves the application.

1295 Section 24. Section **31A-8-604** is enacted to read:

1296 **31A-8-604 . Ambulance membership restrictions -- Medicaid program.**

1297 (1) An ambulance membership organization may not knowingly sell, offer for sale, or
1298 provide an ambulance membership plan to an individual who is enrolled in the Medicaid
1299 program.

1300 (2)(a) If an individual who enters into an ambulance membership plan subsequently
1301 enrolls in the Medicaid program during the term of the ambulance membership plan,
1302 the individual shall notify the ambulance membership organization of the enrollment
1303 within 30 days of the day on which the individual enrolls in the Medicaid program.

1304 (b) If the individual notifies the ambulance membership organization in accordance with
1305 Subsection (2)(a), the ambulance membership organization shall provide the
1306 individual a prorated refund of any consideration the individual pays for the period
1307 from the effective date of the Medicaid program enrollment through the day on which
1308 the ambulance membership plan expires.

1309 (c) If the individual does not notify the ambulance membership organization in
1310 accordance with Subsection (2)(a):

1311 (i) the individual is not entitled to a prorated refund; and

1312 (ii) the ambulance membership organization shall unenroll the individual from the
1313 ambulance membership plan within 30 days of the day on which the ambulance
1314 membership organization receives notice of the individual's enrollment in the
1315 Medicaid program.

1316 Section 25. Section **31A-8-605** is enacted to read:

1317 **31A-8-605 . Marketing requirements -- Required disclosures.**

- 1318 (1) Each advertisement, marketing material, brochure, ambulance membership card,
1319 presentation, and any other communication of an ambulance membership organization
1320 shall be truthful and not misleading in fact or in implication.
- 1321 (2) An ambulance membership organization advertising or marketing the ambulance
1322 membership organization's ambulance membership plan to residents of this state:
- 1323 (a) shall file each written advertisement and marketing material to the commissioner for
1324 review in compliance with this chapter; and
- 1325 (b) may not:
- 1326 (i) use language in the ambulance membership organization's advertisements or
1327 marketing that could reasonably mislead a person into believing that the
1328 ambulance membership plan is insurance;
- 1329 (ii) use language in the ambulance membership organization's advertisement,
1330 marketing material, brochure, or presentation in relation to the following that
1331 could reasonably mislead an individual into believing that the ambulance
1332 membership plan is insurance or has been endorsed by the state or a governmental
1333 entity:
- 1334 (A) the ambulance membership organization's certificate of authority or
1335 registration with the department or other state department of insurance; or
- 1336 (B) the ambulance membership organization's relationship to a governmental
1337 entity; or
- 1338 (iii) have a restriction on access to the ambulance membership organization,
1339 including a waiting period or notification period.
- 1340 (3) An ambulance membership organization shall make the following general disclosures in
1341 writing, in bold, and in at least 12-point font on the first content page of an
1342 advertisement, marketing material, or brochure the ambulance membership organization
1343 makes available to prospective members or the public:
- 1344 (a) the ambulance membership plan is a membership plan and is not insurance coverage;
1345 and
- 1346 (b) the toll-free phone number and website address where the ambulance membership
1347 organization's prospective members may obtain additional information about the
1348 services the ambulance membership organization offers.
- 1349 (4) An ambulance membership organization shall provide the disclosures required by
1350 Subsection (3) orally to an individual who makes initial contact with the ambulance
1351 membership organization by telephone.

- 1352 (5) Before a person enters into an ambulance membership plan with an ambulance
 1353 membership organization, the ambulance membership organization shall mail, give, or,
 1354 with consent of the person, email to the person a separate document that, in bold and in
 1355 at least 12-point font, states the following disclosures:
- 1356 (a) the ambulance membership plan is not insurance coverage;
 - 1357 (b) if eligible and covered under Medicare, the prospective enrollee may consult with a
 1358 representative of the Medicare program to determine:
 - 1359 (i) the extent of applicable Medicare coverage; and
 - 1360 (ii) what the prospective member's payment obligations would be if the prospective
 1361 enrollee were transported by ambulance;
 - 1362 (c) a detailed list of each one-time and periodic fee the ambulance membership
 1363 organization charges or will charge to the prospective enrollee to join the ambulance
 1364 membership organization and continue membership in the ambulance membership
 1365 organization;
 - 1366 (d) the counties and areas in this state that the ambulance membership organization
 1367 serves, including any restrictions to specific service areas;
 - 1368 (e) if, in an emergency, the prospective enrollee is outside of the ambulance membership
 1369 organization's service area, that the prospective enrollee may be responsible for the
 1370 entirety of the cost of the ambulance membership organization's services; and
 - 1371 (f) if an enrollee cancels the ambulance membership plan before 30 days after the day on
 1372 which the enrollee purchases the ambulance membership plan, the ambulance
 1373 membership organization shall refund to the member:
 - 1374 (i) any one-time charges the enrollee pays that exceed \$25; and
 - 1375 (ii) all periodic charges or fees that the enrollee pays.

1376 Section 26. Section **31A-11-104** is amended to read:

1377 **31A-11-104 . Applicability of other portions of this title.**

- 1378 (1) In addition to this chapter, motor clubs are subject to the applicable sections of:
- 1379 (a) Chapter 1, General Provisions, Chapter 2, Administration of the Insurance Laws,
 1380 Chapter 4, Insurers in General, Chapter 16, Insurance Holding Companies, Chapter
 1381 21, Insurance Contracts in General, Chapter 22, Contracts in Specific Lines, Chapter
 1382 26, Insurance Adjusters, [~~Chapter 27, Delinquency Administrative Action Provisions]~~
 1383 Chapter 27, Administrative Supervision of Insurers, and Chapter 27a, Insurer
 1384 Receivership Act;
 - 1385 (b) Chapter 3, Part 1, Funding the Insurance Department;

- 1386 (c) Chapter 23a, Part 1, General Provisions, Part 4, Marketing Practices, and Part 5,
 1387 Compensation of Producers and Consultants; and
 1388 (d) Section 31A-23a-207.
- 1389 (2) Sections 31A-14-204 and 31A-14-216 apply to nondomestic motor clubs.
 1390 (3) Section 31A-5-401 applies to domestic motor clubs.
 1391 (4) Sections 31A-5-105, 31A-5-106, and 31A-5-216 apply to both domestic and
 1392 nondomestic motor clubs.
 1393 (5) Both domestic and nondomestic motor clubs are subject to the department fees under
 1394 Section 31A-3-103. Other provisions of this title apply to motor clubs only as
 1395 specifically provided in this chapter.
- 1396 Section 27. Section **31A-14-206** is amended to read:
 1397 **31A-14-206 . Commercially domiciled insurers.**
- 1398 (1) As used in this section, and except as to title insurers, the commissioner may consider a
 1399 foreign insurer to be "commercially domiciled" in this state if:
 1400 (a) during the three immediately preceding calendar years, the foreign insurer wrote
 1401 more insurance premiums in this state than [it] the foreign insurer wrote in [its] the
 1402 foreign insurer's state of domicile during the same period; or
 1403 (b) during the same three-year period, the foreign insurer's gross premiums written in
 1404 this state constituted 15% or more of the insurer's total gross premiums written in the
 1405 United States.
- 1406 (2)(a) Subject to Subsection (3), an insurer determined by the commissioner to be
 1407 commercially domiciled in this state may be subjected to Chapter 16, Insurance
 1408 Holding Companies, Chapter 17, Determination of Financial Condition, Chapter 18,
 1409 Investments, [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter
 1410 27, Administrative Supervision of Insurers, and Chapter 27a, Insurer Receivership
 1411 Act, and Chapter 27a, Part 4, Liquidation, Part 5, Asset Recovery, and Part 6, Claims,
 1412 in the same manner and to the same extent as domestic insurers.
 1413 (b) [-]The commissioner shall, by order, notify any commercially domiciled insurer not
 1414 exempt under Subsection (3) of the extent to which the insurer is subject to the
 1415 provisions listed under this Subsection (2).
- 1416 (3) The commissioner may exempt from the provisions of this section any commercially
 1417 domiciled insurer if the commissioner determines that the insurer has assets physically
 1418 located in this state or an asset to liability ratio sufficient to justify the conclusion that
 1419 there is no reasonable danger that the operations or conduct of the business of the insurer

1420 could present a danger of loss to Utah policyholders.

1421 (4) Subsection 31A-14-205(4) applies to the conflict of the laws of this state with the laws
1422 of the insurer's domicile for foreign insurers, including commercially domiciled insurers,
1423 under this section.

1424 (5) This section does not excuse or exempt any foreign insurer from complying with the
1425 provisions under this title which are otherwise applicable to a foreign insurer.

1426 Section 28. Section **31A-16-111** is amended to read:

1427 **31A-16-111 . Required sale of improperly acquired stock -- Penalties.**

1428 (1) If the commissioner finds that the acquiring person has not substantially complied with
1429 the requirements of this chapter in acquiring control of a domestic insurer, the
1430 commissioner may require the acquiring person to sell the acquiring person's stock of
1431 the domestic insurer in the manner specified in Subsection (2).

1432 (2)(a) The commissioner shall effect the sale required by Subsection (1) in the manner [
1433 ~~which~~] that, under the particular circumstances, appears most likely to result in the
1434 payment of the full market value for the stock by persons who have the collective
1435 competence, experience, financial resources, and integrity to obtain approval under
1436 Subsection 31A-16-103(8).

1437 (b) Sales made under this section are subject to approval by a court with jurisdiction
1438 under Title 78A, Judiciary and Judicial Administration, which court has the authority
1439 to effect the terms of the sale.

1440 (3)(a) The proceeds from sales [~~made~~] a person makes under this section shall be
1441 distributed first to the person required by this section to sell the stock, but only up to
1442 the amount the person originally [~~paid by the person~~] paid for the securities.

1443 (b) [~~-~~]Additional sale proceeds shall be [~~paid to~~] deposited into the General Fund.

1444 (4) The person required to sell and persons related to or affiliated with the seller may not
1445 purchase the stock at the sale conducted under this section.

1446 (5)[~~(a)~~] A director or officer of an insurance holding company system violates this
1447 chapter if the director or officer knowingly:

1448 [~~(i)~~] (a) participates in or assents to a transaction or investment that:

1449 [~~(A)~~] (i) has not been properly reported or submitted [~~pursuant to~~] in accordance with:

1450 [~~(1)~~] (A) Subsections 31A-16-105(1) and (2); or

1451 [~~(2)~~] (B) Subsection 31A-16-106(1)(b); or

1452 [~~(B)~~] (ii) otherwise violates this chapter; or

1453 [~~(ii)~~] (b) permits any of the officers or agents of the insurer to engage in a transaction or

- 1454 investment described in Subsection [~~(5)(a)(i)~~] (5)(a).
- 1455 [~~(b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or~~
- 1456 ~~officer's individual capacity, a civil penalty of not more than \$20,000 per violation:]~~
- 1457 [~~(i) upon a finding by the commissioner of a violation; and]~~
- 1458 [~~(ii) after notice and hearing before the commissioner.]~~
- 1459 [~~(c) In determining the amount of the civil penalty under Subsection (5)(b), the~~
- 1460 ~~commissioner shall take into account:]~~
- 1461 [~~(i) the appropriateness of the penalty with respect to the gravity of the violation;]~~
- 1462 [~~(ii) the history of previous violations; and]~~
- 1463 [~~(iii) any other matters that justice requires.]~~
- 1464 (6)(a) When [~~it appears to~~]the commissioner suspects that any insurer or any director,
- 1465 officer, employee, or agent of the insurer, has committed a willful violation of this
- 1466 chapter, the commissioner may refer the violation to the appropriate prosecutor.
- 1467 (b)(i) An insurer that willfully violates this chapter may be fined not more than
- 1468 \$20,000.
- 1469 (ii) Any individual who willfully violates this chapter is guilty of a third degree
- 1470 felony, and upon conviction may be:
- 1471 (A) fined in that person's individual capacity not more than \$5,000;
- 1472 (B) imprisoned; or
- 1473 (C) both fined and imprisoned.
- 1474 (7) This section does not limit the other sanctions applicable to violations of this title under
- 1475 Section 31A-2-308.
- 1476 Section 29. Section **31A-17-201** is amended to read:
- 1477 **31A-17-201 . Qualified assets.**
- 1478 (1) Except as provided under Subsections (3) and (4), only the qualified assets listed in
- 1479 Subsection (2) may be used in determining the financial condition of an insurer, except
- 1480 to the extent an insurer has shown to the commissioner that the insurer has excess
- 1481 surplus, as defined in Section 31A-1-301.
- 1482 (2) For purposes of Subsection (1), "qualified assets" means:
- 1483 (a) any of the following acquired or held in accordance with Sections 31A-18-105[~~and~~] ,
- 1484 31A-18-106, and 31A-18-110:
- 1485 (i) an investment;
- 1486 (ii) a security;
- 1487 (iii) property; or

- 1488 (iv) a loan;
- 1489 (b) the income due and accrued on an asset listed in Subsection (2)(a);
- 1490 (c) assets other than an asset listed in Subsection (2)(a) that are determined to be
- 1491 admitted in the Accounting Practices and Procedures Manual, published by the
- 1492 National Association of Insurance Commissioners; and
- 1493 (d) other assets [~~authorized by~~] that the commissioner authorizes by rule.
- 1494 (3)(a) Subject to Subsection (5) and even if the assets could not otherwise be counted
- 1495 under this chapter, assets acquired in the bona fide enforcement of creditors' rights
- 1496 may be counted for the purposes of Subsection (1) and Sections 31A-18-105[~~and~~] ,
- 1497 31A-18-106, and 31A-18-110:
- 1498 (i) for five years after the acquisition of the assets if the assets are real property; and
- 1499 (ii) for one year if the assets are not real property.
- 1500 (b)(i) The commissioner may allow reasonable extensions of the periods described in
- 1501 Subsection (3)(a), if disposal of the assets within the periods given is not possible
- 1502 without substantial loss.
- 1503 (ii) Extensions under Subsection (3)(b)(i) may not, as to any particular asset, exceed a
- 1504 total of five years.
- 1505 (4) Subject to Subsection (5), and even though under this chapter the assets could not
- 1506 otherwise be counted, assets acquired in connection with mergers, consolidations, or
- 1507 bulk reinsurance, or as a dividend or distribution of assets, may be counted for the same
- 1508 purposes, in the same manner, and for the same periods as assets acquired under
- 1509 Subsection (3).
- 1510 (5) Assets described under Subsection (3) or (4) may not be counted for the purposes of
- 1511 Subsection (1), except to the extent they are counted as assets in determining insurer
- 1512 solvency under the laws of the state of domicile of the creditor or acquired insurer.
- 1513 Section 30. Section **31A-17-202** is amended to read:
- 1514 **31A-17-202 . Status of assets that are not "qualified assets."**
- 1515 (1)(a) Except as provided in Subsection (1)(b), if an insurer owns assets that are not
- 1516 qualified assets under Section 31A-17-201, the assets shall be disregarded in
- 1517 determining and reporting the financial condition of the insurer.
- 1518 (b) An insurer may invest [~~its~~] the insurer's funds in investments that are permitted under
- 1519 Section [~~31A-18-105~~] 31A-18-110 but in excess of the limits under [~~Sections~~
- 1520 31A-18-103 and 31A-18-106] Section 31A-18-111 or other assets [~~approved by~~] that
- 1521 the commissioner approves and these assets may be recognized and reported in the

1522 financial condition of the insurer to the extent the insurer has excess surplus, as that
 1523 term is defined under Section 31A-1-301.

1524 (2) Insurers bear the burden of establishing the extent to which they have excess surplus.

1525 Section 31. Section **31A-18-117** is amended to read:

1526 **31A-18-117 . Conflicts of laws and other standards.**

1527 (1) [~~Except as provided in Subsection (2), the-~~] The provisions of this chapter apply if there
 1528 is a conflict between this chapter and another provision of state statute[-] , except:

1529 [~~(2)~~] (a) Chapter 16, Insurance Holding Companies, purporting to authorize an insurer to
 1530 make a particular investment, supersedes this chapter[-] if there is a conflict between
 1531 this chapter and Chapter 16, Insurance Holding Companies; and

1532 (b) Chapter 37, Captive Insurance Companies Act, supersedes this chapter if there is a
 1533 conflict between this chapter and Chapter 37, Captive Insurance Companies Act.

1534 [~~(3)~~] (2) An insurer shall value the insurer's assets in accordance with the valuation
 1535 standards of the NAIC to the extent those standards remain consistent with the statutes
 1536 of this state or the rules or orders of the commissioner.

1537 Section 32. Section **31A-20-108** is amended to read:

1538 **31A-20-108 . Single risk limitation.**

1539 (1) As used in this section, "single risk" includes all losses reasonably expected as a result
 1540 of the same event.

1541 [~~(4)~~] (2) This section applies to all lines of insurance, including ocean marine and
 1542 reinsurance, except:

- 1543 (a) title insurance;
- 1544 (b) workers' compensation insurance;
- 1545 (c) occupational disease insurance;
- 1546 (d) employers' liability insurance; and
- 1547 (e) health insurance.

1548 [~~(2)~~] (3)(a) Except as provided under [~~Subsections (3) and (4) and under Section~~
 1549 ~~31A-20-109~~] Subsection (4), an insurer authorized to do [~~an-~~]insurance business in
 1550 Utah may not expose itself to loss on a single risk in an amount exceeding 10% of [~~its~~]
 1551 the insurer's capital and surplus.

1552 (b) The commissioner may adopt rules to calculate surplus under this section.

1553 (c) An insurer may deduct the portion of a risk reinsured by a reinsurance contract
 1554 worthy of a reserve credit under Sections 31A-17-404 through 31A-17-404.4 in
 1555 determining the limitation of risk under this section.

- 1556 [(3)] (4)(a) The commissioner may adopt rules, after hearings held with notice as
 1557 required by law, to specify the maximum exposure to which an assessable mutual
 1558 may subject itself.
- 1559 (b) The rules described in Subsection [(3)(a)] (4)(a) may provide for classifications of
 1560 insurance and insurers to preserve the solidity of insurers.
- 1561 [(4) As used in this section, a "single risk" includes all losses reasonably expected as a
 1562 result of the same event.]
- 1563 (5) A company transacting fidelity or surety insurance may expose itself to a risk or hazard
 1564 in excess of the amount prescribed in Subsection [(2)] (3), if the commissioner, after
 1565 considering all the facts and circumstances, approves the risk.
- 1566 Section 33. Section **31A-21-310** is amended to read:
- 1567 **31A-21-310 . Dividends on policies.**
- 1568 (1) Section 31A-22-418 applies to life insurance and annuities.
- 1569 (2)(a) [Any] An insurer may distribute a portion of surplus attributable to policies other
 1570 than life insurance or annuities, in amounts and with classifications the board of
 1571 directors determines to be fair and reasonable.
- 1572 (b) [-This] A distribution under this Subsection (2) may not be contingent on the
 1573 renewal of [any] a policy or of premium payments unless the policy stated that
 1574 limitation when [it] the policy was written.
- 1575 (c) [-]A schedule explaining the basis for the distribution shall be filed with the
 1576 commissioner [~~prior to~~] before the distribution.
- 1577 (d) [-]The commissioner shall keep the schedule [shall be kept confidential by the
 1578 commissioner] confidential unless the commissioner finds that the interests of
 1579 insureds and the public require that [it be made] the commissioner make the schedule
 1580 public.
- 1581 (3)(a) [Any] An insurer may distribute surplus to any class of policyholder, even if [their]
 1582 the insurer's policies do not provide for [it] the distribution.
- 1583 (b) [-A] The insurer shall file a schedule explaining the basis for the distribution [shall
 1584 be filed] with the commissioner [under] in accordance with Subsection (2) at least 30
 1585 days [prior to the distribution] before the day on which the distribution occurs.
- 1586 (c) [-]The commissioner shall disallow [any] a distribution [which] that:
- 1587 (i) [-]is materially unfair to other policyholders; or
- 1588 (ii) [-which] would place the insurer in a financially hazardous condition.
- 1589 (4) [It is permissible to] An insurer may provide an indivisible dividend to classes of

1590 policyholders having more than one type of policy, including a combination of life or
 1591 annuities with other types of insurance.

1592 (5)(a) The provisions of this section do not apply to a member dividend that a mutual
 1593 insurer or mutual insurance holding company pays.

1594 (b) Section 31A-5-420 applies to a member dividend that a mutual insurer or mutual
 1595 insurance holding company pays.

1596 Section 34. Section **31A-22-309** is amended to read:

1597 **31A-22-309 . Limitations, exclusions, and conditions to personal injury**

1598 **protection.**

1599 (1)(a) A person who has or is required to have direct benefit coverage under a policy [
 1600 ~~which~~] that includes personal injury protection may not maintain a cause of action for
 1601 general damages arising out of personal injuries alleged to have been caused by an
 1602 automobile accident, except where the person [~~has sustained~~] sustains one or more of
 1603 the following:

1604 (i) death;

1605 (ii) dismemberment;

1606 (iii) permanent disability or permanent impairment based upon objective findings;

1607 (iv) permanent disfigurement;

1608 (v) a bone fracture; or

1609 (vi) medical expenses to a person in excess of \$3,000.

1610 (b) Subsection (1)(a) does not apply to a person making an uninsured motorist claim.

1611 (2)(a) [~~Any~~] An insurer issuing personal injury protection coverage under this part may
 1612 only exclude from this coverage benefits:

1613 (i) for [~~any~~] an injury [~~sustained by~~]the insured sustains while occupying another
 1614 motor vehicle owned by or furnished for the regular use of the insured or a
 1615 resident family member of the insured and not insured under the policy;

1616 (ii) for [~~any~~] an injury [~~sustained by any~~] a person sustains while operating the insured
 1617 motor vehicle without the express or implied consent of the insured or while not in
 1618 lawful possession of the insured motor vehicle;

1619 (iii) to [~~any~~] an injured person, if the person's conduct contributed to the person's
 1620 injury:

1621 (A) by intentionally causing injury to the person; or

1622 (B) while committing a felony;

1623 (iv) for [~~any~~] an injury [~~sustained by any person~~] a person sustains arising out of the

- 1624 use of ~~[any]~~ a motor vehicle while located for use as a residence or premises;
- 1625 (v) for ~~[any]~~ an injury due to war, whether ~~[or not]~~ declared, civil war, insurrection,
- 1626 rebellion, or revolution, or to ~~[any]~~ an act or a condition incident to ~~[any of the~~
- 1627 ~~foregoing]~~ a war, civil war, insurrection, rebellion, or revolution; or
- 1628 (vi) for ~~[any]~~ an injury resulting from the radioactive, toxic, explosive, or other
- 1629 hazardous properties of nuclear materials.
- 1630 (b) This Subsection (2) does not limit the exclusions that may be contained in other
- 1631 types of coverage.
- 1632 (3) The benefits payable to ~~[any]~~ an injured person under Section 31A-22-307 are reduced
- 1633 by:
- 1634 (a) any benefits ~~[which]~~ that the injured person receives or is entitled to receive as a
- 1635 result of an accident covered in this code under any workers' compensation or similar
- 1636 statutory plan; and
- 1637 (b) any amounts ~~[which]~~ that the injured person receives or is entitled to receive from
- 1638 the United States or any of ~~[its]~~ the United States' agencies because that person is on
- 1639 active duty in the military service.
- 1640 (4) When a person injured is also an insured party under any other policy, including those
- 1641 policies complying with this part, primary coverage is given by the policy insuring the
- 1642 motor vehicle in use during the accident.
- 1643 (5)(a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a
- 1644 monthly basis as expenses are incurred.
- 1645 (b) Benefits for any period are overdue if ~~[they are not paid]~~ the insurer does not pay the
- 1646 benefits within 30 days after the day on which the insurer receives reasonable proof
- 1647 of the fact and amount of expenses incurred during the period.
- 1648 (c) ~~[-]~~ If reasonable proof is not supplied as to the entire claim, the amount supported by
- 1649 reasonable proof is overdue if not paid within 30 days after the insurer receives that
- 1650 proof~~[is received by the insurer]~~.
- 1651 (d) ~~[-]~~ Any part or all of the remainder of the claim that is later supported by reasonable
- 1652 proof is also overdue if not paid within 30 days after the day on which the insurer
- 1653 receives the proof~~[is received by the insurer]~~.
- 1654 ~~[(e)]~~ (e) If the insurer fails to pay the expenses when due, these expenses shall bear
- 1655 interest at the rate of 1-1/2% per month after the due date.
- 1656 ~~[(f)]~~ (f)(i) The person entitled to the benefits may bring an action in contract to
- 1657 recover the expenses plus the applicable interest.

1658 (ii) [-]If the insurer is required by the action to pay any overdue benefits and interest,
 1659 the insurer is also required to pay a reasonable attorney's fee to the claimant.

1660 (6)(a) Except as provided in Subsection (6)(b), ~~[every]~~ a policy ~~[providing]~~ that provides
 1661 personal injury protection coverage is subject to the following:

1662 (i) that where the insured under the policy is or would be held legally liable for the
 1663 personal injuries sustained by any person to whom benefits required under
 1664 personal injury protection have been paid by another insurer, the insurer of the
 1665 person who would be held legally liable shall reimburse the other insurer for the
 1666 payment, but not in excess of the amount of damages recoverable; and

1667 (ii) that the issue of liability for that reimbursement and ~~[its]~~ the reimbursement's
 1668 amount shall be decided by mandatory, binding arbitration between the insurers.

1669 (b) There shall be no right of reimbursement between insurers under Subsection (6)(a) if
 1670 the insurer of the person who would be held legally liable for the personal injuries
 1671 sustained has tendered ~~[its]~~ the insurer's policy limit.

1672 (c)(i) If the insurer of the person who would be held legally liable for the personal
 1673 injuries sustained reimburses a no-fault insurer ~~[prior to]~~ before settling a third
 1674 party liability claim with an injured person and subsequently determines that some
 1675 or all of the reimbursed amount is needed to settle a third party claim, the insurer
 1676 of the person who would be held legally liable for the personal injuries sustained
 1677 shall provide written notice to the no-fault insurer that some or all of the
 1678 reimbursed amount is needed to settle a third party liability claim.

1679 (ii) The written notice described under Subsection (6)(c)(i) shall:

1680 (A) identify the amount of the reimbursement that is needed to settle a third party
 1681 liability claim;

1682 (B) provide notice to the no-fault insurer that the no-fault insurer has 15 days to
 1683 return the amount described in Subsection (6)(c)(ii)(A); and

1684 (C) identify the third party liability insurer that the returned amount shall be paid
 1685 to.

1686 (iii) A no-fault insurer that receives a notice under this Subsection (6)(c) shall return
 1687 the portion of the reimbursement identified under Subsection (6)(c)(ii) to the third
 1688 party liability insurer identified under Subsection (6)(c)(ii)(C) within 15 business
 1689 days ~~[from receipt of]~~ after the day on which the no-fault insurer receives a notice
 1690 under this Subsection (6)(c).

1691 Section 35. Section **31A-22-505** is amended to read:

- 1692 **31A-22-505 . Association groups.**
- 1693 (1) An insurer may issue a group insurance policy offering life insurance to an association
- 1694 group or to the trustees of a fund established, created, and maintained for the benefit of
- 1695 the members of the association group if:
- 1696 (a) the commissioner authorizes the association group;
- 1697 (b) the benefits of the group insurance policy are reasonable in relation to the premiums
- 1698 charged for the policy; and
- 1699 (c) the association group:
- 1700 (i) purchases insurance on a group basis on behalf of the association group's members;
- 1701 (ii) is formed and maintained for a shared substantially common purpose that:
- 1702 (A) is not related to obtaining insurance; and
- 1703 (B) is the same profession, trade, or occupation or has some common economic,
- 1704 representation of interest, or genuine organizational relationship;
- 1705 (iii) has at least 100 members;
- 1706 (iv) has been actively in existence for at least five years;
- 1707 (v) has a constitution and bylaws that require:
- 1708 (A) the association to hold regular meetings not less than annually to further the
- 1709 purpose of the association's members; and
- 1710 (B) members of the association to have voting privileges and representation on
- 1711 any governing board or committee;
- 1712 (vi) does not condition membership in the association group on any health
- 1713 status-related factor;
- 1714 (vii) makes insurance offered through the association group available exclusively to a
- 1715 member of the association; and
- 1716 (viii) only offers insurance through the association group in connection with a
- 1717 member of the association group.
- 1718 (2) A group insurance policy offering life insurance that an insurer issues to an association
- 1719 group may insure members and employees of the association, employees of the
- 1720 members, one or more of the preceding entities, or all of any classes of these named
- 1721 entities for the benefit of persons other than the employees' employer, or any officials,
- 1722 representatives, trustees, or agents of the employer or association.
- 1723 (3)(a) The following shall pay the premium under a group insurance policy offering life
- 1724 insurance that an insurer issues to an association group:
- 1725 (i) the policyholder from funds contributed by the association;

- 1726 (ii) employer members, from funds contributed by the covered persons; or
1727 (iii) from any combination of Subsections (3)(a)(i) and (ii).
- 1728 (b) Except as provided under Section 31A-22-512, a policy on which no part of the
1729 premium is contributed by the covered persons, specifically for their insurance, is
1730 required to insure all eligible persons.
- 1731 (4)(a) An association group that meets the requirements described under Subsection (1)
1732 shall disclose the following to each insured member:
- 1733 (i) each cost related to joining and maintaining membership in the association;
1734 (ii) that membership fees or dues are in addition to the policy premium;
1735 (iii) that the association group holds the master group insurance policy;
1736 (iv) that the association group and insurer determine the amount of the premium
1737 charged and the terms and conditions of coverage under the group insurance
1738 policy; and
1739 (v) that the association group policyholder and insurer may change the premium and
1740 terms and conditions of coverage under the insurance policy:
1741 (A) through agreement; and
1742 (B) without the consent of the individual certificate holder.
- 1743 (b) If an insurer collects membership fees or dues on behalf of an association, the insurer
1744 shall disclose to each member of the association that the insurer is billing and
1745 collecting membership fees and dues on behalf of the association.
- 1746 Section 36. Section **31A-22-605** is amended to read:
1747 **31A-22-605 . Accident and health insurance standards.**
- 1748 (1) The purposes of this section include:
- 1749 (a) reasonable standardization and simplification of terms and coverages of individual
1750 and franchise accident and health insurance policies, including accident and health
1751 insurance contracts of insurers licensed under Chapter 7, Nonprofit Health Service
1752 Insurance Corporations, and Chapter 8, Health Maintenance Organizations and
1753 Limited Health Plans, to facilitate public understanding and comparison in
1754 purchasing;
- 1755 (b) elimination of provisions contained in individual and franchise accident and health
1756 insurance contracts that may be misleading or confusing in connection with either the
1757 purchase of those types of coverages or the settlement of claims; and
1758 (c) full disclosure in the sale of individual and franchise accident and health insurance
1759 contracts.

- 1760 (2) This section applies to all individual and franchise accident and health policies.
- 1761 (3) The commissioner shall adopt rules, made in accordance with Title 63G, Chapter 3,
1762 Utah Administrative Rulemaking Act, relating to the following matters:
- 1763 (a) standards for the manner and content of policy provisions, and disclosures to be
1764 made in connection with the sale of policies covered by this section, dealing with at
1765 least the following matters:
- 1766 (i) terms of renewability;
- 1767 (ii) initial and subsequent conditions of eligibility;
- 1768 (iii) nonduplication of coverage provisions;
- 1769 (iv) coverage of dependents;
- 1770 (v) preexisting conditions;
- 1771 (vi) termination of insurance;
- 1772 (vii) probationary periods;
- 1773 (viii) limitations;
- 1774 (ix) exceptions;
- 1775 (x) reductions;
- 1776 (xi) elimination periods;
- 1777 (xii) requirements for replacement;
- 1778 (xiii) recurrent conditions;
- 1779 (xiv) coverage of [~~persons~~] an individual eligible for Medicare; and
- 1780 (xv) definition of terms;
- 1781 (b) minimum standards for benefits under each of the following categories of coverage
1782 in policies covered in this section:
- 1783 (i) basic hospital expense coverage;
- 1784 (ii) basic medical-surgical expense coverage;
- 1785 (iii) hospital confinement indemnity coverage;
- 1786 (iv) major medical expense coverage;
- 1787 (v) income replacement coverage;
- 1788 (vi) accident only coverage;
- 1789 (vii) specified disease or specified accident coverage;
- 1790 (viii) limited benefit health coverage;
- 1791 (ix) dental coverage; and
- 1792 [~~(ix)~~] (x) nursing home and long-term care coverage;
- 1793 (c) the content and format of the outline of coverage, in addition to that required under

- 1794 Subsection (5);
- 1795 (d) the method of identification of policies and contracts based upon coverages
- 1796 provided; and
- 1797 (e) rating practices.
- 1798 (4) Nothing in Subsection (3)(b) precludes the issuance of policies that combine categories
- 1799 of coverage in Subsection (3)(b) provided that any combination of categories meets the
- 1800 standards of a component category of coverage.
- 1801 (5) The commissioner may adopt rules, made in accordance with Title 63G, Chapter 3,
- 1802 Utah Administrative Rulemaking Act, relating to the following matters:
- 1803 (a) establishing disclosure requirements for insurance policies covered in this section,
- 1804 designed to adequately inform the prospective insured of the need for and extent of
- 1805 the coverage offered, and requiring that this disclosure be furnished to the
- 1806 prospective insured with the application form, unless it is a direct response insurance
- 1807 policy;
- 1808 (b)(i) prescribing caption or notice requirements designed to inform prospective
- 1809 insureds that particular insurance coverages are not Medicare supplement
- 1810 insurance; and
- 1811 (ii) applying the requirements of Subsection (5)(b)(i) to all insurance policies and
- 1812 certificates sold to ~~persons~~ an individual eligible for Medicare; and
- 1813 (c) requiring the disclosures or information brochures to be furnished to the prospective
- 1814 insured on direct response insurance policies, ~~upon his request~~ if the prospective
- 1815 insured requests the disclosure or information brochures or, in any event, no later
- 1816 than the time of the policy delivery.
- 1817 (6)(a) A policy covered by this section may be issued only if ~~it~~ the policy meets the
- 1818 minimum standards established by the commissioner under Subsection (3), an outline
- 1819 of coverage accompanies the policy or is delivered to the applicant at the time of the
- 1820 application, and, except with respect to direct response insurance policies, an
- 1821 acknowledged receipt is provided to the insurer.[-]
- 1822 (b) The outline of coverage shall include:
- 1823 ~~(a)~~ (i) a statement identifying the applicable categories of coverage provided by the
- 1824 policy as prescribed under Subsection (3);
- 1825 ~~(b)~~ (ii) a description of the principal benefits and coverage;
- 1826 ~~(c)~~ (iii) a statement of the exceptions, reductions, and limitations contained in the
- 1827 policy;

- 1828 [~~(d)~~] (iv) a statement of the renewal provisions, including any reservation by the
1829 insurer of a right to change premiums;
- 1830 [~~(e)~~] (v) a statement that the outline is a summary of the policy issued or applied for
1831 and that the policy should be consulted to determine governing contractual
1832 provisions; and
- 1833 [~~(f)~~] (vi) any other contents the commissioner prescribes.
- 1834 (7) If a policy is issued on a basis other than that applied for, the outline of coverage shall
1835 accompany the policy when it is delivered and it shall clearly state that it is not the
1836 policy for which application was made.
- 1837 (8)(a) Notwithstanding Subsection 31A-22-606(1), limited accident and health policies
1838 or certificates issued to [~~persons~~] an individual eligible for Medicare shall contain a
1839 notice prominently printed on or attached to the cover or front page which states that
1840 the policyholder or certificate holder has the right to return the policy for any reason
1841 within 30 days after its delivery and to have the premium refunded.
- 1842 (b) This Subsection (8) does not apply to a policy issued to an employer group.
- 1843 Section 37. Section **31A-22-646** is amended to read:
- 1844 **31A-22-646 . Dental insurance -- Contract provision for noncovered services.**
- 1845 (1) For purposes of this section:
- 1846 (a) "Covered services" means dental services for which reimbursement:
- 1847 (i) is available or would be reimbursable under an enrollee's dental plan but for the
1848 application of one or more of the following contractual provisions:
- 1849 (A) deductibles;
- 1850 (B) copayments;
- 1851 (C) coinsurance;
- 1852 (D) waiting periods;
- 1853 (E) annual or lifetime maximums;
- 1854 (F) frequency limitations; or
- 1855 (G) alternative benefit payments; and
- 1856 (ii) is not merely nominal, for the purpose of avoiding the requirements of this
1857 section.
- 1858 (b) "Dental plan" means:
- 1859 (i) a health benefit plan that includes coverage for dental services; and
- 1860 (ii) a policy or certificate that provides coverage solely for dental services.
- 1861 (c) [~~"Dentist"~~] "Dental provider" means an individual licensed under Title 58, Chapter

1862 69, Dentist and Dental Hygienist Practice Act.

1863 (2)(a) This section applies to:

1864 (i) a dental plan that is entered into or renewed on or after January 1, 2018; and

1865 (ii) an administrator providing third-party administration services or a provider
1866 network for a dental plan.

1867 (b) This section does not apply to a self-insured dental plan that is regulated by federal
1868 law.

1869 (3) A contract between a dental plan and a dentist to provide covered services may not:

1870 (a) require, directly or indirectly, that a dentist provide dental services to a covered
1871 individual at a fee set by, or a fee subject to the approval of, the dental plan unless:

1872 (i) the dental services are covered services under the dental plan; or

1873 (ii)(A) the dental services are not reimbursed by the dental plan;

1874 (B) the dental services are discounted for individuals who are part of a discount
1875 dental rates plan; and

1876 (C) the dentist who provided the dental services has elected to participate in the
1877 discount dental rates plan; and

1878 (b) prohibit a dentist from offering or providing noncovered dental services to a covered
1879 individual at a fee determined by the dentist and the individual who will receive the
1880 noncovered services.

1881 Section 38. Section **31A-22-646.2** is enacted to read:

1882 **31A-22-646.2 . Dental services jurisdiction.**

1883 (1)(a) Notwithstanding Section 31A-1-103, an insurer that provides coverage for dental
1884 services that are completed in Utah to a patient that is a Utah resident shall comply
1885 with all Utah laws related to covered services, non-covered services, and
1886 reimbursement for services if 10% or more of the certificate holders or insureds are
1887 residents of this state.

1888 (b) Subsection (1)(a) applies regardless of:

1889 (i) the location of the insurer's domicile or principle place of business;

1890 (ii) the location where the dental plan was written, issued, or delivered; or

1891 (iii) a contractual choice-of-law provision.

1892 (2)(a) A signed provider agreement shall govern the contractual rights and obligations of
1893 the parties for dental services provided in Utah.

1894 (b) A provider handbook that is provided to a dental provider by an insurer in

1895 connection with a provider agreement shall be deemed part of the provider contract.

1896 (c) An insurer may not require a dental provider to comply with a provider handbook or
1897 policy that is not provided to the dental provider.

1898 (d) An insurer shall notify a dental provider if the insurer issues a new provider
1899 handbook or updates an existing provider handbook.

1900 Section 39. Section **31A-22-650** is amended to read:

1901 **31A-22-650 . Health care preauthorization requirements.**

1902 (1) As used in this section:

1903 (a) "Adverse preauthorization determination" means a determination by an insurer that
1904 health care does not meet the preauthorization requirement for the health care.

1905 (b) "Authorization" means a determination by an insurer that for health care with a
1906 preauthorization requirement:

1907 (i) the proposed drug, device, or covered service meets all requirements, restrictions,
1908 limitations, and clinical criteria for authorization [~~established by~~] that the insurer
1909 establishes;

1910 (ii) the drug, device, or covered service is covered by the enrollee's insurance policy;
1911 and

1912 (iii) the insurer will provide coverage for the drug, device, or covered service subject
1913 to the provisions of the insurance policy, including any cost sharing
1914 responsibilities of the enrollee.

1915 (c) "Device" means a prescription device as defined in Section 58-17b-102.

1916 (d) "Drug" means the same as that term is defined in Section 58-17b-102.

1917 (e) "Insurer" means the same as that term is defined in Section 31A-22-634.

1918 (f) "Preauthorization requirement" means a requirement by an insurer that an enrollee
1919 obtain authorization for a drug, device, or service covered by the insurance policy,
1920 before receiving the drug, device, or service.

1921 (2)(a) An insurer may not modify an existing requirement for authorization unless, at
1922 least 30 days before the day on which the modification takes effect, the insurer:

1923 (i) posts a notice of the modification on the website described in Subsection
1924 31A-22-613.5(6)(a); and

1925 (ii) if requested by a network provider or the network provider's representative,
1926 provides to the network provider by mail or email a written notice of modification
1927 to a particular requirement for authorization described in the request from the
1928 network provider.

1929 (b) Subsection (2)(a) does not apply if:

- 1930 (i) complying with Subsection (2)(a) would create a danger to the enrollee's health or
 1931 safety; or
- 1932 (ii) the modification is for a newly covered drug or device.
- 1933 (c) An insurer may not revoke an authorization for a drug, device, or covered service if:
- 1934 (i) the network provider submits a request for authorization for the drug, device, or
 1935 covered service to the insurer;
- 1936 (ii) the insurer grants the authorization requested under Subsection (2)(c)(i);
- 1937 (iii) the network provider renders the drug, device, or covered service to the enrollee
 1938 in accordance with the authorization and any terms and conditions of the network
 1939 provider's contract with the insurer;
- 1940 (iv) on the day on which the network provider renders the drug, device, or covered
 1941 service to the enrollee:
- 1942 (A) the enrollee is eligible for coverage under the enrollee's insurance policy; and
- 1943 (B) the enrollee's condition or circumstances related to the enrollee's care have not
 1944 changed;
- 1945 (v) the network provider submits an accurate claim that matches the information in
 1946 the request for authorization under Subsection (2)(c)(i); and
- 1947 (vi) the authorization was not based on fraudulent or materially incorrect information
 1948 from the network provider.
- 1949 (3)(a) An insurer that receives a request for authorization shall treat the request as a
 1950 pre-service claim as that term is defined in 29 C.F.R. Sec. 2560.503-1 and process the
 1951 request in accordance with:
- 1952 (i) 29 C.F.R. Sec. 2560.503-1, regardless of whether the coverage is offered through
 1953 an individual or group health insurance policy;
- 1954 (ii) Subsection 31A-4-116(2); and
- 1955 (iii) Section 31A-22-629.
- 1956 (b) If a network provider submits a claim to an insurer that includes an unintentional
 1957 error that results in a denial of the claim, the insurer shall permit the network
 1958 provider with an opportunity to resubmit the claim with corrected information within
 1959 a reasonable amount of time.
- 1960 (c) Except as provided in Subsection (3)(d), the appeal of an adverse preauthorization
 1961 determination regarding clinical or medical necessity as requested by a physician
 1962 may only be reviewed by a physician who is currently licensed as a physician and
 1963 surgeon in a state, district, or territory of the United States.

- 1964 (d) The appeal of an adverse determination requested by a physician regarding clinical
1965 or medical necessity of a drug, may only be reviewed by an individual who is
1966 currently licensed in a state, district, or territory of the United States as:
- 1967 (i) a physician and surgeon; or
1968 (ii) a pharmacist.
- 1969 (e) An insurer shall ensure that an adverse preauthorization determination regarding
1970 clinical or medical necessity is made by an individual who:
- 1971 (i) has knowledge of the medical condition or disease of the enrollee for whom the
1972 authorization is requested; or
- 1973 (ii) consults with a specialist who has knowledge of the medical condition or disease
1974 of the enrollee for whom the authorization is requested regarding the request
1975 before making the determination.
- 1976 (f) An insurer shall specify how long an authorization is valid.
- 1977 (4)(a) An insurer that removes a drug from the insurer's formulary shall:
- 1978 (i) permit an enrollee, an enrollee's designee, or an enrollee's network provider to
1979 request an exemption from the change to the formulary for the purpose of
1980 providing the patient with continuity of care; and
- 1981 (ii) have a process to review and make a decision regarding an exemption requested
1982 under Subsection (4)(a)(i).
- 1983 (b) If an insurer makes a change to the formulary for a drug in the middle of a plan year,
1984 the insurer may not implement the changes for an enrollee that is on an active course
1985 of treatment for the drug unless the insurer provides the enrollee with notice at least
1986 30 days before the day on which the change is implemented.
- 1987 (5)(a) Each April 1, an insurer with a preauthorization requirement shall report to the
1988 department, for the previous calendar year, the percentage of authorizations, not
1989 including a claim involving urgent care as defined in 29 C.F.R. Sec. 2560.503-1, for
1990 which the insurer notified a provider regarding an authorization or adverse
1991 preauthorization determination more than one week after the day on which the
1992 insurer received the request for authorization.
- 1993 (b) Before [~~March~~] April 1, 2026, and each [~~March~~] April 1 thereafter, an insurer shall
1994 report to the department the following for the previous calendar year:
- 1995 (i) a list of services that have preauthorization requirements;
1996 (ii) for pre-service preauthorization requests that were not urgent, the percentage of
1997 individual service requests that:

- 1998 (A) were approved;
- 1999 (B) were denied;
- 2000 (C) were approved after appeal;
- 2001 (D) the time frame for review was extended, and the request was approved;
- 2002 (E) were denied due to incomplete information from the health care provider; and
- 2003 (F) were received through fax, phone, and electronic portal; and
- 2004 (iii) for urgent pre-service preauthorization requests, the percentage of individual
- 2005 service requests that:
- 2006 (A) were approved;
- 2007 (B) were denied;
- 2008 (C) were denied due to incomplete information from the health care provider; and
- 2009 (D) were received through fax, phone, and electronic portal.
- 2010 (c) Data provided to the department under Subsections (5)(b)(ii) and (iii) shall be
- 2011 aggregated for all services.
- 2012 (d) Subsection (5)(b) does not require an insurer to report information regarding
- 2013 prescription drugs.
- 2014 (e) The department shall compile the information described in Subsection (5)(b) and
- 2015 publish the information on the department's website.
- 2016 (6) An insurer may not have a preauthorization requirement for emergency health care as
- 2017 described in Section 31A-22-627.
- 2018 (7) For each adverse preauthorization determination [~~made by~~]an insurer makes, the
- 2019 insurer shall provide to the enrollee and the enrollee's health care provider:
- 2020 (a) a detailed and specific explanation that explains why the [~~determination was made~~]
- 2021 insurer made the determination; and
- 2022 (b) a notice explaining the enrollee may appeal the determination [~~may be appealed~~]and
- 2023 the process for appealing the determination, including how to begin an expedited
- 2024 appeal process as described in Section 31A-22-629.
- 2025 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2026 department may make rules to implement Subsection (5)(b).
- 2027 Section 40. Section **31A-22-701** is amended to read:
- 2028 **31A-22-701 . Groups eligible for group or blanket insurance.**
- 2029 (1) A group insurance policy offering accident and health insurance may be issued to:
- 2030 (a) a group:
- 2031 (i) to which a group life insurance policy may be issued under Section 31A-22-502,

- 2032 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, 31A-22-507, or 31A-22-508[-
2033 or 31A-22-509]; and
- 2034 (ii) that is formed and maintained in good faith for a purpose other than obtaining
2035 insurance;
- 2036 (b) a group [~~specifically authorized by~~] that the commissioner specifically authorizes,
2037 upon a finding that:
- 2038 (i) authorization is not contrary to the public interest;
- 2039 (ii) the group is actuarially sound;
- 2040 (iii) formation of the proposed group may result in economies of scale in acquisition,
2041 administrative, marketing, and brokerage costs;
- 2042 (iv) the insurance policy, insurance certificate, or other indicia of coverage that will
2043 be offered to the proposed group is substantially equivalent to insurance policies
2044 that are otherwise available to similar groups;
- 2045 (v) the group would not present hazards of adverse selection;
- 2046 (vi) the premiums for the insurance policy and any contributions by or on behalf of
2047 the insured persons are reasonable in relation to the benefits provided; and
- 2048 (vii) the group is formed and maintained in good faith for a purpose other than
2049 obtaining insurance; or
- 2050 (c) a postsecondary educational institution covering students, upon a finding that:
- 2051 (i) the policy provides standards for financial soundness;
- 2052 (ii) the policy protects the students covered;
- 2053 (iii) the policy provides for the establishment of a financially viable alternative to
2054 traditional health care plans;
- 2055 (iv) authorization is not contrary to the public interest;
- 2056 (v) the policy would not present hazards of adverse selection; and
- 2057 (vi) the premiums for the policy and any contributions by or on behalf of the insured
2058 persons are reasonable in relation to the benefits provided.
- 2059 (2) A blanket insurance policy offering accident and health insurance:
- 2060 (a) covers a defined class of persons;
- 2061 (b) may not be offered or underwritten on an individual basis;
- 2062 (c) shall cover only a group that is:
- 2063 (i) actuarially sound; and
- 2064 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
2065 and

- 2066 (d) may be issued only to:
- 2067 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 2068 policyholder, covering persons who may become passengers as defined by
- 2069 reference to the person's travel status;
- 2070 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 2071 guests, as defined by reference to specified hazards incident to any activities of the
- 2072 policyholder;
- 2073 (iii) an institution of learning, including a school district, a school jurisdictional unit,
- 2074 or the head, principal, or governing board of a school jurisdictional unit, as
- 2075 policyholder, covering students, teachers, or employees;
- 2076 (iv) a religious, charitable, recreational, educational, or civic organization, or branch
- 2077 of one of those organizations, as policyholder, covering a group of members or
- 2078 participants as defined by reference to specified hazards incident to the activities
- 2079 sponsored or supervised by the policyholder;
- 2080 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder,
- 2081 covering members, campers, employees, officials, or supervisors;
- 2082 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer
- 2083 organization, as policyholder, covering a group of members or participants as
- 2084 defined by reference to specified hazards incident to activities sponsored,
- 2085 supervised, or participated in by the policyholder;
- 2086 (vii) a newspaper or other publisher, as policyholder, covering a newspaper's or
- 2087 publisher's carriers;
- 2088 (viii) a labor union, as a policyholder, covering a group of members or participants as
- 2089 defined by reference to specified hazards incident to the activities or operations
- 2090 sponsored or supervised by the policyholder;
- 2091 (ix) an association that has a constitution and bylaws covering a group of members or
- 2092 participants as defined by reference to specified hazards incident to the activities
- 2093 or operations sponsored or supervised by the policyholder; or
- 2094 (x) any other class of risks that, in the judgment of the commissioner, may be
- 2095 properly eligible for a blanket insurance policy offering accident and health
- 2096 insurance.
- 2097 (3) The judgment of the commissioner may be exercised on the basis of:
- 2098 (a) individual risks;
- 2099 (b) a class of risks; or

2100 (c) both risks described in Subsections (3)(a) and (b).

2101 (4) A group insurance policy offering accident and health insurance issued to a group

2102 authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section

2103 31A-22-602.

2104 Section 41. Section **31A-22-2002** is amended to read:

2105 **31A-22-2002 . Definitions.**

2106 As used in this part:

2107 [(1) "Applicant" means:]

2108 [(a) when referring to an individual limited long-term care insurance policy, the person

2109 who seeks to contract for benefits; and]

2110 [(b) when referring to a group limited long-term care insurance policy, the proposed

2111 certificate holder.]

2112 [(2) "Elimination period" means the length of time between meeting the eligibility for

2113 benefit payment and receiving benefit payments from an insurer.]

2114 [(3) "Group limited long-term care insurance" means a limited long-term care insurance

2115 policy that is delivered or issued for delivery:]

2116 [(a) in this state; and]

2117 [(b) to an eligible group, as described under Subsection 31A-22-701(1).]

2118 [(4)] (1) [(a)] "Limited long-term care" ~~["insurance"]~~ means ~~[an insurance policy,~~

2119 ~~endorsement, or rider that is advertised, marketed, offered, or designed to provide]~~

2120 coverage:

2121 [(i)] (a) for less than 12 consecutive months for each covered person;

2122 [(ii)] (b) on an expense-incurred, indemnity, prepaid or other basis; and

2123 [(iii)] (c) for one or more necessary or medically necessary diagnostic, preventative,

2124 therapeutic, rehabilitative, maintenance, or personal care services that is provided in a

2125 setting other than an acute care unit of a hospital.

2126 [(b) "Limited long-term care insurance" includes a policy or rider described in

2127 Subsection (4)(a) that provides for payment of benefits based on cognitive

2128 impairment or the loss of functional capacity.]

2129 (2)(a) "Limited long-term care insurance" means an insurance policy, endorsement, or

2130 rider that is advertised, marketed, offered, or designed to provide coverage for limited

2131 long-term care.

2132 [(e)] (b) "Limited long-term care insurance" does not include an insurance policy that is

2133 offered primarily to provide:

- 2134 (i) basic Medicare supplement insurance coverage;
 2135 (ii) basic hospital expense coverage;
 2136 (iii) basic medical-surgical expense coverage;
 2137 (iv) hospital confinement indemnity coverage;
 2138 (v) major medical expense coverage;
 2139 (vi) disability income or related asset-protection coverage;
 2140 (vii) accidental only coverage;
 2141 (viii) specified disease or specified accident coverage; or
 2142 (ix) limited benefit health coverage.

2143 [~~(5) "Preexisting condition" means a condition for which medical advice or treatment is~~
 2144 ~~recommended;~~]

2145 [~~(a) by, or received from, a provider of health care services; and]~~

2146 [~~(b) within six months before the day on which the coverage of an insured person~~
 2147 ~~becomes effective.]~~

2148 [~~(6) "Waiting period" means the time an insured waits before some or all of the insured's~~
 2149 ~~coverage becomes effective.]~~

2150 Section 42. Section **31A-22-2006** is amended to read:

2151 **31A-22-2006 . Rulemaking.**

2152 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2153 commissioner[;]

2154 [~~(1) shall makes rules] may make rules:~~

2155 [~~(a) in the event of a substantial rate increase, promoting premium adequacy and~~
 2156 ~~protecting the policy holder;]~~

2157 [~~(b) (1) establishing minimum standards for limited long-term care insurance[marketing~~
 2158 ~~practices, producer compensation, producer testing, independent review of benefit~~
 2159 ~~determinations, penalties, and reporting practices];~~

2160 [~~(c) (2) prescribing the content and a standard format, including style, arrangement, and~~
 2161 ~~overall appearance of an outline of coverage; and~~

2162 [~~(d) prescribing the content of an outline of coverage, in accordance with the~~
 2163 ~~requirements described in Subsection 31A-22-2004(5)(b);]~~

2164 [~~(e) specifying the type of nonforfeiture benefits offered as part of a limited long-term~~
 2165 ~~care insurance policy or certificate;]~~

2166 [~~(f) establishing the standards of nonforfeiture benefits; and]~~

2167 [~~(g) establishing the rules regarding contingent benefits upon lapse, including;]~~

2168 ~~[(i) a determination of the specified period of time during which a contingent benefit~~
 2169 ~~upon lapse will be available; and]~~

2170 ~~[(ii) the substantial premium rate increase that triggers a contingent benefit upon~~
 2171 ~~lapse as described in Subsection 31A-22-2005(1); and]~~

2172 ~~[(2)] (3) [may make rules]~~ establishing loss-ratio standards for individual limited long-term
 2173 care insurance policies.

2174 Section 43. Section **31A-23a-111** is amended to read:

2175 **31A-23a-111 . Revoking, suspending, surrendering, lapsing, limiting, or**
 2176 **otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

2177 (1) A license type issued under this chapter remains in force until:

2178 (a) ~~[revoked or suspended]~~ the commissioner revokes or suspends the license under
 2179 Subsection (5);

2180 (b) ~~[surrendered]~~ the licensee surrenders the license to the commissioner and [accepted
 2181 ~~by the commissioner]~~ the commissioner accepts the license in lieu of administrative
 2182 action;

2183 (c) the licensee dies or is adjudicated incompetent as defined under:

2184 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

2185 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
 2186 Minors;

2187 (d) ~~[lapsed]~~ the license lapses under Section 31A-23a-113; or

2188 (e) ~~[voluntarily surrendered]~~ the licensee voluntarily surrenders the license.

2189 (2) The following may be reinstated within one year after the day on which the license is no
 2190 longer in force:

2191 (a) a lapsed license; or

2192 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
 2193 not be reinstated after the license period in which the license is voluntarily
 2194 surrendered.

2195 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license,
 2196 submission and acceptance of a voluntary surrender of a license does not prevent the
 2197 department from pursuing additional disciplinary or other action authorized under:

2198 (a) this title; or

2199 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
 2200 Administrative Rulemaking Act.

2201 (4) A line of authority issued under this chapter remains in force until:

- 2202 (a) a licensee no longer meets the qualifications pertaining to a line of authority~~[-are no~~
 2203 ~~longer met by the licensee];~~
- 2204 (b) the supporting license type:
- 2205 (i) is revoked or suspended under Subsection (5);
- 2206 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
 2207 administrative action;
- 2208 (iii) lapses under Section 31A-23a-113; or
- 2209 (iv) is voluntarily surrendered; or
- 2210 (c) the licensee dies or is adjudicated incompetent as defined under:
- 2211 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 2212 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
 2213 Minors.
- 2214 (5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an
 2215 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act,
 2216 the commissioner may:
- 2217 (i) revoke:
- 2218 (A) a license; or
- 2219 (B) a line of authority;
- 2220 (ii) suspend for a specified period of 12 months or less:
- 2221 (A) a license; or
- 2222 (B) a line of authority;
- 2223 (iii) limit in whole or in part:
- 2224 (A) a license; or
- 2225 (B) a line of authority;
- 2226 (iv) deny a license application;
- 2227 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 2228 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and
 2229 Subsection (5)(a)(v).
- 2230 (b) The commissioner may take an action described in Subsection (5)(a) if the
 2231 commissioner finds that the licensee or license applicant:
- 2232 (i) is unqualified for a license or line of authority under Section 31A-23a-104,
 2233 31A-23a-105, or 31A-23a-107;
- 2234 (ii) violates:
- 2235 (A) an insurance statute;

- 2236 (B) a rule that is valid under Subsection 31A-2-201(3); or
2237 (C) an order that is valid under Subsection 31A-2-201(4);
2238 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or
2239 other delinquency proceedings in any state;
2240 (iv) is more than 60 days past due on a final judgment;
2241 (v) fails to meet the same good faith obligations in claims settlement that is required
2242 of admitted insurers;
2243 (vi) is affiliated with and under the same general management or interlocking
2244 directorate or ownership as another insurance producer that transacts business in
2245 this state without a license;
2246 (vii) refuses:
2247 (A) to be examined; or
2248 (B) to produce the licensee's or license applicant's accounts, records, and files for
2249 examination;
2250 (viii) has an officer who refuses to:
2251 (A) give information with respect to the insurance producer's affairs; or
2252 (B) perform any other legal obligation as to an examination;
2253 (ix) provides information in the license application that is:
2254 (A) incorrect;
2255 (B) misleading;
2256 (C) incomplete; or
2257 (D) materially untrue;
2258 (x) violates an insurance law, valid rule, or valid order of another regulatory agency
2259 in any jurisdiction;
2260 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
2261 (xii) improperly withholds, misappropriates, or converts money or properties
2262 received in the course of doing insurance business;
2263 (xiii) intentionally misrepresents the terms of an actual or proposed:
2264 (A) insurance contract;
2265 (B) application for insurance; or
2266 (C) life settlement;
2267 (xiv) has been convicted of, or has entered a plea in abeyance as that term is defined
2268 in Section 77-2a-1 to:
2269 (A) a felony; or

- 2270 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
 2271 (xv) admits or is found to have committed an unfair trade practice or fraud;
 2272 (xvi) in the conduct of business in this state or elsewhere:
 2273 (A) uses fraudulent, coercive, or dishonest practices; or
 2274 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
 2275 (xvii) has had an insurance license or other professional or occupational license, or an
 2276 equivalent to an insurance license or registration, or other professional or
 2277 occupational license or registration:
 2278 (A) denied;
 2279 (B) suspended;
 2280 (C) revoked; or
 2281 (D) surrendered to resolve an administrative action;
 2282 (xviii) forges another's name to:
 2283 (A) an application for insurance; or
 2284 (B) a document related to an insurance transaction;
 2285 (xix) improperly uses notes or another reference material to complete an examination
 2286 for an insurance license;
 2287 (xx) knowingly accepts insurance business from an individual who is not licensed;
 2288 (xxi) fails to comply with an administrative or court order imposing a child support
 2289 obligation;
 2290 (xxii) fails to comply with an administrative or court order directing payment of state
 2291 income tax;
 2292 (xxiii) has been convicted of violating the federal Violent Crime Control and Law
 2293 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written
 2294 consent to engage in the business of insurance or participate in such business as
 2295 required by 18 U.S.C. Sec. 1033;
 2296 (xxiv) engages in a method or practice in the conduct of business that endangers the
 2297 legitimate interests of customers and the public;[~~or~~]
 2298 (xxv) has been convicted of any criminal felony involving dishonesty or breach of
 2299 trust and has not obtained written consent to engage in the business of insurance
 2300 or participate in such business as required by 18 U.S.C. Sec. 1033[~~;~~] ; or
 2301 (xxvi) fails to maintain an active resident license in the home state or designated
 2302 home state.
 2303 (c) For purposes of this section, if a license is held by an agency, both the agency [~~itself~~]

- 2304 and any individual designated under the license are considered to be the holders of
2305 the license.
- 2306 (d) If an individual designated under the agency license commits an act or fails to
2307 perform a duty that is a ground for suspending, revoking, or limiting the individual's
2308 license, the commissioner may suspend, revoke, or limit the license of:
- 2309 (i) the individual;
- 2310 (ii) the agency, if the agency:
- 2311 (A) is reckless or negligent in [~~its~~] the agency's supervision of the individual; or
2312 (B) knowingly participates in the act or failure to act that is the ground for
2313 suspending, revoking, or limiting the license; or
- 2314 (iii)(A) the individual; and
2315 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 2316 (6) A licensee under this chapter is subject to the penalties for acting as a licensee without a
2317 license if:
- 2318 (a) the licensee's license is:
- 2319 (i) revoked;
- 2320 (ii) suspended;
- 2321 (iii) limited;
- 2322 (iv) surrendered in lieu of administrative action;
- 2323 (v) lapsed; or
2324 (vi) voluntarily surrendered; and
- 2325 (b) the licensee:
- 2326 (i) continues to act as a licensee; or
2327 (ii) violates the terms of the license limitation.
- 2328 (7) A licensee under this chapter shall immediately report to the commissioner:
- 2329 (a) a revocation, suspension, or limitation of the person's license in another state, the
2330 District of Columbia, or a territory of the United States;
- 2331 (b) the imposition of a disciplinary sanction imposed on that person by another state, the
2332 District of Columbia, or a territory of the United States; or
- 2333 (c) a judgment or injunction entered against that person on the basis of conduct
2334 involving:
- 2335 (i) fraud;
- 2336 (ii) deceit;
- 2337 (iii) misrepresentation;

- 2338 (iv) a violation of an insurance law or rule; or
 2339 (v) payment of money.
- 2340 (8)(a) An order revoking a license under Subsection (5) or an agreement to surrender a
 2341 license in lieu of administrative action may specify a time, not to exceed five years,
 2342 within which the former licensee may not apply for a new license.
- 2343 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the
 2344 former licensee may not apply for a new license for five years from the day on which
 2345 the order or agreement is made without the express approval by the commissioner.
- 2346 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a
 2347 license issued under this part if ordered by a court.
- 2348 (10) The commissioner shall provide the license renewal and reinstatement procedures by
 2349 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 2350 Act.
- 2351 Section 44. Section **31A-23a-202** is amended to read:
 2352 **31A-23a-202 . Continuing education requirements.**
- 2353 (1) [~~Pursuant to~~] In accordance with this section, the commissioner shall by rule prescribe
 2354 the continuing education requirements for a producer and a consultant.
- 2355 (2)(a) The commissioner may not state a continuing education requirement in terms of
 2356 formal education.
- 2357 (b) The commissioner may state a continuing education requirement in terms of hours of
 2358 insurance-related instruction received.
- 2359 (c) Insurance-related formal education may be a substitute, in whole or in part, for the
 2360 hours required under Subsection (2)(b).
- 2361 (3)(a) The commissioner shall impose continuing education requirements in accordance
 2362 with a two-year licensing period in which the licensee meets the requirements of this
 2363 Subsection (3).
- 2364 (b)(i) Except as provided in this section, the continuing education requirements shall
 2365 require:
- 2366 (A) that a licensee complete 24 credit hours of continuing education for every
 2367 two-year licensing period;
- 2368 (B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics
 2369 courses; and
- 2370 (C) that the licensee complete at least half of the required hours through classroom
 2371 hours of insurance-related instruction.

- 2372 (ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be
2373 obtained through:
- 2374 (A) classroom attendance;
 - 2375 (B) home study;
 - 2376 (C) watching a video recording;
 - 2377 (D) experience credit; or
 - 2378 (E) another method provided by rule.
- 2379 (iii)(A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title
2380 insurance producer is required to complete 12 credit hours of continuing
2381 education for every two-year licensing period, with 3 of the credit hours being
2382 ethics courses unless the individual title insurance producer is licensed in this
2383 state as an individual title insurance producer for 20 or more consecutive years.
- 2384 (B) If an individual title insurance producer is licensed in this state as an
2385 individual title insurance producer for 20 or more consecutive years, the
2386 individual title insurance producer is required to complete 6 credit hours of
2387 continuing education for every two-year licensing period, with 3 of the credit
2388 hours being ethics courses.
- 2389 (C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance
2390 producer is considered to have met the continuing education requirements
2391 imposed under Subsection (3)(b)(iii)(A) or (B) if at the time of license renewal
2392 the individual title insurance producer:
- 2393 (I) provides the department evidence that the individual title insurance
2394 producer is an active member in good standing with the Utah State Bar;
 - 2395 (II) is in compliance with the continuing education requirements of the Utah
2396 State Bar; and
 - 2397 (III) if requested by the department, provides the department evidence that the
2398 individual title insurance producer complied with the continuing education
2399 requirements of the Utah State Bar.
- 2400 (c) A licensee may obtain continuing education hours at any time during the two-year
2401 licensing period.
- 2402 (d)(i) A licensee is exempt from continuing education requirements under this section
2403 if:
- 2404 (A) the licensee was first licensed before December 31, [~~1982~~] 1988;
 - 2405 (B) the license does not have a continuous lapse for a period of more than one

- 2406 year, except for a license for which the licensee has had an exemption
2407 approved before May 11, 2011;
- 2408 (C) the licensee requests an exemption from the department; and
2409 (D) the department approves the exemption.
- 2410 (ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee
2411 is not required to apply again for the exemption.
- 2412 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2413 commissioner shall, by rule:
- 2414 (i) publish a list of insurance professional designations whose continuing education
2415 requirements can be used to meet the requirements for continuing education under
2416 Subsection (3)(b);
- 2417 (ii) authorize a continuing education provider or a state or national professional
2418 producer or consultant association to:
- 2419 (A) offer a qualified program for a license type or line of authority on a
2420 geographically accessible basis; and
- 2421 (B) collect a reasonable fee for funding and administration of a continuing
2422 education program, subject to the review and approval of the commissioner;
2423 and
- 2424 (iii) provide that membership by a producer or consultant in a state or national
2425 professional producer or consultant association is considered a substitute for the
2426 equivalent of two hours for each year during which the producer or consultant is a
2427 member of the professional association, except that the commissioner may not
2428 give more than two hours of continuing education credit in a year regardless of the
2429 number of professional associations of which the producer or consultant is a
2430 member.
- 2431 (f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a
2432 professional producer or consultant association program may be less for an
2433 association member, on the basis of the member's affiliation expense, but shall
2434 preserve the right of a nonmember to attend without affiliation.
- 2435 (4) The commissioner shall approve a continuing education provider or continuing
2436 education course that satisfies the requirements of this section.
- 2437 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2438 commissioner shall by rule set the processes and procedures for continuing education
2439 provider registration and course approval.

- 2440 (6) The requirements of this section apply only to a producer or consultant who is an
2441 individual.
- 2442 (7) A nonresident producer or consultant is considered to have satisfied this state's
2443 continuing education requirements if the nonresident producer or consultant satisfies the
2444 nonresident producer's or consultant's home state's continuing education requirements
2445 for a licensed insurance producer or consultant.
- 2446 (8) A producer or consultant subject to this section shall keep documentation of completing
2447 the continuing education requirements of this section for two years after the end of the
2448 two-year licensing period to which the continuing education applies.

2449 Section 45. Section **31A-23a-203** is amended to read:

2450 **31A-23a-203 . Training period requirements.**

- 2451 (1) A producer is eligible to become a surplus lines producer only if the producer:
2452 (a) has passed the applicable surplus lines producer examination;
2453 (b) has been a producer with property or casualty or both lines of authority for at least
2454 three years during the four years immediately preceding the date of application; and
2455 (c) has paid the applicable fee under Section 31A-3-103.
- 2456 (2) A person is eligible to become a consultant only if the person has acted in a capacity
2457 that would provide the person with preparation to act as an insurance consultant for a
2458 period aggregating not less than three years during the four years immediately preceding
2459 the date of application.
- 2460 [~~(3)(a) A resident producer with an accident and health line of authority may only sell~~
2461 ~~long-term care insurance if the producer:]~~
2462 [~~(i) initially completes a minimum of three hours of long-term care training before~~
2463 ~~selling long-term care coverage; and]~~
2464 [~~(ii) after completing the training required by Subsection (3)(a)(i), completes a~~
2465 ~~minimum of three hours of long-term care training during each subsequent~~
2466 ~~two-year licensing period.]~~
2467 [~~(b) A course taken to satisfy a long-term care training requirement may be used toward~~
2468 ~~satisfying a producer continuing education requirement.]~~
2469 [~~(c) Long-term care training is not a continuing education requirement to renew a~~
2470 ~~producer license.]~~
2471 [~~(d) An insurer that issues long-term care insurance shall demonstrate to the~~
2472 ~~commissioner, upon request, that a producer who is appointed by the insurer and who~~
2473 ~~sells long-term care insurance coverage is in compliance with this Subsection (3).]~~

- 2474 [(4)] (3)(a) A resident producer with a property line of authority may only sell flood
 2475 insurance coverage under the National Flood Insurance Program if the producer
 2476 completes a minimum of three hours of flood insurance training related to the
 2477 National Flood Insurance Program before selling flood insurance coverage.
- 2478 (b) A course taken to satisfy a flood insurance training requirement may be used toward
 2479 satisfying a producer continuing education requirement.
- 2480 (c) Flood insurance training is not a continuing education requirement to renew a
 2481 producer license.
- 2482 (d) An insurer that issues flood insurance shall demonstrate to the commissioner, upon
 2483 request, that a producer who is appointed by the insurer and who sells flood insurance
 2484 coverage is in compliance with this Subsection [(4)] (3).
- 2485 [(5)] (4) The training periods required under this section apply only to an individual
 2486 applying for a license under this chapter.
- 2487 Section 46. Section **31A-23a-203.5** is amended to read:
- 2488 **31A-23a-203.5 . Errors and omissions coverage requirements.**
- 2489 (1) In accordance with this section, a resident individual producer shall ensure that the
 2490 resident individual producer is covered:
- 2491 (a) for the legal liability of the resident individual producer as the result of an erroneous
 2492 act or failure to act in the resident individual producer's capacity as a producer; and
 2493 (b) at all times during the term of the resident individual producer's license.
- 2494 (2) The coverage required by Subsection (1) shall consist of:
- 2495 (a) a policy naming the resident individual producer;
- 2496 (b) a policy naming the agency that designates the resident individual producer in
 2497 accordance with this chapter; or
- 2498 (c) a written agreement by an insurer or group of affiliated insurers, on behalf of a
 2499 resident individual producer who is or will become an exclusive agent of the insurer
 2500 or group of affiliated insurers, under which the insurer or group of affiliated insurers
 2501 agrees to assume responsibility, to the benefit of an aggrieved person, for legal
 2502 liability of the resident individual producer as the result of an erroneous act or failure
 2503 to act in the resident individual producer's capacity as a producer for the insurer or
 2504 group of affiliated insurers.
- 2505 (3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3, Utah
 2506 Administrative Rulemaking Act, provide for:
- 2507 (a) the terms and conditions of the coverage required under Subsection (1); and

2508 (b) if the coverage required by Subsection (1) is terminated during a resident individual
2509 producer's license term, requirements to:

2510 (i) provide notice; and

2511 (ii) replace the coverage.

2512 (4) An individual title insurance producer is considered to be in compliance with this
2513 section when:

2514 (a) the individual title insurance producer who is not designated by an agency title
2515 producer maintains the individual title insurance producer's own bond, policy, or
2516 other financial protection in accordance with Subsection [~~31A-23a-204(2)~~]
2517 31A-23a-204(3);

2518 (b) the individual title insurance producer is designated by an agency title insurance
2519 producer that maintains a bond, policy, or other financial protection in accordance
2520 with Subsection [~~31A-23a-204(2)~~] 31A-23a-204(3); or

2521 (c) the individual title insurance producer is an employee of and is appointed by a title
2522 insurer.

2523 (5) Notwithstanding the other provisions of this section, a resident individual producer is
2524 exempt from the requirement to maintain coverage as provided in this section during a
2525 period in which the resident individual producer is not either:

2526 (a) appointed by an insurer under this title; or

2527 (b) designated by an agency under this title.

2528 (6) A limited lines producer is exempt from this section.

2529 Section 47. Section **31A-23a-204** is amended to read:

2530 **31A-23a-204 . Special requirements for title insurance producers and agencies.**

2531 [~~An individual title insurance producer or agency title insurance producer shall be
-2532 licensed in accordance with this chapter, with the additional requirements listed in this section.]~~

2533 (1) An individual title insurance producer or agency title insurance producer shall be
2534 licensed in accordance with this chapter, with the additional requirements listed in this
2535 section.

2536 [(+) (2)(a) A person that receives a new license under this title as an agency title
2537 insurance producer shall at the time of licensure be owned or managed by at least one
2538 individual who is licensed for at least three of the five years immediately [~~preceeding~~
2539 ~~the date on~~] before the day on which the agency title insurance producer applies for a
2540 license with both:

2541 (i) a title examination line of authority; and

- 2542 (ii) an escrow line of authority.
- 2543 (b) An agency title insurance producer subject to Subsection ~~[(1)(a)]~~ (2)(a) may comply
- 2544 with Subsection ~~[(1)(a)]~~ (2)(a) by having the agency title insurance producer owned or
- 2545 managed by:
- 2546 (i) one or more individuals who are licensed with the title examination line of
- 2547 authority for the time period provided in Subsection ~~[(1)(a)]~~ (2)(a); and
- 2548 (ii) one or more individuals who are licensed with the escrow line of authority for the
- 2549 time period provided in Subsection ~~[(1)(a)]~~ (2)(a).
- 2550 (c) A person licensed as an agency title insurance producer shall at all times during the
- 2551 term of licensure be owned or managed by at least one individual who is licensed for
- 2552 at least three years within the preceding five-year period with both:
- 2553 (i) a title examination line of authority; and
- 2554 (ii) an escrow line of authority.
- 2555 (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
- 2556 exempt an attorney with real estate experience from the experience requirements in
- 2557 Subsection ~~[(1)(a)]~~ (2)(a).
- 2558 (e)(i) An individual who satisfies the requirements of this Subsection ~~[(1)]~~ (2) is
- 2559 known as a "qualifying licensee."
- 2560 (ii) ~~[-]~~At any given time, an individual may be a qualifying licensee for not more
- 2561 than two agency title insurance producers.
- 2562 ~~[(2)]~~ (3)(a) An individual title insurance producer or agency title insurance producer [
- 2563 ~~appointed by an insurer]~~ that an insurer appoints shall maintain:
- 2564 (i)(A) a fidelity bond that covers loss of third party funds that the producer holds
- 2565 and covers theft of funds by an owner of the producer; or
- 2566 (B) a ~~[fidelity bond]~~ crime insurance policy that covers loss of third party funds
- 2567 that the producer holds and covers theft of funds by an owner of the producer;
- 2568 and
- 2569 (ii) a professional liability insurance policy~~[-or]~~ .
- 2570 ~~[(iii) a financial protection:]~~
- 2571 ~~[(A) equivalent to that described in Subsection (2)(a)(i) or (ii); and]~~
- 2572 ~~[(B) that the commissioner considers adequate.]~~
- 2573 (b) The ~~[bond,]~~insurance~~[-, or financial protection]~~ required by this Subsection ~~[(2)]~~ (3):
- 2574 (i) shall be supplied under a contract ~~[approved by]~~the commissioner approves to
- 2575 provide protection against the improper performance of ~~[any]~~ a service, including

2576 escrow service, in conjunction with the issuance of a contract or policy of title
2577 insurance; and

2578 (ii) be in a face amount no less than [~~\$250,000~~] \$500,000.

2579 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
2580 exempt individual title insurance producer or agency title insurance producers from
2581 the requirements of this Subsection [~~(2)~~] (3) upon a finding that, and only [~~so long as~~]
2582 if, the required [~~policy or bond~~] insurance is generally unavailable at reasonable rates.

2583 [~~(3)~~] (4) An individual title insurance producer or agency title insurance producer appointed
2584 by an insurer may maintain a reserve fund to the extent money was deposited before
2585 July 1, 2008, and not withdrawn to the income of the individual title insurance producer
2586 or agency title insurance producer.

2587 [~~(4)~~] (5) An examination for licensure shall include questions regarding the examination of
2588 title to real property.

2589 [~~(5)~~] (6) An individual title insurance producer may not perform the functions of escrow
2590 unless the individual title insurance producer has been examined on the fiduciary duties
2591 and procedures involved in those functions.

2592 [~~(6)~~] (7) The Title and Escrow Commission may adopt rules, establishing an examination
2593 for a license that will satisfy this section, subject to Section 31A-2-404, and after
2594 consulting with the commissioner's test administrator.

2595 [~~(7)~~] (8) A license may be issued to an individual title insurance producer or agency title
2596 insurance producer who has qualified:

2597 (a) to perform only examinations of title as specified in Subsection [~~(4)~~] (5);
2598 (b) to handle only escrow arrangements as specified in Subsection [~~(5)~~] (6); or
2599 (c) to act as a title marketing representative.

2600 [~~(8)~~] (9)(a) A person licensed to practice law in Utah is exempt from the requirements of
2601 Subsections [~~(2)~~] (3) and [~~(3)~~] (4) if that person issues 12 or less policies in any
2602 12-month period.

2603 (b) In determining the number of policies issued by a person licensed to practice law in
2604 Utah for purposes of Subsection [~~(8)(a)~~] (9)(a), if the person licensed to practice law
2605 in Utah issues a policy to more than one party to the same closing, the person is
2606 considered to have issued only one policy.

2607 [~~(9)~~] (10) A person licensed to practice law in Utah, whether exempt under Subsection [~~(8)~~]
2608 (9) or not, shall maintain a trust account separate from a law firm trust account for all
2609 title and real estate escrow transactions.

- 2610 ~~[(10)]~~ (11)(a) The ~~[department]~~ commissioner may, in accordance with Title 63G,
 2611 Chapter 4, Administrative Procedures Act, take ~~[any of the following actions]~~ an
 2612 action described in Subsection (11)(b) against a title insurance producer if the title
 2613 insurance producer:
- 2614 (i)(A) conducts title insurance business without an appointment from a title
 2615 insurer; or
 - 2616 (B) ~~[-does not have an appointment-]~~ has not had an appointment for a period of
 2617 more than 28 consecutive days from a title insurer as described in Section
 2618 31A-23a-115[;].
- 2619 (b) If the commissioner makes a finding under Subsection (11)(a), the commissioner
 2620 may:
- 2621 ~~[(a)]~~ (i) suspend or revoke the title insurance producer's license;
 - 2622 ~~[(b)]~~ (ii) freeze a bank account associated with the title insurance producer's business;
 - 2623 ~~[(c)]~~ (iii) subpoena the title insurance producer's records;
 - 2624 ~~[(d)]~~ (iv) enjoin the title producer's business operations; or
 - 2625 ~~[(e)]~~ (v) post, at the title producer's business location, a notice of an action listed in
 2626 Subsections ~~[(10)(a)]~~ (11)(b)(i) through ~~[(10)(d)]~~ (iv).
- 2627 (12)(a) If an agency title insurance producer becomes aware of facts that support a
 2628 reasonable belief that an electronic wire funds transfer related to a real estate or title
 2629 insurance transaction did not reach the intended recipient of the electronic wire funds
 2630 transfer within two business days after the day on which the transfer occurs, the
 2631 agency title insurance producer shall report the facts to:
- 2632 (i) the commissioner; and
 - 2633 (ii) each insurer with whom the producer has an appointment.
- 2634 (b) An agency title insurance producer shall make a report described in Subsection
 2635 (12)(a) no later than seven business days after the day on which the agency title
 2636 insurance producer became aware of the facts that initiated the report.
- 2637 (c) A report described in Subsection (12)(a) is not required if the electronic funds
 2638 transfer is successfully sent to, and received by, the intended recipient within one
 2639 business day after the agency title insurance producer becomes aware of the facts
 2640 described in Subsection (12)(a).
- 2641 (d) The requirement described in Subsection (12)(a) applies if:
- 2642 (i) the agency title insurance producer initiated the transfer; or
 - 2643 (ii) the agency title insurance producer was the intended recipient of the transfer.

- 2644 (e)(i) Except as provided in Subsection (12)(e)(ii), an agency title insurance producer
2645 is immune from civil action, civil penalty, or damages, if the producer makes a
2646 good faith report under this Subsection (12).
2647 (ii) Subsection (12)(e)(i) does not apply in an action that the department commences
2648 against a producer for the violation of this title.
2649 (f) The identity of an agency title insurance producer that makes a report under
2650 Subsection (12)(a)(i) is a protected record under Title 63G, Chapter 2, Government
2651 Records Access and Management Act.

2652 (13)(a) A title insurer shall report to the commissioner the termination of an appointment
2653 of a title insurance producer within seven days after the day on which termination
2654 occurs.

2655 (b) A title insurance producer shall report to the commissioner a title insurer's
2656 termination of the title insurance producer's appointment within seven days after the
2657 day on which termination occurs.

2658 (c) The requirements of this Subsection (13) are in addition to the requirements of
2659 Section 31A-23a-115.

2660 Section 48. Section **31A-23a-401** is amended to read:

2661 **31A-23a-401 . Disclosure of conflicting interests.**

2662 (1)(a) Except as provided under Subsection (1)(b):

2663 (i) a licensee under this chapter may not act in the same or any directly related
2664 transaction as:

2665 (A) a producer for the insured or consultant; and

2666 (B) producer for the insurer; and

2667 (ii) a producer for the insured or consultant may not recommend or encourage the
2668 purchase of insurance from or through an insurer or other producer:

2669 (A) of which the producer for the insured or consultant or producer for the
2670 insured's or consultant's spouse is an owner, executive, or employee; or

2671 (B) to which the producer for the insured or consultant has the type of relation that
2672 a material benefit would accrue to the producer for the insured or consultant or
2673 spouse as a result of the purchase.

2674 (b) Subsection (1)(a) does not apply if the following three conditions are met:

2675 (i) ~~[Prior to]~~ Before performing the consulting services, the producer for the insured
2676 or consultant shall disclose to the client, prominently, in writing:

2677 (A) the producer for the insured's or consultant's interest as a producer for the

- 2678 insurer, or the relationship to an insurer or other producer; and
 2679 (B) that as a result of those interests, the producer for the insured's or the
 2680 consultant's recommendations should be given appropriate scrutiny.
- 2681 (ii) The producer for the insured's or consultant's fee shall be agreed upon, in writing,
 2682 after the disclosure required under Subsection (1)(b)(i), but before performing the
 2683 requested services.
- 2684 (iii) Any report resulting from requested services shall contain a copy of the
 2685 disclosure made under Subsection (1)(b)(i).
- 2686 (2) A licensee under this chapter may not act as to the same client as both a producer for the
 2687 insurer and a producer for the insured without the client's prior written consent based on
 2688 full disclosure.
- 2689 (3) Whenever a person applies for insurance coverage through a producer for the insured,
 2690 the producer for the insured shall disclose to the applicant, in writing, that the producer
 2691 for the insured is not the producer for the insurer or the potential insurer. This
 2692 disclosure shall also inform the applicant that the applicant likely does not have the
 2693 benefit of an insurer being financially responsible for the conduct of the producer for the
 2694 insured.
- 2695 [~~(4) If a licensee is subject to both this section and Subsection 31A-23a-501(4), the licensee~~
 2696 ~~shall provide the disclosure required under each statute.]~~
- 2697 Section 49. Section **31A-23a-406** is amended to read:
- 2698 **31A-23a-406 . Title insurance producer's business.**
- 2699 (1) As used in this section:
- 2700 (a) [~~"Automated clearing house network" or~~] "ACH network" means a national
 2701 electronic funds transfer system regulated by the Federal Reserve and the Office of
 2702 the Comptroller of the Currency.
- 2703 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.
- 2704 (c) "Funds transfer system" means the same as that term is defined in Section
 2705 70A-4a-105.
- 2706 (2) An individual title insurance producer or agency title insurance producer may do escrow
 2707 involving real property transactions if all of the following exist:
- 2708 (a) the individual title insurance producer or agency title insurance producer is licensed
 2709 with:
- 2710 (i) the title line of authority; and
 2711 (ii) the escrow subline of authority;

- 2712 (b) a title insurer authorized to do business in this state appoints the individual title
2713 insurance producer or agency title insurance producer~~[is appointed by a title insurer~~
2714 ~~authorized to do business in the state]~~;
- 2715 (c) except as provided in Subsection (4), the individual title insurance producer or
2716 agency title insurance producer issues one or more of the following as part of the
2717 transaction:
- 2718 (i) an owner's policy offering title insurance;
- 2719 (ii) a lender's policy offering title insurance; or
- 2720 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an
2721 owner's or a lender's policy offering title insurance;
- 2722 (d) money deposited with the individual title insurance producer or agency title
2723 insurance producer in connection with any escrow is deposited:
- 2724 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 2725 (A) has a branch in this state~~[, if the individual title insurance producer or agency~~
2726 ~~title insurance producer depositing the money is a resident licensee]~~; and
- 2727 (B) ~~[is authorized by]~~the depository institution's primary regulator authorizes to
2728 engage in trust business, as defined in Section 7-5-1, in this state; and
- 2729 (ii) in a trust account that is separate from all other trust account money that is not
2730 related to real estate transactions;
- 2731 (e) money deposited with the individual title insurance producer or agency title
2732 insurance producer in connection with any escrow is the property of the one or more
2733 persons entitled to the money under the provisions of the escrow;
- 2734 (f) money deposited with the individual title insurance producer or agency title insurance
2735 producer in connection with an escrow is segregated escrow by escrow in the records
2736 of the individual title insurance producer or agency title insurance producer;
- 2737 (g) earnings on money held in escrow may be paid out of the trust account to any person
2738 in accordance with the conditions of the escrow;
- 2739 (h) the escrow does not require the individual title insurance producer or agency title
2740 insurance producer to hold:
- 2741 (i) construction money; or
- 2742 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 2743 (i) the individual title insurance producer or agency title insurance producer~~[shall]~~ :
- 2744 (i) ~~[maintain]~~ maintains a physical office in Utah staffed by a person with an escrow
2745 subline of authority who processes the escrow[-] ; and

- 2746 (ii) upon initial delivery of a commitment for a title insurance policy, notifies the
2747 parties proposed to be insured under the commitment of the availability of a
2748 closing protection letter described in Section 31A-4-117.
- 2749 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title
2750 insurance producer may engage in the escrow business if:
- 2751 (a) the escrow involves:
- 2752 (i) a mobile home;
- 2753 (ii) a grazing right;
- 2754 (iii) a water right; or
- 2755 (iv) other personal property [~~authorized by~~] that the commissioner authorizes; and
- 2756 (b) the individual title insurance producer or agency title insurance producer complies
2757 with this section except for Subsection (2)(c).
- 2758 (4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real
2759 property from the School and Institutional Trust Lands Administration.
- 2760 (b) This subsection does not prohibit an individual title insurance producer or agency
2761 title insurance producer from issuing a policy described in Subsection (2)(c) as part
2762 of a transaction described in Subsection (4)(a).
- 2763 (5) Money held in escrow:
- 2764 (a) is not subject to any debts of the individual title insurance producer or agency title
2765 insurance producer;
- 2766 (b) may only be used to fulfill the terms of the individual escrow under which the money
2767 is accepted; and
- 2768 (c) may not be used until the conditions of the escrow are met.
- 2769 (6) Assets or property other than escrow money [~~received by~~] that an individual title
2770 insurance producer or agency title insurance producer receives in accordance with an
2771 escrow shall be maintained in a manner that will:
- 2772 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
- 2773 (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- 2774 (7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn,
2775 executed, or dated, or money otherwise disbursed unless the segregated trust account
2776 from which money is to be disbursed contains a sufficient credit balance consisting of
2777 collected and cleared money at the time the check is drawn, executed, or dated, or
2778 money is otherwise disbursed.
- 2779 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"

- 2780 and may be disbursed as follows:
- 2781 (i) cash may be disbursed on the same day the cash is deposited;
- 2782 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 2783 (iii) the proceeds of one or more of the following financial instruments may be
- 2784 disbursed on the same day the financial instruments are deposited if received from
- 2785 a single party to the real estate transaction and if the aggregate of the financial
- 2786 instruments for the real estate transaction is less than \$10,000:
- 2787 (A) a cashier's check, certified check, or official check that is drawn on an existing
- 2788 account at a federally insured financial institution;
- 2789 (B) a check drawn on the trust account of a principal broker or associate broker
- 2790 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if
- 2791 the individual title insurance producer or agency title insurance producer has
- 2792 reasonable and prudent grounds to believe sufficient money will be available
- 2793 from the trust account on which the check is drawn at the time of disbursement
- 2794 of proceeds from the individual title insurance producer or agency title
- 2795 insurance producer's trust account;
- 2796 (C) a personal check not to exceed \$500 per closing; or
- 2797 (D) a check drawn on the trust account of another individual title insurance
- 2798 producer or agency title insurance producer, if the individual title insurance
- 2799 producer or agency title insurance producer in the escrow transaction has
- 2800 reasonable and prudent grounds to believe that sufficient money will be
- 2801 available for withdrawal from the account upon which the check is drawn at
- 2802 the time of disbursement of money from the trust account of the individual title
- 2803 insurance producer or agency title insurance producer in the escrow transaction;
- 2804 (iv) deposits made through the ACH network may be disbursed on the same day the
- 2805 deposit is made if:
- 2806 (A) the transferred funds remain uniquely designated and traceable throughout the
- 2807 entire ACH network transfer process;
- 2808 (B) except as a function of the ACH network process, the transferred funds are not
- 2809 subject to comingling or third party access during the transfer process;
- 2810 (C) the transferred funds are deposited into the title insurance producer's trust
- 2811 account and are available for disbursement; and
- 2812 (D) either the ACH network payment type or the title insurance producer's
- 2813 systems prevent the transaction from being unilaterally canceled or reversed by

2814 the consumer once the transferred funds are deposited to the individual title
2815 insurance producer or agency title producer; or

2816 (v) deposits may be disbursed on the same day the deposit is made if the deposit is
2817 made via:

2818 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds
2819 transfer system; or

2820 (B) a funds transfer system provided by an association of federally insured
2821 depository institutions.

2822 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:

2823 (i) within the time limits provided under the Expedited Funds Availability Act, 12
2824 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal
2825 Reserve System; or

2826 (ii) upon notification from the financial institution to which the money has been
2827 deposited that final settlement has occurred on the deposited financial instrument.

2828 (8) An individual title insurance producer or agency title insurance producer shall maintain
2829 a record of a receipt or disbursement of escrow money.

2830 (9) An individual title insurance producer or agency title insurance producer shall comply
2831 with:

2832 (a) Section 31A-23a-409;

2833 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

2834 (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404,
2835 that govern escrows.

2836 (10) If an individual title insurance producer or agency title insurance producer conducts a
2837 search for real estate located in the state, the individual title insurance producer or
2838 agency title insurance producer shall conduct a reasonable search of the public records.

2839 Section 50. Section **31A-23a-409** is amended to read:

2840 **31A-23a-409 . Trust obligation for money collected.**

2841 (1)(a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received
2842 by, or collected by a licensee for forwarding to insurers or to insureds.

2843 (b)(i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust
2844 funds with:

2845 (A) the licensee's own money; or

2846 (B) money held in any other capacity.

2847 (ii) This Subsection (1)(b) does not apply to:

- 2848 (A) amounts necessary to pay bank charges; and
 2849 (B) money paid by insureds and belonging in part to the licensee as a fee or
 2850 commission.
- 2851 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the
 2852 fiduciary duties of a trustee with respect to money to be forwarded to insurers or
 2853 insureds through the licensee.
- 2854 (d)(i) Unless money is sent to the appropriate payee by the close of the next business
 2855 day after their receipt, the licensee shall deposit them in an account authorized
 2856 under Subsection (2).
 2857 (ii) Money deposited under this Subsection (1)(d) shall remain in an account
 2858 authorized under Subsection (2) until sent to the appropriate payee.
- 2859 (2)(a) ~~Money~~ A licensee shall deposit money required to be deposited under Subsection
 2860 (1) ~~shall be deposited~~:
 2861 ~~(a)~~ (i) into a federally insured trust account in a depository institution, as defined in
 2862 Section 7-1-103, ~~which~~ that:
 2863 ~~(i)~~ (A) has a branch in this state, if the ~~individual title insurance producer or~~
 2864 ~~agency title insurance producer depositing the money~~ licensee is a resident
 2865 licensee;
 2866 ~~(ii)~~ (B) has federal deposit insurance; and
 2867 ~~(iii)~~ (C) ~~is authorized by its~~ the depository institution's primary regulator
 2868 authorizes to engage in the trust business, as that term is defined by Section
 2869 7-5-1, in this state; or
 2870 ~~(b)~~ (ii) into some other account, that:
 2871 ~~(i)~~ (A) the commissioner approves by rule or order; and
 2872 ~~(ii)~~ (B) provides safety comparable to an account described in Subsection ~~(2)(a)~~
 2873 (2)(a)(i).
- 2874 (b) This Subsection (2) does not apply to a title insurance licensee.
- 2875 (3) ~~It is not a violation of~~ A licensee does not violate Subsection ~~(2)(a)~~ (2)(a)(i) if the
 2876 amounts in the accounts exceed the amount of the federal insurance on the accounts.
- 2877 (4)(a) A trust account into which a licensee deposits money ~~is deposited~~ may be
 2878 interest bearing.
- 2879 (b) ~~]~~The interest accrued on the account may be paid to the licensee, ~~so long as~~ if the
 2880 licensee otherwise complies with this section and with the contract with the insurer.
- 2881 (5) A depository institution or other organization holding trust funds under this section may

2882 not offset or impound trust account funds against debts and obligations [~~incurred by~~]the
 2883 licensee incurs.

2884 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion
 2885 of the money held under Subsection (1) to the licensee's own use, is guilty of theft under
 2886 Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.

2887 (7) A nonresident licensee:

2888 (a) shall comply with Subsection (1)(a) by complying with the trust account
 2889 requirements of the nonresident licensee's home state; and

2890 (b) is not required to comply with the other provisions of this section.

2891 Section 51. Section **31A-23a-501** is amended to read:

2892 **31A-23a-501 . Licensee compensation.**

2893 (1) As used in this section:

2894 (a) "Commission compensation" includes funds paid to or credited for the benefit of a
 2895 licensee from:

2896 (i) commission amounts deducted from insurance premiums on insurance sold by or
 2897 placed through the licensee;

2898 (ii) commission amounts received from an insurer or another licensee as a result of
 2899 the sale or placement of insurance; or

2900 (iii) overrides, bonuses, contingent bonuses, or contingent commissions received
 2901 from an insurer or another licensee as a result of the sale or placement of
 2902 insurance.

2903 (b)(i) "Compensation from an insurer or third party administrator" means

2904 commissions, fees, awards, overrides, bonuses, contingent commissions, loans,
 2905 stock options, gifts, prizes, or any other form of valuable consideration:

2906 (A) whether [~~or not~~]payable [~~pursuant to~~] in accordance with a written agreement;
 2907 and

2908 (B) received from:

2909 (I) an insurer; or

2910 (II) a third party to the transaction for the sale or placement of insurance.

2911 (ii) "Compensation from an insurer or third party administrator" does not mean
 2912 compensation from a customer that is:

2913 (A) a fee or pass-through costs as provided in Subsection (1)(e); or

2914 (B) a fee or amount collected by or paid to the producer that does not exceed an
 2915 amount [~~established by~~]the commissioner establishes by administrative rule.

- 2916 (c)(i) "Customer" means:
- 2917 (A) the person signing the application or submission for insurance; or
- 2918 (B) the authorized representative of the insured actually negotiating the placement
- 2919 of insurance with the producer.
- 2920 (ii) "Customer" does not mean a person who is a participant or beneficiary of:
- 2921 (A) an employee benefit plan; or
- 2922 (B) a group or blanket insurance policy or group annuity contract [~~sold, solicited,~~
- 2923 ~~or negotiated by the producer or affiliate]~~ the producer or affiliate sells, solicits,
- 2924 or negotiates.
- 2925 (d)(i) "Noncommission compensation" includes all funds paid to or credited for the
- 2926 benefit of a licensee other than commission compensation.
- 2927 (ii) "Noncommission compensation" does not include charges for pass-through costs
- 2928 incurred by the licensee in connection with obtaining, placing, or servicing an
- 2929 insurance policy.
- 2930 (e) "Pass-through costs" include:
- 2931 (i) costs for copying documents to be submitted to the insurer; and
- 2932 (ii) bank costs for processing cash or credit card payments.
- 2933 (2)(a) Except as provided in Subsection (3), a licensee may receive from an insured or
- 2934 from a person purchasing an insurance policy, noncommission compensation.
- 2935 (b) Noncommission compensation shall be:
- 2936 (i) limited to actual or reasonable expenses incurred for services; and
- 2937 (ii) uniformly applied to all insureds or prospective insureds in a class or classes of
- 2938 business or for a specific service or services.
- 2939 (c) The following additional noncommission compensation is authorized:
- 2940 (i) compensation a surety bond's principal debtor pays, under procedures approved by
- 2941 a rule or order of the commissioner, to a producer of a compensation corporate
- 2942 surety for an extra service;
- 2943 (ii) compensation an insurance producer receives for services performed for an
- 2944 insured in connection with a claim adjustment, if the producer:
- 2945 (A) does not receive and is not promised compensation for aiding in the claim
- 2946 adjustment before the claim occurs; and
- 2947 (B) is also licensed as a public adjuster in accordance with Section 31A-26-203;
- 2948 (iii) compensation a consultant receives as a consulting fee, if the consultant complies
- 2949 with the requirements under Section 31A-23a-401; and

2950 (iv) a compensation arrangement that the commissioner approves after finding that
 2951 the arrangement:

2952 (A) does not violate Section 31A-23a-401; and

2953 (B) is not harmful to the public.

2954 (d) All accounting records relating to noncommission compensation shall be maintained
 2955 in a manner that facilitates an audit.

2956 (3)(a) A surplus lines producer may receive noncommission compensation when acting
 2957 as a producer for the insured in a surplus lines transaction, if:

2958 (i) the producer and the insured have agreed on the producer's noncommission
 2959 compensation; and

2960 (ii) the producer has disclosed to the insured the existence and source of any other
 2961 compensation that accrues to the producer as a result of the transaction.

2962 (b) The disclosure required by this Subsection (3) shall:

2963 (i) include the signature of the insured or prospective insured acknowledging the
 2964 noncommission compensation;

2965 (ii) clearly specify:

2966 (A) the amount of any known noncommission compensation;

2967 (B) the type and amount, if known, of any potential and contingent
 2968 noncommission compensation; and

2969 (C) the existence and source of any other compensation; and

2970 (iii) be provided to the insured or prospective insured before the performance of the
 2971 service.

2972 [~~(4)(a) For purposes of this Subsection (4):~~]

2973 [(i) "Large customer" means an employer who, with respect to a calendar year and to
 2974 a plan year:]

2975 [(A) employed an average of at least 100 eligible employees on each business day
 2976 during the preceding calendar year; and]

2977 [(B) employs at least two employees on the first day of the plan year.]

2978 [(ii) "Producer" includes:]

2979 [(A) a producer;]

2980 [(B) an affiliate of a producer; or]

2981 [(C) a consultant.]

2982 [(b) A producer may not accept or receive any compensation from an insurer or third
 2983 party administrator for the initial placement of a health benefit plan, other than a

2984 hospital confinement indemnity policy, unless prior to a large customer's initial
2985 purchase of the health benefit plan the producer discloses in writing to the large
2986 customer that the producer will receive compensation from the insurer or third party
2987 administrator for the placement of insurance, including the amount or type of
2988 compensation known to the producer at the time of the disclosure.]

2989 [(e) A producer shall:]

2990 [(i) obtain the large customer's signed acknowledgment that the disclosure under
2991 Subsection (4)(b) was made to the large customer; or]

2992 [(ii)(A) sign a statement that the disclosure required by Subsection (4)(b) was
2993 made to the large customer; and]

2994 [(B) keep the signed statement on file in the producer's office while the health
2995 benefit plan placed with the large customer is in force.]

2996 [(d) A licensee who collects or receives any part of the compensation from an insurer or
2997 third party administrator in a manner that facilitates an audit shall, while the health
2998 benefit plan placed with the large customer is in force, maintain a copy of:]

2999 [(i) the signed acknowledgment described in Subsection (4)(c)(i); or]

3000 [(ii) the signed statement described in Subsection (4)(c)(ii).]

3001 [(e) Subsection (4)(c) does not apply to:]

3002 [(i) a person licensed as a producer who acts only as an intermediary between an
3003 insurer and the customer's producer, including a managing general agent; or]

3004 [(ii) the placement of insurance in a secondary or residual market.]

3005 [(f)(i) A producer shall provide to a large customer listed in this Subsection (4)(f) an
3006 annual accounting, as defined by rule made by the department in accordance with
3007 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the
3008 producer receives in commission compensation from an insurer or third party
3009 administrator as a result of the sale or placement of a health benefit plan to a large
3010 customer that is:]

3011 [(A) the state;]

3012 [(B) a political subdivision or instrumentality of the state or a combination thereof
3013 primarily engaged in educational activities or the administration or servicing of
3014 educational activities, including the State Board of Education and its
3015 instrumentalities, an institution of higher education and its branches, a school
3016 district and its instrumentalities, a vocational and technical school, and an
3017 entity arising out of a consolidation agreement between entities described

- 3018 under this Subsection (4)(f)(i)(B);]
- 3019 [~~(C)~~ a county, city, town, special district under Title 17B, Limited Purpose Local
- 3020 Government Entities – Special Districts, special service district under Title
- 3021 17D, Chapter 1, Special Service District Act, an entity created by an interlocal
- 3022 cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act,
- 3023 or any other governmental entity designated in statute as a political subdivision
- 3024 of the state; or]
- 3025 [~~(D)~~ a quasi-public corporation, that has the same meaning as defined in Section
- 3026 63E-1-102.;
- 3027 [(ii) The department shall pattern the annual accounting required by this Subsection
- 3028 (4)(f) on the insurance related information on Internal Revenue Service Form
- 3029 5500 and its relevant attachments.;
- 3030 [~~(g)~~ At the request of the department, a producer shall provide the department a copy of:]
- 3031 [(i) a disclosure required by this Subsection (4); or]
- 3032 [(ii) an Internal Revenue Service Form 5500 and its relevant attachments.;
- 3033 [~~(5)~~] (4) This section does not alter the right of any licensee to recover from an insured the
- 3034 amount of any premium due for insurance effected by or through that licensee or to
- 3035 charge a reasonable rate of interest upon past-due accounts.
- 3036 [~~(6)~~] (5) This section does not apply to bail bond producers or bail enforcement agents as
- 3037 defined in Section 31A-35-102.
- 3038 [~~(7)~~] (6) A licensee may not receive noncommission compensation from an insurer, insured,
- 3039 or enrollee for providing a service or engaging in an act that is required to be provided
- 3040 or performed in order to receive commission compensation, except for the surplus lines
- 3041 transactions that do not receive commissions.
- 3042 Section 52. Section **31A-26-301** is amended to read:
- 3043 **31A-26-301 . Timely payment of claims.**
- 3044 (1)(a) Unless otherwise provided by law, an insurer shall timely pay every valid
- 3045 insurance claim made by an insured.
- 3046 (b) By rule the commissioner may prescribe:
- 3047 (i) the kinds of notice and proof of loss that will establish validity;
- 3048 (ii) the manner in which an insurer may make a bona fide denial of a claim;
- 3049 (iii) the periods of time within which payment is required to be made to be timely; and
- 3050 (iv) the reasonable interest rates to be charged upon late claim payments.
- 3051 (2)(a) Notwithstanding Subsection (1) and subject to Subsection (2)(b), the payment of a

- 3052 claim is not overdue during any period in which:
- 3053 (i) the insurer is unable to pay the claim because there is no recipient legally able to
- 3054 give a valid release for the payment; or
- 3055 (ii) the insurer is unable to determine who is entitled to receive the payment.
- 3056 (b) Subsection (2)(a) applies only if the insurer:
- 3057 (i) promptly notifies the claimant of the inability to pay the claim; and
- 3058 (ii) offers in good faith to pay the claim promptly when the inability to pay the claim
- 3059 is removed.
- 3060 (3) This section applies only to a claim for first party benefits made by a person who is:
- 3061 (a) named or defined as an insured under the terms of an insurance policy;
- 3062 (b) described as a covered person under the terms of a policy of health care insurance as
- 3063 defined in Section 31A-1-301; or
- 3064 (c) named, defined, or described:
- 3065 (i) as:
- 3066 (A) an insured;
- 3067 (B) a beneficiary;
- 3068 (C) a policyholder; or
- 3069 (D) otherwise covered person; and
- 3070 (ii) under the terms of:
- 3071 (A) a life insurance policy; or
- 3072 (B) an annuity.
- 3073 (4)(a) A dental insurer that pays a claim with a tangible check shall send the tangible
- 3074 check to the address designated by the provider.
- 3075 (b) If a tangible check described in Subsection (4)(a) is returned to the dental insurer or
- 3076 has not been deposited or cashed after 180 days after the day on which the tangible
- 3077 check is issued, the dental insurer shall make a reasonable attempt to notify the
- 3078 provider by phone, mail, and email.
- 3079 (c) A dental insurer that complies with Subsection (4)(b) is not obligated to pay a claim
- 3080 if:
- 3081 (i) at least 365 days after the day on which the tangible check was issued have passed;
- 3082 (ii) the dental insurer has documented the dental insurer's attempts to notify the
- 3083 provider of the returned payment; and
- 3084 (iii) the provider has not:
- 3085 (A) attempted to collect the payment; or

3086 (B) contacted the dental insurer about the payment.

3087 (5) If a dental insurer does not pay a claim to a provider after the dental insurer complies
 3088 with Subsection (4), the provider may not seek payment from the insured.

3089 Section 53. Section **31A-26-301.6** is amended to read:

3090 **31A-26-301.6 . Health care claims practices.**

3091 (1) As used in this section:

3092 (a) "Health care provider" means a person licensed to provide health care under:

3093 (i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

3094 (ii) Title 58, Occupations and Professions.

3095 (b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301,
 3096 and includes:

3097 (i) a health maintenance organization; and

3098 (ii) a third party administrator that is subject to this title, provided that nothing in this
 3099 section may be construed as requiring a third party administrator to use [its] the
 3100 third party administrator's own funds to pay claims that have not been funded by
 3101 the entity for which the third party administrator is paying claims.

3102 (c) "Provider" means a health care provider to whom an insurer is obligated to pay
 3103 directly in connection with a claim by virtue of:

3104 (i) an agreement between the insurer and the provider;

3105 (ii) an accident and health insurance policy or contract of the insurer; or

3106 (iii) state or federal law.

3107 (2) An insurer shall timely pay every valid insurance claim [~~submitted by~~] that a provider or
 3108 insured submits in accordance with this section.

3109 (3)(a) Except as provided in Subsection (4), within 30 days of the day on which the
 3110 insurer receives a written claim, an insurer shall:

3111 (i) pay the claim; or

3112 (ii) deny the claim and provide a written explanation for the denial.

3113 (b)(i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)
 3114 may be extended by 15 days if the insurer:

3115 (A) determines that the extension is necessary due to matters beyond the control
 3116 of the insurer; and

3117 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the
 3118 provider and insured in writing of:

3119 (I) the circumstances requiring the extension of time; and

- 3120 (II) the date by which the insurer expects to pay the claim or deny the claim
3121 with a written explanation for the denial.
- 3122 (ii) If an extension is necessary due to a failure of the provider or insured to submit
3123 the information necessary to decide the claim:
- 3124 (A) the notice of extension required by this Subsection (3)(b) shall specifically
3125 describe the required information; and
- 3126 (B) the insurer shall give the provider or insured at least 45 days from the day on
3127 which the provider or insured receives the notice before the insurer denies the
3128 claim for failure to provide the information requested in Subsection
3129 (3)(b)(ii)(A).
- 3130 (4)(a) In the case of a claim for income replacement benefits, within 45 days of the day
3131 on which the insurer receives a written claim, an insurer shall:
- 3132 (i) pay the claim; or
- 3133 (ii) deny the claim and provide a written explanation of the denial.
- 3134 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)
3135 may be extended for 30 days if the insurer:
- 3136 (i) determines that the extension is necessary due to matters beyond the control of the
3137 insurer; and
- 3138 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies
3139 the insured of:
- 3140 (A) the circumstances requiring the extension of time; and
- 3141 (B) the date by which the insurer expects to pay the claim or deny the claim with a
3142 written explanation for the denial.
- 3143 (c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection
3144 (4)(a) may be extended for up to an additional 30 days from the day on which the
3145 30-day extension period provided in Subsection (4)(b) ends if before the day on
3146 which the 30-day extension period ends, the insurer:
- 3147 (i) determines that due to matters beyond the control of the insurer a decision cannot
3148 be rendered within the 30-day extension period; and
- 3149 (ii) notifies the insured of:
- 3150 (A) the circumstances requiring the extension; and
- 3151 (B) the date as of which the insurer expects to pay the claim or deny the claim
3152 with a written explanation for the denial.
- 3153 (d) A notice of extension under this Subsection (4) shall specifically explain:

- 3154 (i) the standards on which entitlement to a benefit is based; and
3155 (ii) the unresolved issues that prevent a decision on the claim.
- 3156 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the
3157 insured to submit the information necessary to decide the claim:
3158 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically
3159 describe the necessary information; and
3160 (ii) the insurer shall give the insured at least 45 days from the day on which the
3161 insured receives the notice before the insurer denies the claim for failure to
3162 provide the information requested in Subsection (4)(b) or (c).
- 3163 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c),
3164 due to an insured or provider failing to submit information necessary to decide a claim,
3165 the period for making the benefit determination shall be tolled from the date on which
3166 the notification of the extension is sent to the insured or provider until the date on which
3167 the insured or provider responds to the request for additional information.
- 3168 (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to
3169 pay on the claim, and provide a written explanation of the insurer's decision regarding
3170 any part of the claim that is denied within 20 days of receiving the information requested
3171 under Subsection (3)(b), (4)(b), or (4)(c).
- 3172 (7)(a) [~~Whenever~~] If an insurer makes a payment to a provider on any part of a claim
3173 under this section, the insurer shall also send to the insured an explanation of benefits
3174 paid.
- 3175 (b) [~~Whenever~~] If an insurer denies any part of a claim under this section, the insurer
3176 shall also send to the insured:
3177 (i) a written explanation of the part of the claim that was denied; and
3178 (ii) notice of the adverse benefit determination review process established under
3179 Section 31A-22-629.
- 3180 (c) This Subsection (7) does not apply to [~~a person~~] an individual receiving benefits
3181 under the state Medicaid program as defined in Section 26B-3-101, unless required
3182 by the Department of Health and Human Services or federal law.
- 3183 (8)(a) A late fee shall be imposed on:
3184 (i) an insurer that fails to timely pay a claim in accordance with this section; and
3185 (ii) a provider that fails to timely provide information on a claim in accordance with
3186 this section.
- 3187 (b) The late fee described in Subsection (8)(a) shall be determined by multiplying

- 3188 together:
- 3189 (i) the total amount of the claim the insurer is obliged to pay;
- 3190 (ii) the total number of days the response or the payment is late; and
- 3191 (iii) 0.033% daily interest rate.
- 3192 (c) Any late fee paid or collected under this Subsection (8) shall be separately identified
- 3193 on the documentation used by the insurer to pay the claim.
- 3194 (d) For purposes of this Subsection (8), "late fee" does not include an amount that is less
- 3195 than \$1.
- 3196 (9) Each insurer shall establish a review process to resolve claims-related disputes between
- 3197 the insurer and providers.
- 3198 (10) An insurer or person representing an insurer may not engage in any unfair claim
- 3199 settlement practice with respect to a provider. Unfair claim settlement practices include:
- 3200 (a) knowingly misrepresenting a material fact or the contents of an insurance policy in
- 3201 connection with a claim;
- 3202 (b) failing to acknowledge and substantively respond within 15 days to any written
- 3203 communication from a provider relating to a pending claim;
- 3204 (c) denying or threatening to deny the payment of a claim for any reason that is not
- 3205 clearly described in the insured's policy;
- 3206 (d) failing to maintain a payment process sufficient to comply with this section;
- 3207 (e) failing to maintain claims documentation sufficient to demonstrate compliance with
- 3208 this section;
- 3209 (f) failing, upon request, to give to the provider written information regarding the
- 3210 specific rate and terms under which the provider will be paid for health care services;
- 3211 (g) failing to timely pay a valid claim in accordance with this section as a means of
- 3212 influencing, intimidating, retaliating, or gaining an advantage over the provider with
- 3213 respect to an unrelated claim, an undisputed part of a pending claim, or some other
- 3214 aspect of the contractual relationship;
- 3215 (h) failing to pay the sum when required and as required under Subsection (8) when a
- 3216 violation has occurred;
- 3217 (i) threatening to retaliate or actual retaliation against a provider for the provider
- 3218 applying this section;
- 3219 (j) any material violation of this section; and
- 3220 (k) any other unfair claim settlement practice established in rule or law.
- 3221 (11)(a) The provisions of this section shall apply to each contract between an insurer and

- 3222 a provider for the duration of the contract.
- 3223 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith
3224 insurance claim.
- 3225 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer
3226 and a provider from including provisions in their contract that are more stringent than
3227 the provisions of this section.
- 3228 (12)(a) [~~Pursuant to~~] In accordance with Chapter 2, Part 2, Duties and Powers of
3229 Commissioner, the commissioner may conduct examinations to determine an
3230 insurer's level of compliance with this section and impose sanctions for each
3231 violation.
- 3232 (b) The commissioner may adopt rules only as necessary to implement this section.
- 3233 (c) The commissioner may establish rules to facilitate the exchange of electronic
3234 confirmations when claims-related information has been received.
- 3235 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules
3236 regarding the review process required by Subsection (9).
- 3237 (13) Nothing in this section may be construed as limiting the collection rights of a provider
3238 under Section 31A-26-301.5.
- 3239 (14) Nothing in this section may be construed as limiting the ability of an insurer to:
- 3240 (a) recover any amount improperly paid to a provider or an insured:
- 3241 (i) in accordance with Section 31A-31-103 or any other provision of state or federal
3242 law;
- 3243 (ii) within 24 months of the amount improperly paid for a coordination of benefits
3244 error;
- 3245 (iii) within 12 months of the amount improperly paid for any other reason not
3246 identified in Subsection (14)(a)(i) or (ii); or
- 3247 (iv) within 36 months of the amount improperly paid when the improper payment
3248 was due to a recovery by Medicaid, Medicare, the Children's Health Insurance
3249 Program, or any other state or federal health care program;
- 3250 (b) take any action against a provider that is permitted under the terms of the provider
3251 contract and not prohibited by this section;
- 3252 (c) report the provider to a state or federal agency with regulatory authority over the
3253 provider for unprofessional, unlawful, or fraudulent conduct; or
- 3254 (d) enter into a mutual agreement with a provider to resolve alleged violations of this
3255 section through mediation or binding arbitration.

- 3256 (15) A provider may only seek recovery from the insurer for an amount the insurer
3257 improperly [paid by the insurer] pays within the same time frames [as Subsections]
3258 described in Subsection (14)(a)[and (b)].
- 3259 (16)(a) An insurer may offer the remittance of payment through a credit card or other
3260 similar arrangement.
- 3261 (b)(i) A provider may elect not to receive remittance through a credit card or other
3262 similar arrangement.
- 3263 (ii) An insurer:
- 3264 (A) shall permit a provider's election described in Subsection (16)(b)(i) to apply to
3265 the provider's entire practice;
- 3266 (B) may not require a provider's election described in Subsection (16)(b)(i) to be
3267 made on a patient-by-patient basis; and
- 3268 (C) shall allow a provider to opt out of all credit card or other similar
3269 arrangements for every plan offered by the insurer through a single opt out
3270 process.
- 3271 (iii) If a provider elects not to receive remittance through a credit card or other
3272 similar arrangement, that decision remains in effect until:
- 3273 (A) the provider affirmatively elects to receive remittance through credit card or
3274 similar arrangement; or
- 3275 (B) a new contract is issued.
- 3276 (c) An insurer may not require a provider or insured to accept remittance through a
3277 credit card or other similar arrangement.
- 3278 (d) An insurer shall allow a tangible check as a form of acceptable payment.
- 3279 (e) Before July 1, 2028, a dental insurer may not impose a fee for paying with a tangible
3280 check.
- 3281 Section 54. Section **31A-26-301.7** is amended to read:
- 3282 **31A-26-301.7 . Dental claim transparency and practices.**
- 3283 (1) As used in this section:
- 3284 (a) "Bundling" means the practice of combining distinct dental procedures into one
3285 procedure for billing purposes.
- 3286 (b) "Dental plan" means the same as that term is defined in Section 31A-22-646.
- 3287 (c) "Downcoding" means the adjustment of a claim submitted to a dental plan to a less
3288 complex or lower cost procedure code.
- 3289 (d) "Covered services" means the same as that term is defined in Section 31A-22-646.

- 3290 (e) "Material change" means a change to:
- 3291 (i) a dental plan's rules, guidelines, policies, or procedures concerning payment for
- 3292 dental services;
- 3293 (ii) the general policies of the dental plan that affect a reimbursement paid to
- 3294 providers; or
- 3295 (iii) the manner by which a dental plan adjudicates and pays a claim for services.
- 3296 (f) "Procedure code" means the Current Dental Terminology code maintained by the
- 3297 American Dental Association.
- 3298 (g) "Professionally accepted treatment" means a dental service, medication, material,
- 3299 technology, or procedure that meets generally accepted practice standards to
- 3300 complete a procedure code.
- 3301 (h) "Unbundling" means the systematic separate billing of distinct dental procedures by
- 3302 a dental provider that results in transparent documentation of actual services rendered.
- 3303 (2) An insurer that contracts or renews a contract with a dental provider shall:
- 3304 (a) make a copy of the insurer's current dental plan policies available online; and
- 3305 (b) if requested by a provider, send a copy of the policies to the provider through mail or
- 3306 electronic mail.
- 3307 (3) Dental policies described in Subsection (2) shall include:
- 3308 (a) a summary of all material changes made to a dental plan since the policies were last
- 3309 updated;
- 3310 (b) the downcoding and bundling policies that the insurer reasonably expects to be
- 3311 applied to the dental provider or provider's services as a matter of policy; and
- 3312 (c) a description of the dental plan's utilization review procedures, including:
- 3313 (i) a procedure for an enrollee of the dental plan to obtain review of an adverse
- 3314 determination in accordance with Section 31A-22-629; and
- 3315 (ii) a statement of a provider's rights and responsibilities regarding the procedures
- 3316 described in Subsection (3)(c)(i).
- 3317 (4) An insurer may not maintain a dental plan that:
- 3318 (a) based on the provider's contracted fee for covered services, uses downcoding in a
- 3319 manner that prevents a dental provider from collecting the contracted fee for the
- 3320 actual service performed from either the plan or the patient;
- 3321 (b) uses bundling in a manner where a procedure code is labeled as nonbillable to the
- 3322 patient unless, under generally accepted practice standards, the procedure code is for
- 3323 a procedure that may be provided in conjunction with another procedure;

- 3324 (c) does not allow a dental provider to seek payment of the contracted fee for a covered
 3325 service from the patient when the insurer denies payment for the service, unless
 3326 under generally accepted practice standards, the service performed should not be
 3327 billed; or
- 3328 (d) beginning January 1, 2026, automatically recoups an overpayment unless:
- 3329 (i) the recoupment occurs more than 60 days from the day the insurer sends a notice
 3330 of the overpayment; or
- 3331 (ii) the dental provider affirmatively elects to have recoupment occur earlier than 60
 3332 days from the day the insurer sends a notice of the overpayment.
- 3333 ~~[(5)(a) An insurer shall ensure that an explanation of benefits for a dental plan includes~~
 3334 ~~the reason for any downcoding or bundling result.]~~
- 3335 ~~[(b) A dental provider who receives an overpayment from a dental plan shall return the~~
 3336 ~~amount of the overpayment through check or other means to the dental plan within~~
 3337 ~~60 days from the day the insurer sends a notice of the overpayment.]~~
- 3338 ~~[(c) A dental provider shall make reasonable efforts to inform patients of services that~~
 3339 ~~may not be covered by the patient's dental plan if the dental provider will perform a~~
 3340 ~~service that may not be covered.]~~
- 3341 Section 55. Section **31A-26-301.8** is enacted to read:
- 3342 **31A-26-301.8 . Non-covered dental services and claims documentation.**
- 3343 (1) Terms defined in Section 31A-26-301.7 apply to this section.
- 3344 (2) An insurer may not require a dental provider to submit the dental provider's full
 3345 fee-for-service charges on a claim form as a condition of payment or processing if:
- 3346 (a) the dental provider disclosed the dental provider's full fee schedule during
 3347 credentialing, contract negotiation, or renewal; and
- 3348 (b) the contract includes a contracted fee schedule for covered services.
- 3349 (3)(a) If an insurer requires submission of a claim form, a dental provider may report:
- 3350 (i) the contracted fee; or
- 3351 (ii) the dental provider's fee for service.
- 3352 (b) An insurer may not penalize a dental provider because of the dental provider's choice
 3353 under Subsection (3)(a).
- 3354 (4) If an insurer determines that a provided dental service is not a covered service, the
 3355 insurer shall issue an explanation of benefits to the dental provider and patient that:
- 3356 (a) clearly states that the procedure code is not covered under the dental plan; and
- 3357 (b) does not describe the unreimbursed amount as a required contractual adjustment or

- 3358 mandatory write-off.
- 3359 (5)(a) An insurer shall ensure that an explanation of benefits for a dental plan includes
 3360 the reason for any downcoding or bundling result.
- 3361 (b) A dental provider who receives an overpayment from a dental plan shall return the
 3362 amount of the overpayment through check or other means to the dental plan within
 3363 60 days from the day the insurer sends a notice of the overpayment.
- 3364 (6) An insurer's failure to comply with Subsection (4) does not prevent a dental provider
 3365 from billing and collecting payment from a patient for a non-covered service.

3366 Section 56. Section **31A-26-401** is amended to read:

3367 **31A-26-401 . Required contracts.**

- 3368 (1)(a) A public adjuster may not, directly or indirectly, act within this state as a public
 3369 adjuster without having first entered into a contract, in writing, on a form [filed] a
 3370 public adjuster files with the department in accordance with Section 31A-21-201, [
 3371 executed in duplicate by] that the public adjuster and the insured or the insured's duly
 3372 authorized representative executes in duplicate. [A public adjuster may not use a
 3373 form of contract that is not filed with the department.]
- 3374 (b) A public adjuster shall provide a signed copy of the contract to the insured at the
 3375 time of signing.
- 3376 (c) A public adjuster may not use a form of contract that the public adjuster has not filed
 3377 with the department.
- 3378 (d) A public adjuster may not redact a compensation provision from a contract form the
 3379 public adjuster files with the department.
- 3380 (2)(a) ~~[A]~~ An insured may rescind a contract described in Subsection (1) [is subject to
 3381 rescission] in accordance with Section 31A-26-311.
- 3382 (b) If an insured rescinds a contract, the public adjuster shall return to the insured
 3383 anything of value the insured gives to the public adjuster under the terms of the
 3384 contract within 15 business days after the day on which the public adjuster receives
 3385 the notice of rescission.
- 3386 ~~[(3)(a) A contract described in Subsection (1) shall include a prominently displayed~~
 3387 ~~notice in 12-point boldface type that states "WE REPRESENT THE INSURED~~
 3388 ~~ONLY."]~~
- 3389 ~~[(b) The commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah~~
 3390 ~~Administrative Rulemaking Act, may require additional prominently displayed notice~~
 3391 ~~requirements in the contract as the commissioner considers necessary.]~~

- 3392 (3) A contract described in Subsection (1):
- 3393 (a) shall include each notice and statement that the commissioner:
- 3394 (i) deems necessary; and
- 3395 (ii) requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative
- 3396 Rulemaking Act; and
- 3397 (b) may not include a term that:
- 3398 (i) allows a public adjuster to collect the public adjuster's percentage fee when money
- 3399 is due from an insurance company but the insurance company has not paid;
- 3400 (ii) allows a public adjuster to collect the entire fee from the first check an insurance
- 3401 company issues instead of a percentage of each check the insurance company
- 3402 issues;
- 3403 (iii) requires an insured to authorize an insurance company to issue a check only in
- 3404 the name of the public adjuster;
- 3405 (iv) imposes a collection cost or a late fee; or
- 3406 (v) prevents an insured from pursuing a civil remedy.
- 3407 (4)(a) A public adjuster shall provide to the insurer a notification letter, that the insured
- 3408 signs, authorizing the public adjuster to represent the insured's interest.
- 3409 (b) After receiving the letter described in Subsection (4)(a), an insurer shall verify with
- 3410 the department that the public adjuster holds a valid license.
- 3411 [~~4) A public adjuster shall keep at the public adjuster's principal place of business a copy~~
- 3412 ~~of each contract entered into in this state for the current year plus three years, and each~~
- 3413 ~~contract shall be available at all times for inspection, without notice, by the~~
- 3414 ~~commissioner or the commissioner's authorized representative.]~~
- 3415 (5) A public adjuster may not enter into a contract with an insured and collect compensation
- 3416 as provided in the contract without actually performing the services a licensed public
- 3417 adjuster customarily [provided by a licensed public adjuster for] provides the insured.
- 3418 Section 57. Section **31A-26-402** is amended to read:
- 3419 **31A-26-402 . Compensation.**
- 3420 (1) Except as provided by [~~Subsection (2)] Subsection (4), a public adjuster may receive~~
- 3421 ~~compensation for service [provided] a public adjuster provides~~ under this chapter
- 3422 consisting of[-] :
- 3423 (a) an hourly fee[-] ;
- 3424 (b) [-]a flat rate[-] ;
- 3425 (c) [-]a percentage of the total amount [~~paid by~~]an insurer pays to resolve a claim[-] ; or

- 3426 (d) ~~[-]~~another method of compensation.
- 3427 (2)(a) If a person compensates a public adjuster at an hourly rate, the contract between
- 3428 the person and public adjuster shall state:
- 3429 (i) the hourly rate; and
- 3430 (ii) how the hourly rate applies to the hours of service the public adjuster provides to
- 3431 calculate the amount payable to the public adjuster.
- 3432 (b) If a person compensates a public adjuster on a flat fee basis, the contract between the
- 3433 person and public adjuster shall state the amount payable to the public adjuster.
- 3434 (c) If a person compensates a public adjuster on a percentage basis, the contract between
- 3435 the person and the public adjuster shall state the exact percentage that applies to the
- 3436 settlement of a claim to calculate the amount payable to the public adjuster.
- 3437 (d) If a person uses a method of calculation not described in Subsections (2)(a) through
- 3438 (c) to determine a public adjuster's compensation, the contract between the person
- 3439 and the public adjuster shall include a detailed explanation of how the person
- 3440 determines the amount payable to the public adjuster based on the service the public
- 3441 adjuster provides.
- 3442 (3)(a) A contract between an insured and a public adjuster for compensation under this
- 3443 section shall state the type of initial expenses, with dollar estimates, that the insured
- 3444 approves to reimburse the public adjuster from the proceeds of the claim payment.
- 3445 (b) A public adjuster shall provide an itemized invoice of each expense the public
- 3446 adjuster incurs during the process of resolving a claim to the insured at the
- 3447 conclusion of a claim.
- 3448 ~~[(2)]~~ (4)(a) A public adjuster may not receive a compensation consisting of a percentage
- 3449 of the total amount ~~[paid by]~~an insurer ~~pays~~ to resolve a claim on a claim on which
- 3450 the insurer, not later than 72 hours after the ~~[date]~~ day on which the loss is reported to
- 3451 the insurer, either pays or commits in writing to pay to the insured the policy limit of
- 3452 the insurance policy.
- 3453 (b) ~~[A]~~ Subject to Subsection (6), a public adjuster is entitled to reasonable compensation
- 3454 from the insured for services ~~[provided by]~~the public adjuster provides on behalf of
- 3455 the insured, based on the time spent on a claim that is subject to this ~~[Subsection (2)]~~
- 3456 Subsection (4) and expenses ~~[incurred by]~~the public adjuster incurs, until the claim
- 3457 is paid or the insured receives a written commitment to pay from the insurer.
- 3458 ~~[(3)]~~ (5) Except for the payment of compensation by the insured, a person paying proceeds
- 3459 of a policy of insurance or making a payment affecting an insured's rights under a policy

- 3460 of insurance shall:
- 3461 (a) include the insured as a payee on the payment draft or check; and
- 3462 (b) require the written signature and endorsement of the insured on the payment draft or
- 3463 check.
- 3464 ~~[(4)]~~ (6) A public adjuster may not:
- 3465 (a) ~~[-]~~accept ~~[any]~~ a payment that violates this section notwithstanding ~~[whether]~~ a written
- 3466 authorization that the insured gives [authorization-]to the public adjuster~~[-]~~ ;
- 3467 (b) ~~[-A public adjuster may not -]~~sign and endorse ~~[any]~~ a payment draft or check on
- 3468 behalf of an insured~~[-]~~ ;
- 3469 (c) charge, agree to, or accept as compensation or reimbursement, a payment,
- 3470 commission, fee, or another thing of value equal to more than:
- 3471 (i) 10% for a catastrophic insurance claim settlement; or
- 3472 (ii) 20% for a non-catastrophic insurance claim settlement; or
- 3473 (d) require, demand, or accept a fee, retainer, compensation, deposit, or other thing of
- 3474 value before the settlement of a claim.

3475 Section 58. Section **31A-26-403.1** is enacted to read:

3476 **31A-26-403.1 . Assignment of property insurance policy rights and benefits.**

- 3477 (1) A property insurance policy may prohibit the assignment of a right or benefit under the
- 3478 property insurance policy to a property repair contractor, roofing company, disaster
- 3479 clean up company, appraiser, inspector, or other person hired to remedy the damage that
- 3480 is the subject of an insured's claim.
- 3481 (2) A person may not circumvent the prohibition described in Subsection (1) by obtaining a
- 3482 power of attorney from an insured.
- 3483 (3) A property insurance policy may not prohibit the assignment of a right or benefit under
- 3484 the policy to a policy adjuster.

3485 Section 59. Section **31A-26-404** is enacted to read:

3486 **31A-26-404 . Funds that a public adjuster holds.**

- 3487 A public adjuster that receives, accepts, or holds funds on behalf of an insured shall
- 3488 deposit the funds into a trust account within a federally insured depository institution that:
- 3489 (1)(a) has a branch in this state, if the public adjuster depositing the money is a resident
- 3490 licensee;
- 3491 (b) has a branch in the public adjuster's home state, if the public adjuster is a nonresident
- 3492 licensee; or
- 3493 (c) has a branch where the loss occurred; and

3494 (2) the depository institution's primary regulator authorizes to engage in trust business.

3495 Section 60. Section **31A-26-405** is enacted to read:

3496 **31A-26-405 . Public adjuster standards of conduct.**

3497 A public adjuster may not:

- 3498 (1) solicit or attempt to solicit an insured during the progress of a loss-producing
 3499 occurrence;
- 3500 (2) advertise or infer damage unless an inspection of the property has been completed;
- 3501 (3) offer to pay an insured's deductible, or claim that the public adjuster will waive the
 3502 insured's deductible, as an inducement for the insured to use the public adjuster's
 3503 services;
- 3504 (4) offer to conduct a free inspection of property other than property that is the subject of an
 3505 insured's claim;
- 3506 (5) participate directly, indirectly, or through an affiliate, in the reconstruction, repair, or
 3507 restoration of property that is the subject of the public adjuster's contract with an insured;
- 3508 (6) solicit, accept compensation from, or have an interest in a business that provides a
 3509 product or service in connection with a claim that the public adjuster has a contract to
 3510 adjust;
- 3511 (7) have a financial interest in, directly, indirectly, or through an affiliate, an aspect of an
 3512 insured's claim except for:
- 3513 (a) a salary;
- 3514 (b) a fee;
- 3515 (c) a commission; or
- 3516 (d) other compensation established in the written contract with the insured;
- 3517 (8) collect compensation as provided in a contract without actually performing the service a
 3518 licensed public adjuster customarily provides for the insured;
- 3519 (9) acquire an interest in a salvage of property except as authorized in a contract with the
 3520 insured;
- 3521 (10) recommend or direct that the insured obtain a repair or service in connection with a
 3522 loss from a person:
- 3523 (a) in whom the public adjuster has a financial interest; or
- 3524 (b) from whom the public adjuster may receive direct or indirect compensation for the
 3525 referral;
- 3526 (11) accept, sign, or endorse a check or payment draft:
- 3527 (a) that does not name the insured as a payee; or

- 3528 (b) on behalf of the insured;
3529 (12) adjust a claim if the terms and conditions of the insurance coverage exceed the public
3530 adjuster's competence, knowledge, or expertise;
3531 (13) represent or act as a company adjuster or independent adjuster on the same claim;
3532 (14) enter into a contract or accept a power of attorney that vests in the public adjuster the
3533 authority to choose the persons that will perform repair work;
3534 (15) agree to a loss settlement without the insured's knowledge or consent; or
3535 (16) allow the following to obtain an insured's signature on the public adjuster's contract:
3536 (a) a home repair contractor;
3537 (b) a roofing company;
3538 (c) a disaster clean up company;
3539 (d) an appraiser;
3540 (e) an inspector; or
3541 (f) any other person hired to remedy the damage that is the subject of the insured's claim.

3542 Section 61. Section **31A-26-406** is enacted to read:

3543 **31A-26-406 . Record retention requirements.**

- 3544 (1) A public adjuster shall keep at the public adjuster's address that the public adjuster
3545 registers with the commissioner a record of each investigation, adjustment, or
3546 transaction the public adjuster undertakes or completes under the public adjuster's
3547 license.
3548 (2) For each investigation, adjustment, or transaction, a record described in Subsection (1)
3549 shall include:
3550 (a) the name of the insured;
3551 (b) the date, location, and amount of the loss the insured incurs;
3552 (c) a copy of the contract between the public adjuster and the insured;
3553 (d) for each policy an insured carries that relates to the loss the insured incurs:
3554 (i) the name of the insurer;
3555 (ii) the amount of the policy;
3556 (iii) the expiration date of the policy; and
3557 (iv) the number of the policy;
3558 (e) an itemized statement of each of the insured's recoveries;
3559 (f) an itemized statement of all compensation the public adjuster receives in connection
3560 with the investigation, adjustment, or transaction;
3561 (g) a register of all money the public adjuster receives, deposits, disburses, or withdraws

3562 in connection with a transaction with an insured, including:

3563 (i) a fee transfer;

3564 (ii) a disbursement from a trust account; or

3565 (iii) a transaction that involves an interest-bearing account;

3566 (h) the name of the public adjuster that executed the contract;

3567 (i) the name of the attorney that represents the insured, if applicable;

3568 (j) the name of the insurance company's claims representative; and

3569 (k) documentation that the public adjuster meets all applicable statutory financial
 3570 responsibility requirements.

3571 Section 62. Section **31A-26-407**, which is renumbered from Section 31A-26-403 is renumbered
 3572 and amended to read:

3573 **[31A-26-403] 31A-26-407 . Rulemaking.**

3574 The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah
 3575 Administrative Rulemaking Act:

3576 (1) addressing the forms required by this part;

3577 (2) providing for notice requirements in contracts; and

3578 (3) establishing the scope of a contract a public adjuster enters into with an insured that the
 3579 public adjuster represents.

3580 Section 63. Section **31A-28-203** is amended to read:

3581 **Part 2. Utah Property and Casualty Insurance Guaranty Association Act**

3582 **31A-28-203 . Definitions.**

3583 As used in this part:

3584 (1) "Affiliate" [~~is as defined~~] means the same as that term is defined in Section 31A-1-301.

3585 (2) "Association account" means the Utah Property and Casualty Insurance Guaranty
 3586 Association Account created by Section 31A-28-205.

3587 (3)(a) "Claimant" means:

3588 (i) an insured making a first-party claim; or

3589 (ii) a person instituting a liability claim.

3590 (b) A person who is an affiliate of the insolvent insurer may not be a claimant.

3591 (4)(a) "Covered claim" means an unpaid claim, including an unpaid claim under a
 3592 personal lines policy for unearned premiums [~~submitted by~~] a claimant submits, if:

3593 (i) the claim arises out of the coverage;

3594 (ii) the claim is within the coverage;

3595 (iii) the claim is not in excess of the applicable limits of an insurance policy to which

- 3596 this part applies;
- 3597 (iv) the insurer who issued the policy becomes an insolvent insurer; and
- 3598 (v)(A) the claimant or insured is a resident of this state at the time of the insured
- 3599 event; or
- 3600 (B) the claim is a first-party claim for damage to property that is permanently
- 3601 located in this state.
- 3602 (b) "Covered claim" does not include:
- 3603 (i) ~~[any]~~ an amount awarded as punitive or exemplary damages or ~~[any]~~ an amount
- 3604 due any reinsurer, insurer, insurance pool, or underwriting association, as
- 3605 subrogation recoveries or otherwise~~[-]~~ ;
- 3606 ~~(ii) [nor does it include any]~~ a supplementary payment obligation, including
- 3607 adjustment fees and expenses, attorneys' fees and expenses, court costs, interest,
- 3608 and bond premiums, ~~[prior to]~~ before the appointment of a liquidator;
- 3609 ~~[(ii)]~~ (iii) ~~[any]~~ an amount sought as a return of premium under a retrospective rating
- 3610 plan;
- 3611 ~~[(iii)]~~ (iv) ~~[any]~~ a first-party claim by an insured if:
- 3612 (A) the insured's net worth exceeds \$25,000,000 on December 31 of the year [
- 3613 ~~preceding the date]~~ before the day on which the insurer becomes an insolvent
- 3614 insurer; and
- 3615 (B) the insured's net worth includes the aggregate net worth of the insured and all
- 3616 of ~~[its]~~ the insured's subsidiaries as calculated on a consolidated basis;~~[-or]~~
- 3617 ~~[(iv)]~~ (v) any first-party claims by an insured that is an affiliate of the insolvent insurer~~[-]~~ ;
- 3618 or
- 3619 (vi) a claim by or against an insured of an insolvent insurer, if the insured has a net
- 3620 worth of more than \$25,000,000 on the day on which the insurer becomes:
- 3621 (A) insolvent; or
- 3622 (B) subject to an order of liquidation.
- 3623 (5) "Insolvent insurer" means a member insurer that is placed under an order of liquidation
- 3624 by a court ~~[of competent]~~ with jurisdiction ~~[with]~~ that makes a finding of insolvency.
- 3625 (6) "Member insurer" means ~~[any]~~ a person ~~[who]~~ that:
- 3626 (a) writes any kind of insurance to which this part applies under Section 31A-28-202,
- 3627 including the exchange of reciprocal or inter-insurance contracts; and
- 3628 (b) is licensed to transact insurance in this state.
- 3629 (7)(a) "Net direct written premiums" means direct gross premiums written in this state

- 3630 on insurance policies that this part applies to, less return premiums and dividends
 3631 paid or credited to policyholders on the direct business.
- 3632 (b) "Net direct written premiums" does not include premiums on contracts between
 3633 insurers or reinsurers.
- 3634 (8) "Personal lines policy" means an insurance policy issued to an individual that:
 3635 (a) insures a motor vehicle used for personal purposes and not used in trade or business;
 3636 or
 3637 (b) insures a residential dwelling.
- 3638 (9) "Residence" means, for [entities] an entity other than a natural person, the state where
 3639 the principal place of business of a claimant, insured, or policyholder is located at the
 3640 time of the insured event.

3641 Section 64. Section **31A-35-103** is amended to read:

3642 **31A-35-103 . Exemption from other provisions of this title.**

3643 Bail bond agencies are exempted from:

- 3644 (1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;
 3645 (2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and
 3646 31A-4-107;
 3647 (3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section
 3648 31A-5-103;
 3649 (4) Chapter 6a, Service Contracts;
 3650 (5) Chapter 6b, Guaranteed Asset Protection Waiver Act;
 3651 (6) Chapter 7, Nonprofit Health Service Insurance Corporations;
 3652 (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 3653 (8) Chapter 8a, Health Discount Program Consumer Protection Act;
 3654 (9) Chapter 9, Insurance Fraternal;
 3655 (10) Chapter 10, Annuities;
 3656 (11) Chapter 11, Motor Clubs;
 3657 (12) Chapter 12, State Risk Management Fund;
 3658 (13) Chapter 14, Foreign Insurers;
 3659 (14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;
 3660 (15) Chapter 16, Insurance Holding Companies;
 3661 (16) Chapter 17, Determination of Financial Condition;
 3662 (17) Chapter 18, Investments;
 3663 (18) Chapter 19a, Utah Rate Regulation Act;

- 3664 (19) Chapter 20, Underwriting Restrictions;
- 3665 (20) Chapter 23b, Navigator License Act;
- 3666 (21) Chapter 25, Third Party Administrators;
- 3667 (22) Chapter 26, Insurance Adjusters;
- 3668 (23) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 3669 Administrative Supervision of Insurers;
- 3670 (24) Chapter 27a, Insurer Receivership Act;
- 3671 (25) Chapter 28, Guaranty Associations;
- 3672 (26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
- 3673 (27) Chapter 31, Insurance Fraud Act;
- 3674 (28) Chapter 32a, Medical Care Savings Account Act;
- 3675 (29) Chapter 36, Life Settlements Act;
- 3676 (30) Chapter 37, Captive Insurance Companies Act;
- 3677 (31) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;
- 3678 (32) Chapter 38, Federal Health Care Tax Credit Program Act;
- 3679 (33) Chapter 39, Interstate Insurance Product Regulation Compact;
- 3680 (34) Chapter 40, Professional Employer Organization Licensing Act;
- 3681 (35) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act; and
- 3682 (36) Chapter 43, Small Employer Stop-Loss Insurance Act.

3683 Section 65. Section **31A-37-102** is amended to read:

3684 **31A-37-102 . Definitions.**

3685 As used in this chapter:

- 3686 (1)(a) "Affiliated company" means a business entity that because of common ownership,
- 3687 control, operation, or management is in the same corporate or limited liability
- 3688 company system as:
- 3689 (i) a parent;
- 3690 (ii) an industrial insured; or
- 3691 (iii) a member organization.
- 3692 (b) "Affiliated company" does not include a business entity for which the commissioner
- 3693 issues an order finding that the business entity is not an affiliated company.
- 3694 (2) "Agency captive" means a captive insurer that:
- 3695 (a) is owned by one or more business entities that are licensed in any state as insurance
- 3696 producers or managing general agents; and
- 3697 (b) only insures risks on policies placed through the captive insurer's owners.

- 3698 (3) "Alien captive insurance company" means an insurer:
3699 (a) formed to write insurance business for a parent or affiliate of the insurer; and
3700 (b) licensed [~~pursuant to~~] in accordance with the laws of an alien or foreign jurisdiction
3701 that imposes statutory or regulatory standards:
3702 (i) on a business entity transacting the business of insurance in the alien or foreign
3703 jurisdiction; and
3704 (ii) in a form acceptable to the commissioner.
- 3705 (4) "Applicant captive insurance company" means an entity that has submitted an
3706 application for a certificate of authority for a captive insurance company, unless the
3707 application has been denied or withdrawn.
- 3708 (5) "Association" means a legal association of two or more persons that meets the following
3709 requirements:
3710 (a) the persons are exposed to similar or related liability because of related, similar, or
3711 common business trade, products, services, premises, or operations; and
3712 (b)(i) the association or the association's member organizations:
3713 (A) own, control, or hold power to vote all of the outstanding voting securities of
3714 an association captive insurance company incorporated as a stock insurer;
3715 (B) have complete voting control over an association captive insurance company
3716 incorporated as a mutual insurer; or
3717 (C) have complete voting control over an association captive insurance company
3718 formed as a limited liability company; or
3719 (ii) the association's member organizations collectively constitute all of the
3720 subscribers of an association captive insurance company formed as a reciprocal
3721 insurer.
- 3722 (6) "Association captive insurance company" means a business entity that insures risks of:
3723 (a) a member organization of the association;
3724 (b) an affiliate of a member organization of the association; and
3725 (c) the association.
- 3726 (7) "Branch business" means an insurance business transacted by a branch captive
3727 insurance company in this state.
- 3728 (8) "Branch captive insurance company" means an alien captive insurance company that
3729 has a certificate of authority from the commissioner to transact the business of insurance
3730 in this state through a captive insurance company that is domiciled outside of this state.
- 3731 (9) "Branch operation" means a business operation of a branch captive insurance company

- 3732 in this state.
- 3733 (10)(a) "Captive insurance company" means the same as that term is defined in Section
3734 31A-1-301.
- 3735 (b) "Captive insurance company" includes any of the following formed or holding a
3736 certificate of authority under this chapter:
- 3737 (i) an agency captive insurance company;
- 3738 (ii) ~~[a branch]~~ an association captive insurance company;
- 3739 (iii) a ~~[pooling]~~ branch captive insurance company;
- 3740 (iv) ~~[a pure]~~ an industrial insured captive insurance company;
- 3741 (v) ~~[an association]~~ a pooling captive insurance company;
- 3742 (vi) a ~~[sponsored]~~ pure captive insurance company;
- 3743 (vii) ~~[an industrial insured captive insurance company, including an industrial insured~~
3744 ~~captive insurance company formed as]~~ a risk retention group [captive in this
3745 state pursuant to the provisions of the Federal Liability Risk Retention Act of
3746 1986;] formed in this state as a corporation or other limited liability entity under
3747 the Liability Risk Retention Act of 1986, 15 U.S.C. Sec. 3901 et seq.;
- 3748 (viii) a ~~[special purpose]~~ sponsored captive insurance company;~~[-or]~~
- 3749 (ix) a special purpose ~~[financial]~~ captive insurance company~~[-];~~ or
- 3750 (x) a special purpose financial captive insurance company.
- 3751 (11)(a) "Cell" means a separate account for one or more participants formed and
3752 operating under the authority of a sponsored captive insurance company to write
3753 insurance coverage as described in this title.
- 3754 (b) "Cell" includes an account formed as either:
- 3755 (i) an incorporated cell; or
- 3756 (ii) a protected cell.
- 3757 (12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's
3758 designee.
- 3759 (13) "Common ownership and control" means that two or more captive insurance
3760 companies are owned or controlled by the same person or group of persons as follows:
- 3761 (a) in the case of a captive insurance company that is a stock corporation, the direct or
3762 indirect ownership of 80% or more of the outstanding voting stock of the stock
3763 corporation;
- 3764 (b) in the case of a captive insurance company that is a mutual corporation, the direct or
3765 indirect ownership of 80% or more of the surplus and the voting power of the mutual

- 3766 corporation;
- 3767 (c) in the case of a captive insurance company that is a limited liability company, the
- 3768 direct or indirect ownership by the same member or members of 80% or more of the
- 3769 membership interests in the limited liability company; or
- 3770 (d) in the case of a sponsored captive insurance company, a cell is a separate captive
- 3771 insurance company owned and controlled by the cell's participant, only if:
- 3772 (i) the participant is the only participant with respect to the cell; and
- 3773 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored
- 3774 captive insurance company through common ownership and control.
- 3775 (14) "Consolidated debt to total capital ratio" means the ratio of Subsection (14)(a) to (b).
- 3776 (a) This Subsection (14)(a) is an amount equal to the sum of all debts and hybrid capital
- 3777 instruments including:
- 3778 (i) all borrowings from depository institutions;
- 3779 (ii) all senior debt;
- 3780 (iii) all subordinated debts;
- 3781 (iv) all trust preferred shares; and
- 3782 (v) all other hybrid capital instruments that are not included in the determination of
- 3783 consolidated GAAP net worth issued and outstanding.
- 3784 (b) This Subsection (14)(b) is an amount equal to the sum of:
- 3785 (i) total capital consisting of all debts and hybrid capital instruments as described in
- 3786 Subsection (14)(a); and
- 3787 (ii) shareholders' equity determined in accordance with generally accepted accounting
- 3788 principles for reporting to the United States Securities and Exchange Commission.
- 3789 (15) "Consolidated GAAP net worth" means the consolidated shareholders' or members'
- 3790 equity determined in accordance with generally accepted accounting principles for
- 3791 reporting to the United States Securities and Exchange Commission.
- 3792 (16) "Controlled unaffiliated business" means a business entity:
- 3793 (a)(i) in the case of a [~~pure~~]captive insurance company, other than a risk retention
- 3794 group, that is not in the corporate or limited liability company system of a parent
- 3795 or the parent's affiliate; or
- 3796 (ii) in the case of an industrial insured captive insurance company, that is not in the
- 3797 corporate or limited liability company system of an industrial insured or an
- 3798 affiliated company of the industrial insured;
- 3799 (b)(i) in the case of a [~~pure~~]captive insurance company, other than a risk retention

- 3800 group, that has a contractual relationship with a parent or affiliate; or
- 3801 (ii) in the case of an industrial insured captive insurance company, that has a
- 3802 contractual relationship with an industrial insured or an affiliated company of the
- 3803 industrial insured; and
- 3804 (c) whose risks that are or will be insured by a [~~pure~~]captive insurance company, [~~an~~
- 3805 ~~industrial insured captive insurance company, or both~~] other than a risk retention
- 3806 group, are managed in accordance with Subsection 31A-37-106(1)(j) by:
- 3807 (i)(A) a [~~pure~~]captive insurance company; or
- 3808 (B) an industrial insured captive insurance company; or
- 3809 (ii) a parent or affiliate of:
- 3810 (A) a [~~pure~~]captive insurance company; or
- 3811 (B) an industrial insured captive insurance company.
- 3812 (17) "Criminal act" means an act for which a person receives a verdict or finding of guilt
- 3813 after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 3814 (18) "Establisher" means a person who establishes a business entity or a trust.
- 3815 (19) "Governing body" means the persons who hold the ultimate authority to direct and
- 3816 manage the affairs of an entity.
- 3817 (20) "Incorporated cell" means a separate account:
- 3818 (a) established and maintained by a sponsored captive insurance company for a
- 3819 participant; and
- 3820 (b) that has been organized as a corporation, a limited liability company, or a
- 3821 not-for-profit organization.
- 3822 (21) "Industrial insured" means an insured:
- 3823 (a) that produces insurance:
- 3824 (i) by the services of a full-time employee acting as a risk manager or insurance
- 3825 manager; or
- 3826 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 3827 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000;
- 3828 and
- 3829 (c) that has at least 25 full-time employees.
- 3830 (22) "Industrial insured captive insurance company" means a business entity that:
- 3831 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
- 3832 (b) may insure the risks of:
- 3833 (i) an affiliated company of an industrial insured; or

- 3834 (ii) a controlled unaffiliated business of:
- 3835 (A) an industrial insured; or
- 3836 (B) an affiliated company of an industrial insured.
- 3837 (23) "Industrial insured group" means:
- 3838 (a) a group of industrial insureds that collectively:
- 3839 (i) own, control, or hold with power to vote all of the outstanding voting securities of
- 3840 an industrial insured captive insurance company incorporated or organized as a
- 3841 limited liability company as a stock insurer; or
- 3842 (ii) have complete voting control over an industrial insured captive insurance
- 3843 company incorporated or organized as a limited liability company as a mutual
- 3844 insurer; or
- 3845 [~~(b) a group that is:~~
- 3846 [~~(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec.~~
- 3847 ~~3901 et seq., as amended, as a corporation or other limited liability association;~~
- 3848 ~~and]~~
- 3849 [~~(ii) taxable under this title as a:~~
- 3850 [~~(A) stock corporation; or]~~
- 3851 [~~(B) mutual insurer; or]~~
- 3852 [~~(e)~~] (b) a group that has complete voting control over an industrial captive insurance
- 3853 company formed as a limited liability company.
- 3854 (24) "Member organization" means a person that belongs to an association.
- 3855 (25) "Parent" means a person that directly or indirectly owns, controls, or holds with power
- 3856 to vote more than 50% of the outstanding securities of an organization.
- 3857 (26) "Participant" means an entity that is insured by a sponsored captive insurance company:
- 3858 (a) if the losses of the participant are limited through a participant contract to the assets
- 3859 of a protected cell; and
- 3860 (b)(i) the entity is permitted to be a participant under Section 31A-37-403; or
- 3861 (ii) the entity is an affiliate of an entity permitted to be a participant under Section
- 3862 31A-37-403.
- 3863 (27) "Participant contract" means a contract by which a sponsored captive insurance
- 3864 company:
- 3865 (a) insures the risks of a participant; and
- 3866 (b) limits the losses of the participant to the assets of a protected cell.
- 3867 (28) "Pooling captive" means a captive insurer organized for the purpose of establishing a

- 3868 risk-sharing arrangement between other captive insurers.
- 3869 (29) "Protected cell" means a separate account:
- 3870 (a) established and maintained by a sponsored captive insurance company for a
- 3871 participant; and
- 3872 (b) that has not been organized as an entity including a corporation, a limited liability
- 3873 company, or a not-for-profit organization.
- 3874 (30) "Pure captive insurance company" means a business entity that insures risks of a
- 3875 parent, affiliate, or controlled unaffiliated business of the business entity.
- 3876 (31) "Special purpose financial captive insurance company" means the same as that term is
- 3877 defined in Section 31A-37a-102.
- 3878 (32) "Sponsor" means an entity that:
- 3879 (a) meets the requirements of Section 31A-37-402; and
- 3880 (b) is approved by the commissioner to:
- 3881 (i) provide all or part of the capital and surplus in an amount:
- 3882 (A) required by Section 31A-37-204; or
- 3883 (B) greater than the amount required by Section 31A-37-204, if, by order, the
- 3884 commissioner deems the increase necessary; and
- 3885 (ii) organize and operate a sponsored captive insurance company.
- 3886 (33) "Sponsored captive insurance company" means a captive insurance company:
- 3887 (a) in which the minimum capital and surplus required by applicable law is provided by
- 3888 one or more sponsors or participants;
- 3889 (b) that is formed or holding a certificate of authority under this chapter;
- 3890 (c) that insures the risks of a separate participant through the contract; and
- 3891 (d) that segregates each participant's liability through one or more cells.
- 3892 (34) "Treasury rates" means the United States Treasury strip asked yield as published in the
- 3893 Wall Street Journal as of a balance sheet date.
- 3894 Section 66. Section **31A-37-103** is amended to read:
- 3895 **31A-37-103 . Chapter exclusivity.**
- 3896 (1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a
- 3897 provision of this title other than this chapter does not apply to a captive insurance
- 3898 company.
- 3899 (2) To the extent that a provision of the following does not contradict this chapter, the
- 3900 provision applies to a captive insurance company that receives a certificate of authority
- 3901 under this chapter:

- 3902 (a) Chapter 1, General Provisions;
- 3903 (b) Chapter 2, Administration of the Insurance Laws;
- 3904 (c) Chapter 4, Insurers in General;
- 3905 (d) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 3906 (e) Chapter 14, Foreign Insurers;
- 3907 (f) Chapter 16, Insurance Holding Companies;
- 3908 (g) Chapter 17, Determination of Financial Condition;
- 3909 (h) Chapter 18, Investments;
- 3910 (i) Chapter 19a, Utah Rate Regulation Act;
- 3911 (j) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 3912 Administrative Supervision of Insurers; and
- 3913 (k) Chapter 27a, Insurer Receivership Act.
- 3914 (3) In addition to this chapter, and subject to Section 31A-37a-103:
- 3915 (a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a
- 3916 special purpose financial captive insurance company; and
- 3917 (b) for purposes of a special purpose financial captive insurance company, a reference in
- 3918 this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose
- 3919 Financial Captive Insurance Company Act.
- 3920 (4) In addition to this chapter, [~~an industrial group captive insurance company formed as~~] a
- 3921 risk retention group [~~eaptive~~] is subject to Chapter 15, Part 2, Risk Retention Groups Act,
- 3922 to the extent that this chapter is silent regarding regulation of risk retention groups
- 3923 conducting business in the state.
- 3924 Section 67. Section **31A-37-201** is amended to read:
- 3925 **31A-37-201 . Certificate of authority.**
- 3926 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to
- 3927 a captive insurance company that meets the requirements of this chapter.
- 3928 (2) To conduct insurance business in this state, a captive insurance company shall:
- 3929 (a) obtain from the commissioner a certificate of authority authorizing the captive
- 3930 insurance company to conduct insurance business in this state;
- 3931 (b)(i) hold a meeting of the governing body:
- 3932 (A) at least once each year;
- 3933 (B) at which a quorum is present;
- 3934 (C) in the state; and
- 3935 (D) at which at least one out-of-state individual is physically present; or

- 3936 (ii) become a member of the Utah Captive Insurance Association at the highest level
3937 of membership;
- 3938 (c) maintain in this state:
- 3939 (i) the principal place of business of the captive insurance company; or
3940 (ii) in the case of a branch captive insurance company, the principal place of business
3941 for the branch operations of the branch captive insurance company; and
- 3942 (d) except as provided in Subsection (3), appoint a resident registered agent to accept
3943 service of process and to otherwise act on behalf of the captive insurance company in
3944 the state.
- 3945 (3) In the case of a captive insurance company formed as a corporation, if the registered
3946 agent cannot with reasonable diligence be found at the registered office of the captive
3947 insurance company, the commissioner is the agent of the captive insurance company
3948 upon whom process, notice, or demand may be served.
- 3949 (4)(a) Before receiving a certificate of authority, an applicant captive insurance company
3950 shall file with the commissioner:
- 3951 (i) a certified copy of the captive insurance company's organizational charter;
3952 (ii) a statement under oath of the captive insurance company's president and secretary
3953 or their equivalents showing the captive insurance company's financial condition;
3954 and
3955 (iii) any other statement or document required by the commissioner under Section
3956 31A-37-106.
- 3957 (b) In addition to the information required under Subsection (4)(a), an applicant captive
3958 insurance company shall file with the commissioner evidence of:
- 3959 (i) the amount and liquidity of the assets of the applicant captive insurance company
3960 relative to the risks to be assumed by the applicant captive insurance company;
3961 (ii) the adequacy of the expertise, experience, and character of the person who will
3962 manage the applicant captive insurance company;
3963 (iii) the overall soundness of the plan of operation of the applicant captive insurance
3964 company;
3965 (iv) the adequacy of the loss prevention programs for the prospective insureds of the
3966 applicant captive insurance company as the commissioner deems necessary; and
3967 (v) any other factor the commissioner:
- 3968 (A) adopts by rule under Section 31A-37-106; and
3969 (B) considers relevant in ascertaining whether the applicant captive insurance

3970 company will be able to meet the policy obligations of the applicant captive
3971 insurance company.

3972 (c) In addition to the information required by Subsections (4)(a) and (b), an applicant
3973 sponsored captive insurance company shall file with the commissioner:

3974 (i) a business plan at the level of detail required by the commissioner under Section
3975 31A-37-106 demonstrating:

3976 (A) the manner in which the applicant sponsored captive insurance company will
3977 account for the losses and expenses of each cell; and

3978 (B) the manner in which the applicant sponsored captive insurance company will
3979 report to the commissioner the financial history, including losses and expenses,
3980 of each cell;

3981 (ii) a statement acknowledging that the applicant sponsored captive insurance
3982 company will make all financial records of the applicant sponsored captive
3983 insurance company, including records pertaining to a cell, available for inspection
3984 or examination by the commissioner;

3985 (iii) a contract or sample contract between the applicant sponsored captive insurance
3986 company and a participant; and

3987 (iv) evidence that expenses will be allocated to each cell in an equitable manner.

3988 (5)(a) Information submitted in accordance with this section is classified as a protected
3989 record under Title 63G, Chapter 2, Government Records Access and Management Act.

3990 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and
3991 Management Act, the commissioner may disclose information submitted in
3992 accordance with this section to a public official having jurisdiction over the
3993 regulation of insurance in another state if:

3994 (i) the public official receiving the information agrees in writing to maintain the
3995 confidentiality of the information; and

3996 (ii) the laws of the state in which the public official serves require the information to
3997 be confidential.

3998 (c) This Subsection (5) does not apply to information [~~provided by an industrial insured~~
3999 ~~captive insurance company insuring the risks of an industrial insured group~~] that a
4000 risk retention group formed or operating in this state provides.

4001 (6)(a) A captive insurance company shall pay to the department the following
4002 nonrefundable fees [~~established by~~]the department establishes under Sections
4003 31A-3-103, 31A-3-304, and 63J-1-504:

- 4004 (i) a fee for examining, investigating, and processing, by a department employee, of
4005 an application for a certificate of authority made by an applicant captive insurance
4006 company;
- 4007 (ii) a fee for obtaining a certificate of authority for the year the captive insurance
4008 company is issued a certificate of authority by the department; and
- 4009 (iii) a certificate of authority renewal fee, assessed annually.
- 4010 (b) The commissioner may:
- 4011 (i) assign a department employee or retain legal, financial, or examination services
4012 from outside the department to perform the services described in:
- 4013 (A) Subsection (6)(a); and
4014 (B) Section 31A-37-502; and
- 4015 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the
4016 applicant captive insurance company.
- 4017 (7) If the commissioner is satisfied that the documents and statements filed by the applicant
4018 captive insurance company comply with this chapter, the commissioner may grant a
4019 certificate of authority authorizing the company to do insurance business in this state.
- 4020 (8) A certificate of authority granted under this section expires annually and shall be
4021 renewed by July 1 of each year.
- 4022 Section 68. Section **31A-37-204** is amended to read:
- 4023 **31A-37-204 . Paid-in capital -- Other capital.**
- 4024 (1) For purposes of this section, "marketable securities" means:
- 4025 (a) a bond or other evidence of indebtedness of a governmental unit in the United States
4026 or Canada or any instrumentality of the United States or Canada; or
- 4027 (b) securities:
- 4028 (i) traded on one or more of the following exchanges in the United States:
- 4029 (A) New York;
4030 (B) American; or
4031 (C) NASDAQ;
- 4032 (ii) when no particular security, or a substantially related security, applied toward the
4033 required minimum capital and surplus requirement of Subsection (2) represents
4034 more than 50% of the minimum capital and surplus requirement; and
- 4035 (iii) when no group of up to four particular securities, consolidating substantially
4036 related securities, applied toward the required minimum capital and surplus
4037 requirement of Subsection (2) represents more than 90% of the minimum capital

4038 and surplus requirement.

4039 (2)(a) The commissioner may not issue a certificate of authority to a captive insurance

4040 company [~~described in Subsection (2)(e)~~] unless the company possesses and

4041 maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

4042 (i) in the case of a pure captive insurance company:

4043 (A) except as provided in Subsection (2)(a)(i)(B), not less than \$250,000; or

4044 (B) if the pure captive insurance company is not acting as a pool that facilitates
4045 risk distribution for other captive insurers, an amount that is the greater of:

4046 (I) not less than 20% of the company's total aggregate risk; or

4047 (II) \$50,000;

4048 (ii) in the case of an association captive insurance company, not less than \$500,000;

4049 (iii) in the case of an industrial insured captive insurance company [~~incorporated as a~~
4050 ~~stock insurer~~] or a risk retention group, not less than \$700,000;

4051 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of
4052 which a minimum of \$50,000 is provided by the sponsor; or

4053 (v) in the case of a special purpose captive insurance company, an amount

4054 determined by the commissioner after giving due consideration to the company's
4055 business plan, feasibility study, and pro-formas, including the nature of the risks
4056 to be insured.

4057 (b) The paid-in capital and surplus required under this Subsection (2) may be in the form
4058 of:

4059 (i)(A) cash; or

4060 (B) cash equivalent;

4061 (ii) an irrevocable letter of credit:

4062 (A) issued by:

4063 (I) a bank chartered by this state;

4064 (II) a member bank of the Federal Reserve System; or

4065 (III) a member bank of the Federal Deposit Insurance Corporation;

4066 (B) [~~approved by~~] that the commissioner approves;

4067 (iii) marketable securities as determined by Subsection (1); or

4068 (iv) some other thing of value [~~approved by~~] that the commissioner approves, for a
4069 period not to exceed 45 days, to facilitate the formation of a captive insurance
4070 company in this state [~~pursuant to~~] in accordance with an approved plan of
4071 liquidation and reorganization of another captive insurance company or alien

4072 captive insurance company in another jurisdiction.

4073 [~~(e) This Subsection (2) applies to:~~]

4074 [~~(i) a pure captive insurance company;~~]

4075 [~~(ii) a sponsored captive insurance company;~~]

4076 [~~(iii) a special purpose captive insurance company;~~]

4077 [~~(iv) an association captive insurance company; or~~]

4078 [~~(v) an industrial insured captive insurance company.~~]

4079 (3)(a) The commissioner may, under Section 31A-37-106, [~~prescribe~~] require additional
4080 capital based on the type, volume, and nature of insurance business transacted.

4081 (b) The capital [~~prescribed by~~] that the commissioner requires under this Subsection (3)
4082 may be in the form of:

4083 (i) cash;

4084 (ii) an irrevocable letter of credit issued by:

4085 (A) a bank chartered by this state; or

4086 (B) a member bank of the Federal Reserve System; or

4087 (iii) marketable securities as determined by Subsection (1).

4088 (4)(a) Except as provided in Subsection (4)(c), a branch captive insurance company, as
4089 security for the payment of liabilities attributable to branch operations, shall, through
4090 the branch captive insurance company's branch operations, establish and maintain a
4091 trust fund:

4092 (i) funded by an irrevocable letter of credit or other acceptable asset; and

4093 (ii) in the United States for the benefit of:

4094 (A) United States policyholders; and

4095 (B) United States ceding insurers under:

4096 (I) insurance policies issued; or

4097 (II) reinsurance contracts issued or assumed.

4098 (b) The amount of the security required under this Subsection (4) shall be no less than:

4099 (i) the capital and surplus required by this chapter; and

4100 (ii) the reserves on the insurance policies or reinsurance contracts, including:

4101 (A) reserves for losses;

4102 (B) allocated loss adjustment expenses;

4103 (C) incurred but not reported losses; and

4104 (D) unearned premiums with regard to business written through branch operations.

4105 (c) Notwithstanding the other provisions of this Subsection (4):

- 4106 (i) the commissioner may permit a branch captive insurance company that is required
 4107 to post security for loss reserves on branch business by the branch captive
 4108 insurance company's reinsurer to reduce the funds in the trust account required by
 4109 this section by the same amount as the security posted if the security remains
 4110 posted with the reinsurer; and
- 4111 (ii) a branch captive insurance company that is the result of the licensure of an alien
 4112 captive insurance company that is not formed in an alien jurisdiction is not subject
 4113 to the requirements of this Subsection (4).

4114 (5)(a) A captive insurance company may not pay the following without the prior
 4115 approval of the commissioner:

- 4116 (i) a dividend out of capital or surplus; or
 4117 (ii) a distribution with respect to capital or surplus.
- 4118 (b) The commissioner shall condition approval of an ongoing plan for the payment of
 4119 dividends or other distributions on the retention, at the time of each payment, of
 4120 capital or surplus.

4121 (6) Notwithstanding Subsection (1), to protect the solvency and liquidity of a captive
 4122 insurance company, the commissioner may reject the application of specific assets or
 4123 amounts of specific assets to ~~[satisfying]~~ satisfy the requirement of Subsection (2).

4124 Section 69. Section **31A-37-302** is amended to read:

4125 **31A-37-302 . Investment requirements.**

4126 (1)(a) Except as provided in Subsection (1)(b), a captive insurance company ~~[and an~~
 4127 ~~industrial insured captive insurance company]~~ and a risk retention group shall comply
 4128 with the investment requirements contained in this title.

4129 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the
 4130 commissioner may approve the use of alternative reliable methods of valuation and
 4131 rating under Section 31A-37-106 for a captive insurance company or ~~[an industrial~~
 4132 ~~insured captive insurance company]~~ a risk retention group.

4133 (2)(a) Except as provided in Subsection (2)(b), a ~~[pure-]~~captive insurance company~~[-or~~
 4134 ~~industrial insured captive insurance company]~~ , other than a risk retention group, is
 4135 not subject to any restrictions on ~~[allowable]~~ authorized classes of investments
 4136 described in Section ~~[31A-18-108]~~ 31A-18-110.

4137 (b) Under Section 31A-37-106, the commissioner may prohibit or limit an investment
 4138 that threatens the solvency or liquidity of a captive insurance company or ~~[industrial~~
 4139 ~~insured captive insurance company]~~ risk retention group.

- 4140 (3)(a)(i) Except as provided in Subsection (3)(a)(ii), a captive insurance company
 4141 may not make loans to:
- 4142 (A) the parent company of the captive insurance company; or
 - 4143 (B) an affiliate of the captive insurance company.
- 4144 (ii) A pure captive insurance company and an incorporated cell of a sponsored
 4145 captive insurance company may make loans to:
- 4146 (A) the parent company of the pure captive insurance company or incorporated
 4147 cell of a sponsored captive insurance company; or
 - 4148 (B) an affiliate of the pure captive insurance company or incorporated cell of a
 4149 sponsored captive insurance company.
- 4150 (b) A loan under Subsection (3)(a):
- 4151 (i) may be made only on the prior written approval of the commissioner and, when
 4152 applicable, the sponsor for an incorporated cell; and
 - 4153 (ii) shall be evidenced by a note in a form approved by the commissioner and, when
 4154 applicable, the sponsor for an incorporated cell.
- 4155 (c) A pure captive insurance company may not make a loan from the paid-in capital
 4156 required under Subsection 31A-37-204(2).
- 4157 ~~[(4) If a captive insurer has excess surplus above the minimum capital required by Section~~
 4158 ~~31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a~~
 4159 ~~manner inconsistent with the authorized classes of investments described in Section~~
 4160 ~~31A-18-110.]~~
- 4161 (4)(a) For purposes of this chapter, the excess surplus of a captive insurance company,
 4162 other than a risk retention group, is the amount of the company's assets that exceeds
 4163 120% of the company's minimum capital required by Section 31A-37-204 plus an
 4164 actuarially determined reserve estimate.
- 4165 (b) A captive insurer may only invest excess surplus in a manner inconsistent with the
 4166 authorized classes of investments described in Section 31A-18-110 with prior written
 4167 approval of the commissioner.
- 4168 (5) Nothing in this section empowers a captive insurer to make an investment that is illegal
 4169 or otherwise prohibited by this title.
- 4170 Section 70. Section **31A-37-501** is amended to read:
- 4171 **31A-37-501 . Reports to commissioner.**
- 4172 (1) A captive insurance company is not required to make a report except those provided in
 4173 this chapter.

- 4174 (2)(a) Before March 1 of each year, a captive insurance company shall submit to the
4175 commissioner a report of the financial condition of the captive insurance company,
4176 verified by oath of at least two individuals who are executive officers of the captive
4177 insurance company.
- 4178 (b) Except as provided in Section 31A-37-204, a captive insurance company shall report:
4179 (i) using generally accepted accounting principles, except to the extent that the
4180 commissioner requires, approves, or accepts the use of a statutory accounting
4181 principle;
4182 (ii) using a useful or necessary modification or adaptation to an accounting principle
4183 that is required, approved, or accepted by the commissioner for the type of
4184 insurance and kind of insurer to be reported upon; and
4185 (iii) supplemental or additional information required by the commissioner.
- 4186 (c) Except as otherwise provided:
4187 (i) a licensed captive insurance company shall file the report required by Section
4188 31A-4-113; and
4189 (ii) ~~[an industrial insured-]~~ a risk retention group shall comply with Section
4190 31A-4-113.5.
- 4191 (3)(a) A pure captive insurance company may make written application to file the
4192 required report on a fiscal year end that is consistent with the fiscal year of the parent
4193 company of the pure captive insurance company.
- 4194 (b) If the commissioner grants an alternative reporting date for a ~~[pure-]~~captive insurance
4195 company requested under Subsection (3)(a)~~[-]~~ :
- 4196 (i) ~~[-]~~ the annual report is due 60 days after the day on which the fiscal year ~~end-~~
4197 ends; and
4198 (ii) the annual audit is due six months after the day on which the fiscal year ends.
- 4199 (4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file
4200 with the commissioner a copy of the reports and statements required to be filed under
4201 the laws of the jurisdiction in which the alien captive insurance company is formed,
4202 verified by oath by two of the alien captive insurance company's executive officers.
- 4203 (b) If the commissioner is satisfied that the annual report filed by the alien captive
4204 insurance company in the jurisdiction in which the alien captive insurance company
4205 is formed provides adequate information concerning the financial condition of the
4206 alien captive insurance company, the commissioner may waive the requirement for
4207 completion of the annual statement required for a captive insurance company under

- 4208 this section with respect to business written in the alien or foreign jurisdiction.
- 4209 (c) A waiver by the commissioner under Subsection (4)(b):
- 4210 (i) shall be in writing; and
- 4211 (ii) is subject to public inspection.
- 4212 (5) Before March 1 of each year, a sponsored captive insurance company shall submit to
- 4213 the commissioner a consolidated report of the financial condition of each cell, including
- 4214 a financial statement for each cell.
- 4215 (6)(a) A captive insurance company shall notify the commissioner in writing if there is:
- 4216 (i) a material change to the captive insurance company's most recently filed report of
- 4217 financial condition; or
- 4218 (ii) an adverse material change in the financial condition of a captive insurance
- 4219 company since the captive insurance company's most recently filed report of
- 4220 financial condition.
- 4221 (b) A captive insurance company shall submit a notification described in this subsection
- 4222 within 20 days after the day on which the captive insurance company learns of the
- 4223 material change.
- 4224 Section 71. Section **31A-37-505** is amended to read:
- 4225 **31A-37-505 . Suspension or revocation -- Grounds.**
- 4226 (1) The commissioner may suspend or revoke the certificate of authority of a captive
- 4227 insurance company to conduct an insurance business in this state for:
- 4228 (a) insolvency or impairment of capital or surplus;
- 4229 (b) failure to meet the requirements [~~of Section 31A-37-204~~] of Part 2, Certificate of
- 4230 Authority;
- 4231 (c) refusal or failure to submit:
- 4232 (i) an annual report required by Section 31A-37-501; or
- 4233 (ii) any other report or statement required by law or by lawful order of the
- 4234 commissioner;
- 4235 (d) failure to comply with the charter, bylaws, or other organizational document of the
- 4236 captive insurance company;
- 4237 (e) failure to submit to:
- 4238 (i) an examination under Section 31A-37-502; or
- 4239 (ii) any legal obligation relative to an examination under Section 31A-37-502;
- 4240 (f) refusal or failure to pay:
- 4241 (i) an annual fee described in Section 31A-3-304;

- 4242 (ii) the cost of examination described in Section 31A-37-502; or
 4243 (iii) any other fee prescribed by this title;
- 4244 (g) use of methods that, although not otherwise specifically prohibited by law, render:
 4245 (i) the operation of the captive insurance company detrimental to the public or the
 4246 policyholders of the captive insurance company; or
 4247 (ii) the condition of the captive insurance company unsound with respect to the
 4248 public or to the policyholders of the captive insurance company; or
 4249 (h) failure otherwise to comply with laws of this state.
- 4250 (2) Notwithstanding any other provision of this title, if the commissioner finds, upon
 4251 examination, hearing, or other evidence, that a captive insurance company has
 4252 committed ~~[any of the acts specified in]~~ an act described in Subsection (1), the
 4253 commissioner may suspend or revoke the certificate of authority of the captive insurance
 4254 company if the commissioner considers ~~[it]~~ that the revocation or suspension is in the
 4255 best interest of the public and the policyholders of the captive insurance company~~[to~~
 4256 ~~revoke the certificate of authority]~~.
- 4257 Section 72. Section **31A-37-701** is amended to read:
 4258 **31A-37-701 . Certificate of dormancy.**
- 4259 (1) In accordance with the provisions of this section, a captive insurance company, other
 4260 than a risk retention group, may apply, without fee, to the commissioner for a certificate
 4261 of dormancy.
- 4262 (2)(a) A captive insurance company, other than ~~[an industrial insured captive insurance~~
 4263 ~~company]~~ a risk retention group or a cell of a sponsored captive insurance company,
 4264 is eligible for a certificate of dormancy if the company:
 4265 (i) has ceased transacting the business of insurance, including the issuance of
 4266 insurance policies; and
 4267 (ii) has no remaining insurance liabilities or obligations associated with insurance
 4268 business transactions or insurance policies.
- 4269 (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or
 4270 obligations for which the captive insurance company has withheld sufficient funds or
 4271 that are otherwise sufficiently secured.
- 4272 (3) Except as provided in Subsection (4), a captive insurance company that holds a
 4273 certificate of dormancy is subject to all requirements of this chapter.
- 4274 (4) A captive insurance company that holds a certificate of dormancy:
 4275 (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus

4276 of[:] at least 10% of the minimum capital required in Section 31A-37-204; and
4277 [(i) in the case of a pure captive insurance company or a special purpose captive
4278 insurance company, not less than \$25,000;]
4279 [(ii) in the case of an association captive insurance company, not less than \$75,000; or]
4280 [(iii) in the case of a sponsored captive insurance company, not less than \$50,000, of
4281 which the sponsor provides at least \$20,000; and]

4282 (b) is not required to:

- 4283 (i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;
- 4284 (ii) maintain an active agreement with an independent auditor or actuary; or
- 4285 (iii) hold an annual meeting of the captive insurance company in the state.

4286 (5) The commissioner may require a captive insurance company that holds a certificate of
4287 dormancy to submit an annual audit if the commissioner determines that there are
4288 concerns regarding the captive insurance company's solvency or liquidity.

4289 (6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal
4290 fee, no later than July 1 of each year, a captive insurance company shall pay an annual
4291 dormancy renewal fee that is equal to 50% of the captive insurance's company's
4292 certificate of authority renewal fee.

4293 Section 73. Section **31A-41-202** is amended to read:

4294 **31A-41-202 . Assessments.**

4295 (1) An agency title insurance producer licensed under this title shall pay an annual
4296 assessment determined by the commission by rule made in accordance with Section
4297 31A-2-404, except that the annual assessment:

- 4298 (a) may not exceed \$1,000; and
- 4299 (b) shall be determined on the basis of title insurance premium volume.

4300 (2) An individual who applies for a license or renewal of a license as an individual title
4301 insurance producer, shall pay in addition to any other fee required by this title, an
4302 assessment not to exceed \$20, as determined by the commission by rule made in
4303 accordance with Section 31A-2-404, except that if the individual holds more than one
4304 license, the total of all assessments under this Subsection (2) may not exceed \$20 in a
4305 fiscal year.

4306 (3)(a) To be licensed as an agency title insurance producer, a person shall pay to the
4307 department an assessment of \$1,000 before the day on which the person is licensed as
4308 a title insurance agency.

4309 (b)(i) The department shall assess on a licensed agency title insurance producer an

- 4310 amount equal to the greater of:
- 4311 (A) \$1,000; or
- 4312 (B) subject to Subsection (3)(b)(ii), 2% of the balance in the agency title insurance
- 4313 producer's reserve account described in Subsection [~~31A-23a-204(3)~~]
- 4314 31A-23a-204(4).
- 4315 (ii) The department may assess on an agency title insurance producer an amount less
- 4316 than 2% of the balance described in Subsection (3)(b)(i)(B) if:
- 4317 (A) before issuing the assessments under this Subsection (3)(b) the department
- 4318 determines that the total of all assessments under Subsection (3)(b)(i) will
- 4319 exceed \$250,000;
- 4320 (B) the amount assessed on the agency title insurance producer is not less than
- 4321 \$1,000; and
- 4322 (C) the department reduces the assessment in a proportionate amount for agency
- 4323 title insurance producers assessed on the basis of the 2% of the balance
- 4324 described in Subsection (3)(b)(i)(B).
- 4325 (iii) An agency title insurance producer assessed under this Subsection (3)(b) shall
- 4326 pay the assessment by no later than August [~~1~~] 31.

- 4327 (4) The department may not assess a title insurance licensee an assessment for purposes of
- 4328 the fund if that assessment is not expressly provided for in this section.

4329 Section 74. Section **63G-2-305** is amended to read:

4330 **63G-2-305 . Protected records.**

4331 The following records are protected if properly classified by a governmental entity:

- 4332 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
- 4333 provided the governmental entity with the information specified in Section 63G-2-309;
- 4334 (2) commercial information or nonindividual financial information obtained from a person
- 4335 if:
- 4336 (a) disclosure of the information could reasonably be expected to result in unfair
- 4337 competitive injury to the person submitting the information or would impair the
- 4338 ability of the governmental entity to obtain necessary information in the future;
- 4339 (b) the person submitting the information has a greater interest in prohibiting access than
- 4340 the public in obtaining access; and
- 4341 (c) the person submitting the information has provided the governmental entity with the
- 4342 information specified in Section 63G-2-309;
- 4343 (3) commercial or financial information acquired or prepared by a governmental entity to

- 4344 the extent that disclosure would lead to financial speculations in currencies, securities, or
4345 commodities that will interfere with a planned transaction by the governmental entity or
4346 cause substantial financial injury to the governmental entity or state economy;
- 4347 (4) records, the disclosure of which could cause commercial injury to, or confer a
4348 competitive advantage upon a potential or actual competitor of, a commercial project
4349 entity as defined in Subsection 11-13-103(4);
- 4350 (5) test questions and answers to be used in future license, certification, registration,
4351 employment, or academic examinations;
- 4352 (6) records, the disclosure of which would impair governmental procurement proceedings
4353 or give an unfair advantage to any person proposing to enter into a contract or agreement
4354 with a governmental entity, except, subject to Subsections (1) and (2), that this
4355 Subsection (6) does not restrict the right of a person to have access to, after the contract
4356 or grant has been awarded and signed by all parties:
- 4357 (a) a bid, proposal, application, or other information submitted to or by a governmental
4358 entity in response to:
- 4359 (i) an invitation for bids;
- 4360 (ii) a request for proposals;
- 4361 (iii) a request for quotes;
- 4362 (iv) a grant; or
- 4363 (v) other similar document; or
- 4364 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 4365 (7) information submitted to or by a governmental entity in response to a request for
4366 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
4367 restrict the right of a person to have access to the information, after:
- 4368 (a) a contract directly relating to the subject of the request for information has been
4369 awarded and signed by all parties; or
- 4370 (b)(i) a final determination is made not to enter into a contract that relates to the
4371 subject of the request for information; and
- 4372 (ii) at least two years have passed after the day on which the request for information
4373 is issued;
- 4374 (8) records that would identify real property or the appraisal or estimated value of real or
4375 personal property, including intellectual property, under consideration for public
4376 acquisition before any rights to the property are acquired unless:
- 4377 (a) public interest in obtaining access to the information is greater than or equal to the

- 4378 governmental entity's need to acquire the property on the best terms possible;
- 4379 (b) the information has already been disclosed to persons not employed by or under a
4380 duty of confidentiality to the entity;
- 4381 (c) in the case of records that would identify property, potential sellers of the described
4382 property have already learned of the governmental entity's plans to acquire the
4383 property;
- 4384 (d) in the case of records that would identify the appraisal or estimated value of
4385 property, the potential sellers have already learned of the governmental entity's
4386 estimated value of the property; or
- 4387 (e) the property under consideration for public acquisition is a single family residence
4388 and the governmental entity seeking to acquire the property has initiated negotiations
4389 to acquire the property as required under Section 78B-6-505;
- 4390 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
4391 transaction of real or personal property including intellectual property, which, if
4392 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
4393 value of the subject property, unless:
- 4394 (a) the public interest in access is greater than or equal to the interests in restricting
4395 access, including the governmental entity's interest in maximizing the financial
4396 benefit of the transaction; or
- 4397 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
4398 the value of the subject property have already been disclosed to persons not
4399 employed by or under a duty of confidentiality to the entity;
- 4400 (10) records created or maintained for civil, criminal, or administrative enforcement
4401 purposes or audit purposes, or for discipline, licensing, certification, or registration
4402 purposes, if release of the records:
- 4403 (a) reasonably could be expected to interfere with investigations undertaken for
4404 enforcement, discipline, licensing, certification, or registration purposes;
- 4405 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
4406 proceedings;
- 4407 (c) would create a danger of depriving a person of a right to a fair trial or impartial
4408 hearing;
- 4409 (d) reasonably could be expected to disclose the identity of a source who is not generally
4410 known outside of government and, in the case of a record compiled in the course of
4411 an investigation, disclose information furnished by a source not generally known

- 4412 outside of government if disclosure would compromise the source; or
- 4413 (e) reasonably could be expected to disclose investigative or audit techniques,
- 4414 procedures, policies, or orders not generally known outside of government if
- 4415 disclosure would interfere with enforcement or audit efforts;
- 4416 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 4417 (12) records the disclosure of which would jeopardize the security of governmental
- 4418 property, governmental programs, or governmental recordkeeping systems from
- 4419 damage, theft, or other appropriation or use contrary to law or public policy;
- 4420 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
- 4421 facility, or records relating to incarceration, treatment, probation, or parole, that would
- 4422 interfere with the control and supervision of an offender's incarceration, treatment,
- 4423 probation, or parole;
- 4424 (14) records that, if disclosed, would reveal recommendations made to the Board of
- 4425 Pardons and Parole by an employee of or contractor for the Department of Corrections,
- 4426 the Board of Pardons and Parole, or the Department of Health and Human Services that
- 4427 are based on the employee's or contractor's supervision, diagnosis, or treatment of any
- 4428 person within the board's jurisdiction;
- 4429 (15) records and audit workpapers that identify audit, collection, and operational procedures
- 4430 and methods used by the State Tax Commission, if disclosure would interfere with
- 4431 audits or collections;
- 4432 (16) records of a governmental audit agency relating to an ongoing or planned audit until
- 4433 the final audit is released;
- 4434 (17) records that are subject to the attorney client privilege;
- 4435 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
- 4436 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
- 4437 judicial, quasi-judicial, or administrative proceeding;
- 4438 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
- 4439 from a member of the Legislature; and
- 4440 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
- 4441 legislative action or policy may not be classified as protected under this section;
- 4442 and
- 4443 (b)(i) an internal communication that is part of the deliberative process in connection
- 4444 with the preparation of legislation between:
- 4445 (A) members of a legislative body;

- 4446 (B) a member of a legislative body and a member of the legislative body's staff; or
4447 (C) members of a legislative body's staff; and
4448 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
4449 legislative action or policy may not be classified as protected under this section;
- 4450 (20)(a) records in the custody or control of the Office of Legislative Research and
4451 General Counsel, that, if disclosed, would reveal a particular legislator's
4452 contemplated legislation or contemplated course of action before the legislator has
4453 elected to support the legislation or course of action, or made the legislation or course
4454 of action public; and
4455 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
4456 Office of Legislative Research and General Counsel is a public document unless a
4457 legislator asks that the records requesting the legislation be maintained as protected
4458 records until such time as the legislator elects to make the legislation or course of
4459 action public;
- 4460 (21) a research request from a legislator to a legislative staff member and research findings
4461 prepared in response to the request;
- 4462 (22) drafts, unless otherwise classified as public;
- 4463 (23) records concerning a governmental entity's strategy about:
4464 (a) collective bargaining; or
4465 (b) imminent or pending litigation;
- 4466 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
4467 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
4468 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 4469 (25) records, other than personnel evaluations, that contain a personal recommendation
4470 concerning an individual if disclosure would constitute a clearly unwarranted invasion
4471 of personal privacy, or disclosure is not in the public interest;
- 4472 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
4473 resources that if known would jeopardize the security of those resources or of valuable
4474 historic, scientific, educational, or cultural information;
- 4475 (27) records of independent state agencies if the disclosure of the records would conflict
4476 with the fiduciary obligations of the agency;
- 4477 (28) records of an institution of higher education defined in Section 53H-1-101 regarding
4478 tenure evaluations, appointments, applications for admissions, retention decisions, and
4479 promotions, which could be properly discussed in a meeting closed in accordance with

- 4480 Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final
4481 decisions about tenure, appointments, retention, promotions, or those students admitted,
4482 may not be classified as protected under this section;
- 4483 (29) records of the governor's office, including budget recommendations, legislative
4484 proposals, and policy statements, that if disclosed would reveal the governor's
4485 contemplated policies or contemplated courses of action before the governor has
4486 implemented or rejected those policies or courses of action or made them public;
- 4487 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
4488 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
4489 recommendations in these areas;
- 4490 (31) records provided by the United States or by a government entity outside the state that
4491 are given to the governmental entity with a requirement that they be managed as
4492 protected records if the providing entity certifies that the record would not be subject to
4493 public disclosure if retained by it;
- 4494 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
4495 public body except as provided in Section 52-4-206;
- 4496 (33) records that would reveal the contents of settlement negotiations but not including final
4497 settlements or empirical data to the extent that they are not otherwise exempt from
4498 disclosure;
- 4499 (34) memoranda prepared by staff and used in the decision-making process by an
4500 administrative law judge, a member of the Board of Pardons and Parole, or a member of
4501 any other body charged by law with performing a quasi-judicial function;
- 4502 (35) records that would reveal negotiations regarding assistance or incentives offered by or
4503 requested from a governmental entity for the purpose of encouraging a person to expand
4504 or locate a business in Utah, but only if disclosure would result in actual economic harm
4505 to the person or place the governmental entity at a competitive disadvantage, but this
4506 section may not be used to restrict access to a record evidencing a final contract;
- 4507 (36) materials to which access must be limited for purposes of securing or maintaining the
4508 governmental entity's proprietary protection of intellectual property rights including
4509 patents, copyrights, and trade secrets;
- 4510 (37) the name of a donor or a prospective donor to a governmental entity, including an
4511 institution of higher education defined in Section 53H-1-101, and other information
4512 concerning the donation that could reasonably be expected to reveal the identity of the
4513 donor, provided that:

- 4514 (a) the donor requests anonymity in writing;
- 4515 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
- 4516 classified protected by the governmental entity under this Subsection (37); and
- 4517 (c) except for an institution of higher education defined in Section 53H-1-101, the
- 4518 governmental unit to which the donation is made is primarily engaged in educational,
- 4519 charitable, or artistic endeavors, and has no regulatory or legislative authority over
- 4520 the donor, a member of the donor's immediate family, or any entity owned or
- 4521 controlled by the donor or the donor's immediate family;
- 4522 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- 4523 (39) a notification of workers' compensation insurance coverage described in Section
- 4524 34A-2-205;
- 4525 (40) subject to Subsections (40)(g) and (h), the following records of an institution[-] of
- 4526 higher education defined in Section 53H-1-101, which have been developed, discovered,
- 4527 disclosed to, or received by or on behalf of faculty, staff, employees, or students of the
- 4528 institution:
- 4529 (a) unpublished lecture notes;
- 4530 (b) unpublished notes, data, and information:
- 4531 (i) relating to research; and
- 4532 (ii) of:
- 4533 (A) the institution of higher education defined in Section 53H-1-101; or
- 4534 (B) a sponsor of sponsored research;
- 4535 (c) unpublished manuscripts;
- 4536 (d) creative works in process;
- 4537 (e) scholarly correspondence; and
- 4538 (f) confidential information contained in research proposals;
- 4539 (g) this Subsection (40) may not be construed to prohibit disclosure of public
- 4540 information required [~~pursuant to~~] in accordance with Subsection 53H-14-202(2)(a)
- 4541 or (b); and
- 4542 (h) this Subsection (40) may not be construed to affect the ownership of a record;
- 4543 (41)(a) records in the custody or control of the Office of the Legislative Auditor General
- 4544 that would reveal the name of a particular legislator who requests a legislative audit
- 4545 prior to the date that audit is completed and made public; and
- 4546 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 4547 Office of the Legislative Auditor General is a public document unless the legislator

- 4548 asks that the records in the custody or control of the Office of the Legislative Auditor
4549 General that would reveal the name of a particular legislator who requests a
4550 legislative audit be maintained as protected records until the audit is completed and
4551 made public;
- 4552 (42) records that provide detail as to the location of an explosive, including a map or other
4553 document that indicates the location of:
- 4554 (a) a production facility; or
4555 (b) a magazine;
- 4556 (43) information contained in the statewide database of the Division of Aging and Adult
4557 Services created by Section 26B-6-210;
- 4558 (44) information contained in the Licensing Information System described in Title 80,
4559 Chapter 2, Child Welfare Services;
- 4560 (45) information regarding National Guard operations or activities in support of the
4561 National Guard's federal mission;
- 4562 (46) records provided by any pawn or secondhand business to a law enforcement agency or
4563 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
4564 Merchandise, and Catalytic Converter Transaction Information Act;
- 4565 (47) information regarding food security, risk, and vulnerability assessments performed by
4566 the Department of Agriculture and Food;
- 4567 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] in
4568 accordance with Section 63G-2-106, records related to an emergency plan or program, a
4569 copy of which is provided to or prepared or maintained by the Division of Emergency
4570 Management, and the disclosure of which would jeopardize:
- 4571 (a) the safety of the general public; or
4572 (b) the security of:
- 4573 (i) governmental property;
4574 (ii) governmental programs; or
4575 (iii) the property of a private person who provides the Division of Emergency
4576 Management information;
- 4577 (49) records of the Department of Agriculture and Food that provides for the identification,
4578 tracing, or control of livestock diseases, including any program established under Title
4579 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
4580 of Animal Disease;
- 4581 (50) as provided in Section 26B-2-709:

- 4582 (a) information or records held by the Department of Health and Human Services related
4583 to a complaint regarding a provider, program, or facility which the department is
4584 unable to substantiate; and
- 4585 (b) information or records related to a complaint received by the Department of Health
4586 and Human Services from an anonymous complainant regarding a provider, program,
4587 or facility;
- 4588 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
4589 under Section 41-1a-116, an individual's home address, home telephone number, or
4590 personal mobile phone number, if:
- 4591 (a) the individual is required to provide the information in order to comply with a law,
4592 ordinance, rule, or order of a government entity; and
- 4593 (b) the subject of the record has a reasonable expectation that this information will be
4594 kept confidential due to:
- 4595 (i) the nature of the law, ordinance, rule, or order; and
4596 (ii) the individual complying with the law, ordinance, rule, or order;
- 4597 (52) the portion of the following documents that contains a candidate's residential or
4598 mailing address, if the candidate provides to the filing officer another address or phone
4599 number where the candidate may be contacted:
- 4600 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
4601 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
4602 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 4603 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
4604 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 4605 (53) the name, home address, work addresses, and telephone numbers of an individual that
4606 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 4607 (a) conducted within the state system of higher education, as described in Section
4608 53H-1-102; and
4609 (b) conducted using animals;
- 4610 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
4611 Evaluation Commission concerning an individual commissioner's vote, in relation to
4612 whether a judge meets or exceeds minimum performance standards under Subsection
4613 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 4614 (55) information collected and a report prepared by the Judicial Performance Evaluation
4615 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,

- 4616 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes
4617 public, the information or report;
- 4618 (56) records provided or received by the Public Lands Policy Coordinating Office in
4619 furtherance of any contract or other agreement made in accordance with Section
4620 63L-11-202;
- 4621 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
- 4622 (58) in accordance with Section 73-10-33:
- 4623 (a) a management plan for a water conveyance facility in the possession of the Division
4624 of Water Resources or the Board of Water Resources; or
- 4625 (b) an outline of an emergency response plan in possession of the state or a county or
4626 municipality;
- 4627 (59) the following records in the custody or control of the Office of Inspector General of
4628 Medicaid Services, created in Section 63A-13-201:
- 4629 (a) records that would disclose information relating to allegations of personal
4630 misconduct, gross mismanagement, or illegal activity of a person if the information
4631 or allegation cannot be corroborated by the Office of Inspector General of Medicaid
4632 Services through other documents or evidence, and the records relating to the
4633 allegation are not relied upon by the Office of Inspector General of Medicaid
4634 Services in preparing a final investigation report or final audit report;
- 4635 (b) records and audit workpapers to the extent they would disclose the identity of a
4636 person who, during the course of an investigation or audit, communicated the
4637 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected
4638 violation of a law, rule, or regulation adopted under the laws of this state, a political
4639 subdivision of the state, or any recognized entity of the United States, if the
4640 information was disclosed on the condition that the identity of the person be
4641 protected;
- 4642 (c) before the time that an investigation or audit is completed and the final investigation
4643 or final audit report is released, records or drafts circulated to a person who is not an
4644 employee or head of a governmental entity for the person's response or information;
- 4645 (d) records that would disclose an outline or part of any investigation, audit survey plan,
4646 or audit program; or
- 4647 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
4648 investigation or audit;
- 4649 (60) records that reveal methods used by the Office of Inspector General of Medicaid

- 4650 Services, the fraud unit, or the Department of Health and Human Services, to discover
4651 Medicaid fraud, waste, or abuse;
- 4652 (61) information provided to the Department of Health and Human Services or the Division
4653 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
4654 58-68-304(3) and (4);
- 4655 (62) a record described in Section 63G-12-210;
- 4656 (63) captured plate data that is obtained through an automatic license plate reader system
4657 used by a governmental entity as authorized in Section 41-6a-2003;
- 4658 (64) an audio or video recording created by a body-worn camera, as that term is defined in
4659 Section 77-7a-103, that records sound or images inside a hospital or health care facility
4660 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
4661 as that term is defined in Section 78B-3-403, or inside a human service program as that
4662 term is defined in Section 26B-2-101, except for recordings that:
- 4663 (a) depict the commission of an alleged crime;
- 4664 (b) record any encounter between a law enforcement officer and a person that results in
4665 death or bodily injury, or includes an instance when an officer fires a weapon;
- 4666 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
4667 law enforcement officer or law enforcement agency;
- 4668 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
4669 or
- 4670 (e) have been requested for reclassification as a public record by a subject or authorized
4671 agent of a subject featured in the recording;
- 4672 (65) a record pertaining to the search process for a president of an institution of higher
4673 education described in Section 53H-3-302;
- 4674 (66) an audio recording that is:
- 4675 (a) produced by an audio recording device that is used in conjunction with a device or
4676 piece of equipment designed or intended for resuscitating an individual or for treating
4677 an individual with a life-threatening condition;
- 4678 (b) produced during an emergency event when an individual employed to provide law
4679 enforcement, fire protection, paramedic, emergency medical, or other first responder
4680 service:
- 4681 (i) is responding to an individual needing resuscitation or with a life-threatening
4682 condition; and
- 4683 (ii) uses a device or piece of equipment designed or intended for resuscitating an

- 4684 individual or for treating an individual with a life-threatening condition; and
4685 (c) intended and used for purposes of training emergency responders how to improve
4686 their response to an emergency situation;
- 4687 (67) records submitted by or prepared in relation to an applicant seeking a recommendation
4688 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the
4689 Legislative Audit Subcommittee, established under Section 36-12-8, for an employment
4690 position with the Legislature;
- 4691 (68) work papers as defined in Section 31A-2-204;
- 4692 (69) a record made available to Adult Protective Services or a law enforcement agency
4693 under Section 61-1-206;
- 4694 (70) a record submitted to the Insurance Department in accordance with Section
4695 31A-37-201;
- 4696 (71) a record described in Section 31A-37-503;
- 4697 (72) any record created by the Division of Professional Licensing as a result of Subsection
4698 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 4699 (73) a record described in Section 72-16-306 that relates to the reporting of an injury
4700 involving an amusement ride;
- 4701 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a
4702 political petition, or on a request to withdraw a signature from a political petition,
4703 including a petition or request described in the following titles:
- 4704 (a) Title 10, Utah Municipal Code;
- 4705 (b) Title 17, Counties;
- 4706 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
- 4707 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 4708 (e) Title 20A, Election Code;
- 4709 (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a
4710 voter registration record;
- 4711 (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature
4712 described in Subsection (74) or (75), in the custody of the lieutenant governor or a local
4713 political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 4714 (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,
4715 Victims Guidelines for Prosecutors Act;
- 4716 (78) a record submitted to the Insurance Department under Section 31A-48-103;
- 4717 (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is

- 4718 prohibited under Section 63G-26-103;
- 4719 (80) an image taken of an individual during the process of booking the individual into jail,
4720 unless:
- 4721 (a) the individual is convicted of a criminal offense based upon the conduct for which
4722 the individual was incarcerated at the time the image was taken;
- 4723 (b) a law enforcement agency releases or disseminates the image:
- 4724 (i) after determining that the individual is a fugitive or an imminent threat to an
4725 individual or to public safety and releasing or disseminating the image will assist
4726 in apprehending the individual or reducing or eliminating the threat; or
- 4727 (ii) to a potential witness or other individual with direct knowledge of events relevant
4728 to a criminal investigation or criminal proceeding for the purpose of identifying or
4729 locating an individual in connection with the criminal investigation or criminal
4730 proceeding;
- 4731 (c) a judge orders the release or dissemination of the image based on a finding that the
4732 release or dissemination is in furtherance of a legitimate law enforcement interest; or
- 4733 (d) the image is displayed to a person who is permitted to view the image under Section
4734 17-72-802;
- 4735 (81) a record:
- 4736 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 4737 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
4738 representative from another state or the federal government as provided in Section
4739 63M-14-205; and
- 4740 (c) the disclosure of which would:
- 4741 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
4742 Colorado River system;
- 4743 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
4744 negotiate the best terms and conditions regarding the use of water in the Colorado
4745 River system; or
- 4746 (iii) give an advantage to another state or to the federal government in negotiations
4747 regarding the use of water in the Colorado River system;
- 4748 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
4749 of Economic Opportunity determines is nonpublic, confidential information that if
4750 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
4751 may not be used to restrict access to a record evidencing a final contract or approval

- 4752 decision;
- 4753 (83) the following records of a drinking water or wastewater facility:
- 4754 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
- 4755 and
- 4756 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
- 4757 drinking water or wastewater facility uses to secure, or prohibit access to, the records
- 4758 described in Subsection (83)(a);
- 4759 (84) a statement that an employee of a governmental entity provides to the governmental
- 4760 entity as part of the governmental entity's personnel or administrative investigation into
- 4761 potential misconduct involving the employee if the governmental entity:
- 4762 (a) requires the statement under threat of employment disciplinary action, including
- 4763 possible termination of employment, for the employee's refusal to provide the
- 4764 statement; and
- 4765 (b) provides the employee assurance that the statement cannot be used against the
- 4766 employee in any criminal proceeding;
- 4767 (85) any part of an application for a Utah Fits All Scholarship account described in Section
- 4768 53F-6-402 or other information identifying a scholarship student as defined in Section
- 4769 53F-6-401;
- 4770 (86) a record:
- 4771 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 4772 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
- 4773 person concerning the claim, including a representative from another state or the
- 4774 federal government; and
- 4775 (c) the disclosure of which would:
- 4776 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
- 4777 Great Salt Lake;
- 4778 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
- 4779 and conditions regarding the use of water in the Great Salt Lake; or
- 4780 (iii) give an advantage to another person including another state or to the federal
- 4781 government in negotiations regarding the use of water in the Great Salt Lake;
- 4782 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
- 4783 reclassified as public as described in Subsection 13-2-11(4);
- 4784 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 4785 (a) concerning a claim to the use of waters;

- 4786 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
 4787 representative from another state, a tribe, the federal government, or other
 4788 government entity as provided in Title 73, Chapter 10g, Part 7, Utah Water Agent;
 4789 and
 4790 (c) the disclosure of which would:
 4791 (i) reveal a legal strategy relating to the state's claim to the use of the water;
 4792 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
 4793 regarding the use of water; or
 4794 (iii) give an advantage to another state, a tribe, the federal government, or other
 4795 government entity in negotiations regarding the use of water;[~~and~~]

- 4796 (89) a record created or maintained for an investigation of the Prosecutor Conduct
 4797 Commission, created in Section 63M-7-1102, that contains any personal identifying
 4798 information of a prosecuting attorney, including:
 4799 (a) a complaint, or a document that is submitted or created for a complaint, received by
 4800 the Prosecutor Conduct Commission; or
 4801 (b) a finding by the Prosecutor Conduct Commission[~~;~~] ; and

- 4802 (90) the identity of an agency title insurance producer that makes a report to the Insurance
 4803 Commissioner in accordance with Subsection 31A-23a-204(11)(a).

4804 **Section 75. Repealer.**

4805 This bill repeals:

4806 **Section 31A-20-109, Single risk limitation for title insurance.**

4807 **Section 31A-22-2001, Title.**

4808 **Section 31A-22-2003, Scope.**

4809 **Section 31A-22-2004, Disclosure and performance standards for limited long-term care**
 4810 **insurance.**

4811 **Section 31A-22-2005, Nonforfeiture benefits.**

4812 **Section 76. Effective Date.**

4813 This bill takes effect on May 6, 2026.