

James A. Dunnigan proposes the following substitute bill:

**Insurance Code Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to insurance.

**Highlighted Provisions:**

This bill:

- defines terms;
- 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 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 a 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; and
- 75       ▸ makes technical and conforming changes.

76 **Money Appropriated in this Bill:**

77 None

78 **Other Special Clauses:**

79 None

80 **Utah Code Sections Affected:**

81 AMENDS:

82 **31A-2-104**, as last amended by Laws of Utah 2020, Chapter 32

83 **31A-2-203**, as last amended by Laws of Utah 2009, Chapter 349

84 **31A-2-205**, as last amended by Laws of Utah 2009, Chapter 355

85 **31A-2-206**, as last amended by Laws of Utah 2007, Chapter 309

86 **31A-2-207**, as last amended by Laws of Utah 2019, Chapter 254

87 **31A-2-310**, as last amended by Laws of Utah 2023, Chapter 194

88 **31A-2-404**, as last amended by Laws of Utah 2025, Chapter 175

89 **31A-3-304**, as last amended by Laws of Utah 2025, Chapter 175

90 **31A-4-113**, as last amended by Laws of Utah 2004, Chapter 2

91 **31A-4-113.5**, as last amended by Laws of Utah 2024, Chapter 120

92 **31A-5-420**, as enacted by Laws of Utah 1985, Chapter 242

93 **31A-11-104**, as last amended by Laws of Utah 2007, Chapter 309

94 **31A-14-206**, as last amended by Laws of Utah 2007, Chapter 309

95 **31A-16-111**, as last amended by Laws of Utah 2023, Chapter 401 and last amended by

Coordination Clause, Laws of Utah 2023, Chapter 401  
**31A-17-201**, as last amended by Laws of Utah 2003, Chapter 252  
**31A-17-202**, as last amended by Laws of Utah 1999, Chapter 131  
**31A-18-117**, as enacted by Laws of Utah 2025, Chapter 368  
**31A-20-108**, as last amended by Laws of Utah 2024, Chapter 120  
**31A-21-310**, as last amended by Laws of Utah 2025, Chapter 302  
**31A-22-309**, as last amended by Laws of Utah 2020, Chapter 130  
**31A-22-505**, as last amended by Laws of Utah 2021, Chapter 252  
**31A-22-650**, as last amended by Laws of Utah 2025, Chapter 473  
**31A-22-701**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-23a-111**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-23a-202**, as last amended by Laws of Utah 2016, Chapter 138  
**31A-23a-203.5**, as last amended by Laws of Utah 2015, Chapter 312  
**31A-23a-204**, as last amended by Laws of Utah 2024, Chapter 196  
**31A-23a-401**, as last amended by Laws of Utah 2009, Chapter 12  
**31A-23a-406**, as last amended by Laws of Utah 2024, Chapter 120  
**31A-23a-409**, as last amended by Laws of Utah 2023, Chapters 111, 194  
**31A-23a-501**, as last amended by Laws of Utah 2023, Chapter 16  
**31A-26-301.6**, as last amended by Laws of Utah 2025, Chapter 276  
**31A-26-401**, as enacted by Laws of Utah 2017, Chapter 168  
**31A-26-402**, as enacted by Laws of Utah 2017, Chapter 168  
**31A-28-203**, as last amended by Laws of Utah 2002, Chapter 308  
**31A-35-103**, as last amended by Laws of Utah 2021, Chapter 64  
**31A-37-102**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-103**, as last amended by Laws of Utah 2019, Chapter 193  
**31A-37-201**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-204**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-302**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-501**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-505**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-37-701**, as last amended by Laws of Utah 2025, Chapter 175  
**31A-41-202**, as last amended by Laws of Utah 2016, Chapter 138  
**63G-2-305**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

ENACTS:

130       **31A-26-403.1**, Utah Code Annotated 1953

131       **31A-26-404**, Utah Code Annotated 1953

132       **31A-26-405**, Utah Code Annotated 1953

133       **31A-26-406**, Utah Code Annotated 1953

134       RENUMBERS AND AMENDS:

135       **31A-26-407**, (Renumbered from 31A-26-403, as enacted by Laws of Utah 2017,  
136       Chapter 168)

137       REPEALS:

138       **31A-20-109**, as enacted by Laws of Utah 1985, Chapter 242

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

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

142           **31A-2-104 . Other employees -- Insurance fraud investigators.**

- 143       (1) The department shall employ professional, technical, and clerical employees as  
144       necessary to carry out the duties of the department.
- 145       (2) An insurance fraud investigator employed in accordance with Subsection (1) may as the  
146       commissioner approves:
- 147           (a) be designated a law enforcement officer, as defined in Section 53-13-103;~~and~~
- 148           (b) be eligible for retirement benefits under the Public Safety Employee's Retirement  
149           System~~[-]~~ ; and
- 150           (c) investigate crimes a department licensee commits while performing an activity  
151           regulated under this title.

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

153           **31A-2-203 . Examinations and alternatives.**

- 154       (1)(a) When the commissioner determines that information is needed about a matter  
155       related to the enforcement of this title, the commissioner may examine the affairs and  
156       condition of:
- 157           (i) a licensee under this title;
- 158           (ii) an applicant for a license under this title;
- 159           (iii) a person or organization of persons doing or in process of organizing to do an  
160           insurance business in this state; or
- 161           (iv) a person who is not, but is required to be, licensed under this title.
- 162       (b) When reasonably necessary for an examination under Subsection (1)(a), the  
163       commissioner may examine:

- 164 (i) so far as it relates to the examinee, an account, record, document, or evidence of a  
165 transaction of:
- 166 (A) the insurer or other licensee;
- 167 (B) an officer or other person who has executive authority over or is in charge of  
168 any segment of the examinee's affairs; or
- 169 (C) an affiliate of the examinee; or
- 170 (ii) a third party model or product used by the examinee.
- 171 (c)(i) On demand, an examinee under Subsection (1)(a) shall make available to the  
172 commissioner for examination:
- 173 (A) the examinee's own account, record, file, document, or evidence of a  
174 transaction; and
- 175 (B) to the extent reasonably necessary for an examination, an account, record, file,  
176 document, or evidence of a transaction of a person described under Subsection  
177 (1)(b).
- 178 (ii) Except as provided in Subsection (1)(c)(iii), failure to make an item described in  
179 Subsection (1)(c)(i) available is concealment of records under Subsection  
180 31A-27a-207(1)(e).
- 181 (iii) If an examinee is unable to obtain an account, record, file, document, or evidence  
182 of a transaction from a person described under Subsection (1)(b), that failure is not  
183 concealment of records if the examinee immediately terminates the relationship  
184 with the other person.
- 185 (d)(i) The commissioner or an examiner may not remove an account, record, file,  
186 document, evidence of a transaction, or other property of an examinee from the  
187 examinee's offices unless:
- 188 (A) the examinee consents in writing; or
- 189 (B) a court grants permission.
- 190 (ii) The commissioner may make and remove a copy or abstract of the following  
191 described in Subsection (1)(d)(i):
- 192 (A) an account;
- 193 (B) a record;
- 194 (C) a file;
- 195 (D) a document;
- 196 (E) evidence of a transaction; or
- 197 (F) other property.

- (2)(a) Subject to the other provisions of this section, the commissioner shall examine as needed and as otherwise provided by law:
- (i) every insurer, both domestic and nondomestic;
  - (ii) every licensed rate service organization; and
  - (iii) any other licensee.
- (b) The commissioner shall examine an insurer, both domestic and nondomestic, no less frequently than once every five years, but the commissioner may use in lieu an examination under Subsection (4) to satisfy this requirement.
- (c) The commissioner shall revoke the certificate of authority of an insurer or the license of a rate service organization that has not been examined, or submitted an acceptable in lieu report under Subsection (4), within the past five years.
- (d)(i) Any 25 persons who are policyholders, shareholders, or creditors of a domestic insurer may by verified petition demand a hearing under Section 31A-2-301 to determine whether the commissioner should conduct an unscheduled examination of the insurer.
- (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an opportunity in the hearing to present evidence that an examination of the insurer is necessary.
- (iii) If the evidence justifies an examination, the commissioner shall order an examination.
- (e)(i) If the board of directors of a domestic insurer requests that the commissioner examine the insurer, the commissioner shall examine the insurer as soon as reasonably possible.
- (ii) If the examination requested under this Subsection (2)(e) is conducted within two years after completion of a comprehensive examination by the commissioner, costs of the requested examination may not be deducted from premium taxes under Section 59-9-102 unless the commissioner's order specifically provides for the deduction.
- (f) A bail bond surety company, as defined in Section 31A-35-102, is exempt from:
- (i) the five-year examination requirement in Subsection (2)(b);
  - (ii) the revocation under Subsection (2)(c); and
  - (iii) Subsections (2)(d) and (2)(e).
- (3)(a) The commissioner may order an independent audit or examination by one or more [ ~~technical experts, including a certified public accountant or actuary~~ ] independent

232 contractors, including certified public accountants, investment specialists, and  
233 information technology specialists:

- 234 (i) in lieu of all or part of an examination under Subsection (1) or (2); or  
235 (ii) in addition to an examination under Subsection (1) or (2).

236 (b) The commissioner may employ one or more independent contractors who are  
237 qualified by knowledge, skill, experience, training, or education to provide  
238 specialized assistance in an examination.

239 ~~[(b)]~~ (c) [An audit or evaluation under] A service performed in accordance with this  
240 Subsection (3) is subject to Subsection (5), Section 31A-2-204, and Subsection  
241 31A-2-205(4).

242 (4)(a) In lieu of all or a part of an examination under this section, the commissioner may  
243 accept the report of an examination made by:

- 244 (i) the insurance department of another state; or  
245 (ii) another government agency in:  
246 (A) this state;  
247 (B) the federal government; or  
248 (C) another state.

249 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by the  
250 commissioner under this Subsection (4) may use:

- 251 (i) an audit completed by a certified public accountant; or  
252 (ii) an actuarial evaluation made by an actuary approved by the commissioner.

253 (5)(a) An examination may be comprehensive or limited with respect to the examinee's  
254 affairs and condition. The commissioner shall determine the nature and scope of an  
255 examination, taking into account all relevant factors, including:

- 256 (i) the length of time the examinee has been licensed in this state;  
257 (ii) the nature of the business being examined;  
258 (iii) the nature of the accounting or other records available;  
259 (iv) one or more reports from:  
260 (A) independent auditors; and  
261 (B) self-certification entities; and  
262 (v) the nature of examinations performed elsewhere.

263 (b) The examination of an alien insurer is limited to one or more insurance transactions  
264 and assets in the United States, unless the commissioner orders otherwise after  
265 finding that extraordinary circumstances necessitate a broader examination.

- (6) To effectively administer this section, the commissioner:
- (a) shall:
    - (i) maintain one or more effective financial condition and market regulation surveillance systems including:
      - (A) financial and market analysis; and
      - (B) a review of insurance regulatory information system reports;
    - (ii) employ a priority scheduling method that focuses on insurers and other licensees most in need of examination; and
    - (iii) use examination management techniques similar to those outlined in the Financial Condition Examination Handbook of the National Association of Insurance Commissioners; and
  - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules pertaining to:
    - (i) a financial condition and market regulation surveillance system; and
    - (ii) annual financial reporting requirements similar to those outlined in the Annual Financial Reporting Model Regulation of the National Association of Insurance Commissioners.

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

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

- (1)~~[(a)]~~ Except as provided in ~~[Subsection (3)]~~ Subsection (7), an examinee that is one of the following shall ~~[reimburse the department]~~ pay for the reasonable costs of ~~[examinations]~~ an examination made under Sections 31A-2-203 and 31A-2-204:
- ~~[(i)]~~ (a) an insurer;
  - ~~[(ii)]~~ (b) a rate service organization;
  - ~~[(iii)]~~ (c) a subsidiary of an insurer or rate service organization; or
  - ~~[(iv)]~~ (d) a life settlement provider.
- ~~[(b)]~~ (2) ~~[The following costs shall be reimbursed under this.]~~ An examinee shall pay the following costs of the department under Subsection (1):
- ~~[(i)]~~ (a) an examiner's actual travel ~~[expenses]~~ expenses;
  - ~~[(ii)]~~ (b) an examiner's reasonable living expense allowance;
  - ~~[(iii)]~~ (c) ~~[compensation at reasonable rates for all professionals reasonably employed for the examination under Subsection (4);]~~ an examiner's actual rate of compensation;
  - ~~[(iv)]~~ the administration and supervisory expense of:
    - ~~[(A)]~~ (A) the department; and

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

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

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

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

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

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

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

310 (d) an expense that the independent contractor necessarily incurs that the commissioner  
311 approves.

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

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

318 ~~[(2)]~~ (6)(a) An insurer requesting the examination of one of [its] the insurer's producers  
319 shall pay the cost of the examination to the extent described in Subsections (2)  
320 through (4).[-]

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

325 ~~[(3)]~~ (7)(a) On the examinee's request or at the commissioner's discretion, the department  
326 may pay all or part of the costs of an examination whenever the commissioner finds  
327 that [because of] based on the frequency of examinations or the examinee's financial  
328 condition[-of the examinee,] :

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

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

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

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

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

(i) reviews the invoice;

(ii) approves the invoice for payment; and

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

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

~~[(B) reasonable living expenses; and]~~

~~[(C) compensation; and]~~

~~[(ii) for expenses necessarily incurred as approved by the commissioner.]~~

(c) An invoice dispute shall be resolved in accordance with rules the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(e) The examined insurer shall reimburse the department for:]~~

~~[(i) a department examiner's:]~~

~~[(A) actual travel expenses; and]~~

~~[(B) reasonable living expenses; and]~~

~~[(ii) the compensation of department examiners involved in the examination.]~~

~~[(d)(i) The examined insurer shall certify the consolidated account of all charges and expenses for the examination.]~~

~~[(ii) The examined insurer shall:]~~

~~[(A) retain a copy of the consolidated account; and]~~

~~[(B) file a copy of the consolidated account with the department as a public record.]~~

~~[(e) An annual report of examination charges paid by examined insurers directly to persons employed under Subsection 31A-2-203(3) or to department examiners shall be included with the department's budget request.]~~

~~[(f)] (9) [Amounts paid directly by examined insurers to persons employed]~~ An amount an examinee pays to an independent contractor the commissioner employs under Subsection 31A-2-203(3) or to a department [examiners] examiner may not be deducted from the department's appropriation.

~~[(5)] (10)(a) The amount payable under [Subsection (1)]~~ Subsections (1) through (3) is

due 10 days after the day on which ~~[the examinee is served with a detailed account of the costs]~~ the commissioner directs the examinee to pay the invoice.

(b) Payments ~~[received by]~~ the department receives under this Subsection ~~[(5)]~~ (10) shall be handled as provided by Section 31A-3-101.

~~[(6)]~~ (11)(a) The commissioner may require an examinee under Subsection (1), or an insurer requesting an examination under Subsection ~~[(2)]~~ (6), either before or during an examination, to make deposits with the state treasurer to pay the costs of examination.

(b) ~~[Any-]~~ The state treasurer shall hold a deposit [made] an examinee or an insurer makes under this Subsection ~~[(6) shall be held]~~ (11) in trust ~~[by the state treasurer-]~~ until ~~[~~ applied] the state treasurer applies the deposit to pay the department the costs payable under this section.

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

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

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

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

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

(1) As used in this chapter:

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

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

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

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

(2) Subject to the commissioner's approval and to the requirements of this section, the state

treasurer shall accept, and a custodian institution qualified under Subsection (1)(a) may accept:

- (a) deposits required or permitted under this title or rules adopted under this title;
- (b) deposits of domestic insurers or of alien insurers domiciled in this state if required by the laws of other states as a prerequisite to authority to do an insurance business in other states; and
- (c) deposits resulting from application of any retaliatory provisions of this title.

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

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

(a) first, for an examination cost that an insurer has not paid in under Section 31A-2-205;

~~[(a)] (b)~~ [first] second, for administrative costs under Subsection 31A-27a-701(2)(a);

~~[(b)] (c)~~ [second] third, for the claimants under Subsection 31A-27a-701(2)(c);

~~[(c)] (d)~~ [third] fourth, for the claimants under Subsection 31A-27a-701(2)(d); and

~~[(d)] (e)~~ [fourth] fifth, for all other creditors in the order of priority established under Section 31A-27a-701.

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

(6) Deposits may be made by:

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

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

(7)(a) ~~[Deposits]~~ A deposit may consist of ~~[any securities]~~ a security authorized in

436 Subsection (7)(b) for which there is a ready market if ~~[they]~~ the deposit:

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

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

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

441 (b) The authorized securities are:

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

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

446 (iii) tax anticipation bonds or notes, general obligation bonds, or revenue bonds of  
447 this state or of any county, incorporated city or town, school district, or other  
448 political subdivision of this state, if the bonds or notes are rated AAA by Standard  
449 and Poor's or an equivalent nationally recognized rating agency;

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

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

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

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

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

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

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

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

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

468 (c)(i) Depositors, the state treasurer, ~~[any]~~ a custodian institution, and the  
469 commissioner shall each keep a permanent record of securities deposited or held

under this section and of any substitutions or withdrawals.

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

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

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

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

(a) receive interest and cash dividends accruing on the securities held for ~~[its]~~ the depositor's account; and

(b) substitute for deposited securities other eligible securities, as the commissioner expressly ~~[approved by the commissioner]~~ approves.

(13) Within 45 days after the day on which the commissioner gives notice to a depositor that a deposit is not an acceptable deposit under Subsection (7), the depositor shall substitute other eligible securities ~~[expressly approved by]~~ the commissioner expressly approves and allowed under Subsection (7).

(14) A depositor may voluntarily deposit or transfer control of eligible securities in excess of requirements to absorb fluctuations in value and to facilitate substitution of securities.

(15)(a) Upon the depositor's request and upon approval of the commissioner, any deposit or part of a deposit shall be released to, or on order of, the depositor to the extent not needed to satisfy requirements of this title.

(b) After a hearing, the commissioner may issue an order requiring that a deposit or an appropriate part of the deposit be released to the commissioner to pay an examination cost described in Subsection (4)(a).

(c) ~~[-]~~On the order of a court ~~[of competent]~~ with jurisdiction, the deposit or appropriate part of the deposit shall be released to the person for whom ~~[it]~~ the deposit is held.

(16) Each depositor shall pay the cost of custody of securities by a custodian institution or by the state treasurer.

(17) The commissioner shall adopt rules to implement this section.

Section 5. Section **31A-2-207** is amended to read:

**31A-2-207 . Commissioner's records and reports -- Protection from disclosure of**

**certain records.**

- (1) The commissioner shall maintain all department records that are:
  - (a) required by law;
  - (b) necessary for the effective operation of the department; or
  - (c) necessary to maintain a full record of department activities.
- (2) The records of the department may be preserved, managed, stored, and made available for review consistent with:
  - (a) another Utah statute;
  - (b) the rules made under Section 63A-12-104;
  - (c) the decisions of the Records Management Committee made under Section 63A-12-113; or
  - (d) the needs of the public.
- (3) A department record may not be destroyed, damaged, or disposed of without:
  - (a) authorization of the commissioner; and
  - (b) compliance with all other applicable laws.
- (4) The commissioner shall maintain a permanent record of the commissioner's proceedings and important activities, including:
  - (a) a concise statement of the condition of each insurer examined by the commissioner; and
  - (b) a record of all certificates of authority and licenses issued by the commissioner.
- (5)(a) Prior to October 1 of each year, the commissioner shall prepare an annual report to the governor which shall include, for the preceding calendar year, the information concerning the department and the insurance industry which the commissioner believes will be useful to the governor and the public.
  - (b) The report required by this Subsection (5) shall include the information required under Chapter 27a, Insurer Receivership Act, and Subsections 31A-2-106(2), [ ~~31A-2-205(3)~~ 31A-2-205(7), and 31A-2-208(3).
  - (c) The commissioner shall make the report required by this Subsection (5) available to the public and industry in electronic format.
- (6) All department records and reports are open to public inspection unless specifically provided otherwise by statute or by Title 63G, Chapter 2, Government Records Access and Management Act.
- (7) On request, the commissioner shall provide to any person certified or uncertified copies of any record in the department that is open to public inspection.

(8) Notwithstanding Subsection (6) and Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner shall protect from disclosure any record, as defined in Section 63G-2-103, or other document received from an insurance regulator of another jurisdiction:

- (a) at least to the same extent the record or document is protected from disclosure under the laws applicable to the insurance regulator providing the record or document; or
- (b) under the same terms and conditions of confidentiality as the National Association of Insurance Commissioners requires as a condition of participating in any of the National Association of Insurance Commissioners' programs.

Section 6. Section **31A-2-310** is amended to read:

**31A-2-310 . Procedure for service of process through state officer.**

(1) Service upon the commissioner or lieutenant governor under Section 31A-2-309 is service on the principal, if:

- (a) ~~[the following]~~ two copies of the process to be served and the required processing fee are delivered personally or to the office of the official designated in Section 31A-2-309~~;~~ ; and
  - ~~[(i) two copies of the process to be served; and]~~
  - ~~[(ii) a certificate of proof of service that meets the requirements of Subsection (3), dated and signed by the official designated in Section 31A-2-309; and]~~
- (b) that official mails a copy of the process to the person to be served according to [ ~~Subsection (2)(b)]~~ Subsection (2)(c)(i).

(2)(a) ~~[The]~~ Upon request, the commissioner [and] or the lieutenant governor shall give [ ~~receipts]~~ a receipt for ~~[and keep records of]~~ all process served through [them] the commissioner or the lieutenant governor.

(b) The commissioner or the lieutenant governor shall keep a record of process served through the commissioner or the lieutenant governor.

~~[(b)]~~ (c)(i) The commissioner or the lieutenant governor shall ~~[immediately]~~ send by certified mail ~~[one]~~ a copy of the process ~~[received]~~ the commissioner or the lieutenant governor receives to the person to be served at that person's last known principal place of business, residence, or post-office address.

(ii) ~~[-]~~ The commissioner or the lieutenant governor shall retain ~~[the other]~~ a copy ~~[for his files]~~ of the process in a file.

~~[(e)]~~ (d) No plaintiff or complainant may take a judgment by default in ~~[any]~~ a proceeding in which process is served under this section and Section 31A-2-309 until the

expiration of 40 days from the date of service of process under ~~[Subsection (2)(b)]~~  
Subsection (2)(c)(i).

(3)(a) ~~[Proof]~~ The official designated in Section 31A-2-309 shall evidence proof of  
service ~~[shall be evidenced]~~ by a certificate:

(i) ~~[- by the official designated in Section 31A-2-309, ]~~showing service made upon [  
~~him]~~ the official and mailing by [~~him,]~~ the official; and

(ii) ~~[-]~~ that is attached to a copy of the process presented to [~~him]~~ the official for that  
purpose.

(b) A person seeking evidence of proof of service shall:

(i) prepare the certificate described in Subsection (3)(a); and

(ii) obtain the signature of the official designated in Section 31A-2-309.

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

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

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

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

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

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

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

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

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

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

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

(d) Except as provided in Subsection (1)(e), when this title requires concurrence

between the commissioner and commission related to a title insurance matter:

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

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

(A) concur with the report; or

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

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

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

(ii) the commissioner shall review a report [~~submitted by~~]the commission submits under this Subsection (1)(e) and concur with the report or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commission.

(2) The commission shall:

(a) subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including rules related to:

(i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;

(ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;

(iii) continuing education requirements of Section 31A-23a-202; and

(iv) standards of conduct for a title licensee;

(b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;

(c) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;

(d) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;

(e) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation [~~conducted by~~]the commissioner's test administrator conducts;

(f) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and

(g) perform other duties as provided in this title.

(3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:

(a) after consultation with the commissioner's test administrator; and

(b) subject to Subsection (4).

(4)(a) The commission may make a rule under this title only:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and

(iii) if at the time the commission files the commission's proposed rule and rule analysis with the Office of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.

(b) The commission may not make a rule regarding adjudicative procedures.

(c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.

(5)(a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.

(b) The information required to be reported under this Subsection (5):

(i) may not identify a person; and

(ii) shall include:

(A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately preceding the report;

(B) the type of complaints described in Subsection (5)(b)(ii)(A); and

(C) for each complaint described in Subsection (5)(b)(ii)(A):

(I) any action taken by the commissioner with regard to the complaint; and

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

(6) The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the process for winding down the business

674 of a resident agency title insurance producer.

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

676 **31A-3-304 . Annual fees -- Other taxes or fees prohibited -- Captive Insurance**  
677 **Restricted Account.**

678 (1)(a) A captive insurance company, other than a risk retention group, shall pay an  
679 annual fee imposed under this section to obtain or renew a certificate of authority.

680 (b) ~~[The]~~ Except as provided in Subsection (1)(c), the commissioner shall:

681 (i) determine the annual fee in accordance with Section 31A-3-103; and

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

684 (c) The annual fee for a captive insurance company organized as a risk retention group  
685 formed in this state as a corporation or other limited liability entity under the  
686 Liability Risk Retention Act of 1986, 15 U.S.C. Sec. 3901 et seq.:

687 (i) subject to Subsection (1)(c)(ii), shall be 2% of the company's gross written  
688 premiums; and

689 (ii) may not exceed \$200,000.

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

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

695 (i) a fee under this section;

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

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

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

702 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115  
703 against a captive insurance company.

704 (4) A captive insurance company shall pay the fee imposed by this section to the  
705 commissioner by June 1 of each year.

706 (5)(a) The commissioner shall deposit money received from a fee described in  
707 Subsection (3)(a) into the Captive Insurance Restricted Account.

- (b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."
- (c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).
- (d)(i) The commissioner shall administer the Captive Insurance Restricted Account.
- (ii) ~~[-]~~Subject to appropriations by the Legislature, the commissioner shall use the money ~~[deposited]~~ the commissioner deposits into the Captive Insurance Restricted Account to:
- ~~[(i)] (A)~~ administer and enforce~~[:]~~
- ~~[(A)]~~ Chapter 37, Captive Insurance Companies Act~~[:]~~ and
- ~~[(B)]~~ Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
- ~~[(ii)] (B)~~ promote the captive insurance industry in Utah.
- (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money ~~[received by]~~ the commissioner receives in excess of the legislative appropriation for the fiscal year that just ended shall be treated as free revenue in the General Fund:
- ~~[(i) for fiscal year 2025, in excess of \$1,650,000; and]~~
- ~~[(ii)] (i)~~ for fiscal year 2026~~[and subsequent fiscal years]~~, in excess of \$1,668,500~~[:]~~ ;
- and
- ~~(ii)~~ for fiscal year 2027 and subsequent fiscal years, in excess of \$1,687,500.

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

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

- (1)(a) Each authorized insurer shall annually, on or before March 1, file with the commissioner and the NAIC a true statement of the authorized insurer's financial condition, transactions, and affairs as of December 31 of the preceding year.
- (b) The statement required by Subsection (1)(a) shall be:
- (i) verified by the oaths of at least two of the insurer's principal officers; and
- (ii) in the general form and provide the information as prescribed by the commissioner by rule.
- ~~[(e) The commissioner may, for good cause shown, extend the date for filing the statement required by Subsection (1)(a).]~~
- (2)(a) Each authorized insurer shall file with the commissioner and the NAIC a true statement of the insurer's financial condition, transactions, and affairs within 45 days after the close of the first, second, and third quarters of a calendar year.

(b) A statement required by this Subsection (2) shall be:

(i) verified by the oath of at least two of the insurer's principal officers; and

(ii) in the general form and provide the information the commissioner requires by rule.

~~[(2)]~~ (3) The annual statement of an alien insurer shall:

(a) relate only to the alien insurer's transactions and affairs in the United States unless the commissioner requires otherwise; and

(b) be verified by:

(i) the insurer's United States manager; or

(ii) the insurer's authorized officers.

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

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

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

**Commissioners.**

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

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

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

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

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

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

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

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

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

(I) annual statement instructions; and

(II) Accounting Practices and Procedures Manual; and

(B) include:

(I) the signed jurat page; and

(II) the actuarial certification.

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

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

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

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

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

(3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of ~~[any] an insurer [failing] that fails~~ to:

(a) submit the filings under Subsection (1)(a) when due or within any extension of time granted for good cause by:

(i) the commissioner; or

(ii) the NAIC; or

(b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay under this section to:

(i) the commissioner; or

(ii) the NAIC.

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

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

(1) When ~~[it] doing so~~ is in the best interests of the company, the directors of a domestic mutual insurer or a domestic mutual insurance holding company shall declare, apportion, and pay to ~~[its] the domestic mutual insurer's or the domestic mutual insurance holding company's~~ members dividends from ~~[its] the domestic mutual insurer's or the domestic mutual insurance holding company's~~ net savings and earnings.

(2)(a) The mutual insurer or mutual insurance holding company shall make a reasonable classification of ~~[its] the mutual insurer's or the mutual insurance holding company's~~ participating policies and ~~[its] the mutual insurer's or the mutual insurance holding company's~~ assumed risks.

(b) ~~[-]~~No dividend shall be paid that is inequitable, unfairly discriminates between classifications of insurance contracts, or unfairly discriminates between policies

within the same classification.

(3) Unless stated in the policy, no dividend, otherwise earned, shall be contingent upon the payment of the renewal premium on ~~any~~ a policy.

(4) Subsection (1) may not be construed to require ~~[an insurer determined by]~~ a mutual insurer or mutual insurance holding company that the United States Internal Revenue Service determines to be a nonprofit organization to pay a dividend in a manner which would jeopardize that status.

(5)(a) At least 30 days before the day on which a dividend distribution occurs, a mutual insurer or mutual insurance holding company shall file with the commissioner a schedule explaining the basis for the dividend distribution.

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

Section 12. Section **31A-11-104** is amended to read:

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

(1) In addition to this chapter, motor clubs are subject to the applicable sections of:

(a) Chapter 1, General Provisions, Chapter 2, Administration of the Insurance Laws, Chapter 4, Insurers in General, Chapter 16, Insurance Holding Companies, Chapter 21, Insurance Contracts in General, Chapter 22, Contracts in Specific Lines, Chapter 26, Insurance Adjusters, ~~[Chapter 27, Delinquency Administrative Action Provisions]~~ Chapter 27, Administrative Supervision of Insurers, and Chapter 27a, Insurer Receivership Act;

(b) Chapter 3, Part 1, Funding the Insurance Department;

(c) Chapter 23a, Part 1, General Provisions, Part 4, Marketing Practices, and Part 5, Compensation of Producers and Consultants; and

(d) Section 31A-23a-207.

(2) Sections 31A-14-204 and 31A-14-216 apply to nondomestic motor clubs.

(3) Section 31A-5-401 applies to domestic motor clubs.

(4) Sections 31A-5-105, 31A-5-106, and 31A-5-216 apply to both domestic and nondomestic motor clubs.

(5) Both domestic and nondomestic motor clubs are subject to the department fees under Section 31A-3-103. Other provisions of this title apply to motor clubs only as specifically provided in this chapter.

Section 13. Section **31A-14-206** is amended to read:

**31A-14-206 . Commercially domiciled insurers.**

- (1) As used in this section, and except as to title insurers, the commissioner may consider a foreign insurer to be "commercially domiciled" in this state if:
- (a) during the three immediately preceding calendar years, the foreign insurer wrote more insurance premiums in this state than [it] the foreign insurer wrote in [its] the foreign insurer's state of domicile during the same period; or
  - (b) during the same three-year period, the foreign insurer's gross premiums written in this state constituted 15% or more of the insurer's total gross premiums written in the United States.
- (2)(a) Subject to Subsection (3), an insurer determined by the commissioner to be commercially domiciled in this state may be subjected to Chapter 16, Insurance Holding Companies, Chapter 17, Determination of Financial Condition, Chapter 18, Investments, [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27, Administrative Supervision of Insurers, and Chapter 27a, Insurer Receivership Act, and Chapter 27a, Part 4, Liquidation, Part 5, Asset Recovery, and Part 6, Claims, in the same manner and to the same extent as domestic insurers.
- (b) [-]The commissioner shall, by order, notify any commercially domiciled insurer not exempt under Subsection (3) of the extent to which the insurer is subject to the provisions listed under this Subsection (2).
- (3) The commissioner may exempt from the provisions of this section any commercially domiciled insurer if the commissioner determines that the insurer has assets physically located in this state or an asset to liability ratio sufficient to justify the conclusion that there is no reasonable danger that the operations or conduct of the business of the insurer could present a danger of loss to Utah policyholders.
- (4) Subsection 31A-14-205(4) applies to the conflict of the laws of this state with the laws of the insurer's domicile for foreign insurers, including commercially domiciled insurers, under this section.
- (5) This section does not excuse or exempt any foreign insurer from complying with the provisions under this title which are otherwise applicable to a foreign insurer.

Section 14. Section **31A-16-111** is amended to read:

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

- (1) If the commissioner finds that the acquiring person has not substantially complied with the requirements of this chapter in acquiring control of a domestic insurer, the

commissioner may require the acquiring person to sell the acquiring person's stock of the domestic insurer in the manner specified in Subsection (2).

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

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

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

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

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

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

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

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

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

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

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

~~[(ii)]~~ (b) permits any of the officers or agents of the insurer to engage in a transaction or investment described in Subsection ~~[(5)(a)(i)]~~ (5)(a).

~~[(b)]~~ A director or officer in violation of Subsection (5)(a) shall pay, in the director's or officer's individual capacity, a civil penalty of not more than \$20,000 per violation:]

~~[(i) upon a finding by the commissioner of a violation; and]~~

~~[(ii) after notice and hearing before the commissioner.]~~

~~[(c)]~~ In determining the amount of the civil penalty under Subsection (5)(b), the commissioner shall take into account:]

~~[(i) the appropriateness of the penalty with respect to the gravity of the violation;]~~

~~[(ii) the history of previous violations; and]~~

~~[(iii) any other matters that justice requires.]~~

- 912 (6)(a) When ~~[it appears to]~~the commissioner suspects that any insurer or any director,  
 913 officer, employee, or agent of the insurer, has committed a willful violation of this  
 914 chapter, the commissioner may refer the violation to the appropriate prosecutor.
- 915 (b)(i) An insurer that willfully violates this chapter may be fined not more than  
 916 \$20,000.
- 917 (ii) Any individual who willfully violates this chapter is guilty of a third degree  
 918 felony, and upon conviction may be:
- 919 (A) fined in that person's individual capacity not more than \$5,000;  
 920 (B) imprisoned; or  
 921 (C) both fined and imprisoned.
- 922 (7) This section does not limit the other sanctions applicable to violations of this title under  
 923 Section 31A-2-308.
- 924 Section 15. Section **31A-17-201** is amended to read:
- 925 **31A-17-201 . Qualified assets.**
- 926 (1) Except as provided under Subsections (3) and (4), only the qualified assets listed in  
 927 Subsection (2) may be used in determining the financial condition of an insurer, except  
 928 to the extent an insurer has shown to the commissioner that the insurer has excess  
 929 surplus, as defined in Section 31A-1-301.
- 930 (2) For purposes of Subsection (1), "qualified assets" means:
- 931 (a) any of the following acquired or held in accordance with Sections 31A-18-105,~~[-and]~~  
 932 31A-18-106, and 31A-18-110:
- 933 (i) an investment;  
 934 (ii) a security;  
 935 (iii) property; or  
 936 (iv) a loan;
- 937 (b) the income due and accrued on an asset listed in Subsection (2)(a);
- 938 (c) assets other than an asset listed in Subsection (2)(a) that are determined to be  
 939 admitted in the Accounting Practices and Procedures Manual, published by the  
 940 National Association of Insurance Commissioners; and
- 941 (d) other assets ~~[authorized by]~~ that the commissioner authorizes by rule.
- 942 (3)(a) Subject to Subsection (5) and even if the assets could not otherwise be counted  
 943 under this chapter, assets acquired in the bona fide enforcement of creditors' rights  
 944 may be counted for the purposes of Subsection (1) and Sections 31A-18-105,~~[-and]~~  
 945 31A-18-106, and 31A-18-110:

- (i) for five years after the acquisition of the assets if the assets are real property; and
- (ii) for one year if the assets are not real property.

(b)(i) The commissioner may allow reasonable extensions of the periods described in Subsection (3)(a), if disposal of the assets within the periods given is not possible without substantial loss.

- (ii) Extensions under Subsection (3)(b)(i) may not, as to any particular asset, exceed a total of five years.

(4) Subject to Subsection (5), and even though under this chapter the assets could not otherwise be counted, assets acquired in connection with mergers, consolidations, or bulk reinsurance, or as a dividend or distribution of assets, may be counted for the same purposes, in the same manner, and for the same periods as assets acquired under Subsection (3).

(5) Assets described under Subsection (3) or (4) may not be counted for the purposes of Subsection (1), except to the extent they are counted as assets in determining insurer solvency under the laws of the state of domicile of the creditor or acquired insurer.

Section 16. Section **31A-17-202** is amended to read:

**31A-17-202 . Status of assets that are not "qualified assets."**

(1)(a) Except as provided in Subsection (1)(b), if an insurer owns assets that are not qualified assets under Section 31A-17-201, the assets shall be disregarded in determining and reporting the financial condition of the insurer.

(b) An insurer may invest [its] the insurer's funds in investments that are permitted under Section [31A-18-105] 31A-18-110 but in excess of the limits under [Sections 31A-18-103 and 31A-18-106] Section 31A-18-111 or other assets [approved by] that the commissioner approves and these assets may be recognized and reported in the financial condition of the insurer to the extent the insurer has excess surplus, as that term is defined under Section 31A-1-301.

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

Section 17. Section **31A-18-117** is amended to read:

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

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

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

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

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

Section 18. Section **31A-20-108** is amended to read:

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

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

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

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

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

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

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

~~[(3)]~~ (4)(a) The commissioner may adopt rules, after hearings held with notice as required by law, to specify the maximum exposure to which an assessable mutual may subject itself.

(b) The rules described in Subsection ~~[(3)(a)]~~ (4)(a) may provide for classifications of insurance and insurers to preserve the solidity of insurers.

~~[(4) As used in this section, a "single risk" includes all losses reasonably expected as a result of the same event.]~~

(5) A company transacting fidelity or surety insurance may expose itself to a risk or hazard in excess of the amount prescribed in Subsection ~~[(2)]~~ (3), if the commissioner, after considering all the facts and circumstances, approves the risk.

Section 19. Section **31A-21-310** is amended to read:

**31A-21-310 . Dividends on policies.**

(1) Section 31A-22-418 applies to life insurance and annuities.

(2)(a) ~~[Any]~~ An insurer may distribute a portion of surplus attributable to policies other than life insurance or annuities, in amounts and with classifications the board of directors determines to be fair and reasonable.

(b) ~~[-This-]~~ A distribution under this Subsection (2) may not be contingent on the renewal of [any] a policy or of premium payments unless the policy stated that limitation when [it] the policy was written.

(c) ~~[-]~~ A schedule explaining the basis for the distribution shall be filed with the commissioner prior to the distribution.

(d) ~~[-]~~ The commissioner shall keep the schedule confidential~~[shall be kept confidential by the commissioner]~~ unless the commissioner finds that the interests of insureds and the public require that ~~[it be made]~~ the commissioner make the schedule public.

(3)(a) ~~[Any]~~ An insurer may distribute surplus to any class of policyholder, even if ~~[their]~~ the insurer's policies do not provide for [it] the distribution.

(b) ~~[-A]~~ The insurer shall file a schedule explaining the basis for the distribution [shall be filed-] with the commissioner [under] in accordance with Subsection (2) at least 30 days [prior to the distribution] before the day on which the distribution occurs.

(c) ~~[-]~~ The commissioner shall disallow ~~[any] a~~ distribution ~~[which] that:~~

(i) ~~[-]~~ is materially unfair to other policyholders; or

(ii) ~~[-which-]~~ would place the insurer in a financially hazardous condition.

(4) ~~[It is permissible to-]~~ An insurer may provide an indivisible dividend to classes of policyholders having more than one type of policy, including a combination of life or annuities with other types of insurance.

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

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

Section 20. Section **31A-22-309** is amended to read:

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

(1)(a) A person who has or is required to have direct benefit coverage under a policy ~~[which] that~~ includes personal injury protection may not maintain a cause of action for

general damages arising out of personal injuries alleged to have been caused by an automobile accident, except where the person ~~[has sustained]~~ sustains one or more of the following:

- (i) death;
- (ii) dismemberment;
- (iii) permanent disability or permanent impairment based upon objective findings;
- (iv) permanent disfigurement;
- (v) a bone fracture; or
- (vi) medical expenses to a person in excess of \$3,000.

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

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

- (i) for ~~[any]~~ an injury ~~[sustained by]~~ the insured sustains while occupying another motor vehicle owned by or furnished for the regular use of the insured or a resident family member of the insured and not insured under the policy;
- (ii) for ~~[any]~~ an injury ~~[sustained by any]~~ a person sustains while operating the insured motor vehicle without the express or implied consent of the insured or while not in lawful possession of the insured motor vehicle;
- (iii) to ~~[any]~~ an injured person, if the person's conduct contributed to the person's injury:
  - (A) by intentionally causing injury to the person; or
  - (B) while committing a felony;
- (iv) for ~~[any]~~ an injury ~~[sustained by any person]~~ a person sustains arising out of the use of ~~[any]~~ a motor vehicle while located for use as a residence or premises;
- (v) for ~~[any]~~ an injury due to war, whether ~~[or not]~~ declared, civil war, insurrection, rebellion, or revolution, or to ~~[any]~~ an act or a condition incident to ~~[any of the foregoing]~~ a war, civil war, insurrection, rebellion, or revolution; or
- (vi) for ~~[any]~~ an injury resulting from the radioactive, toxic, explosive, or other hazardous properties of nuclear materials.

(b) This Subsection (2) does not limit the exclusions that may be contained in other types of coverage.

(3) The benefits payable to ~~[any]~~ an injured person under Section 31A-22-307 are reduced by:

- (a) any benefits ~~[which]~~ that the injured person receives or is entitled to receive as a

result of an accident covered in this code under any workers' compensation or similar statutory plan; and

(b) any amounts [~~which~~]that the injured person receives or is entitled to receive from the United States or any of [~~its~~] the United States' agencies because that person is on active duty in the military service.

(4) When a person injured is also an insured party under any other policy, including those policies complying with this part, primary coverage is given by the policy insuring the motor vehicle in use during the accident.

(5)(a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a monthly basis as expenses are incurred.

(b) Benefits for any period are overdue if [~~they are not paid~~] the insurer does not pay the benefits within 30 days after the day on which the insurer receives reasonable proof of the fact and amount of expenses incurred during the period.

(c) [~~-~~]If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within 30 days after the insurer receives that proof[~~-is received by the insurer~~].

(d) [~~-~~]Any part or all of the remainder of the claim that is later supported by reasonable proof is also overdue if not paid within 30 days after the day on which the insurer receives the proof[~~-is received by the insurer~~].

[~~(e)~~] (e) If the insurer fails to pay the expenses when due, these expenses shall bear interest at the rate of 1-1/2% per month after the due date.

[~~(f)~~] (f)(i) The person entitled to the benefits may bring an action in contract to recover the expenses plus the applicable interest.

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

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

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

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

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

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

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

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

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

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

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

Section 21. Section **31A-22-505** is amended to read:

**31A-22-505 . Association groups.**

(1) An insurer may issue a group insurance policy offering life insurance to an association group or to the trustees of a fund established, created, and maintained for the benefit of the members of the association group if:

(a) the commissioner authorizes the association group;

(b) the benefits of the group insurance policy are reasonable in relation to the premiums charged for the policy; and

(c) the association group:

(i) purchases insurance on a group basis on behalf of the association group's members;

(ii) is formed and maintained for a shared substantially common purpose that:

(A) is not related to obtaining insurance; and

- 1150 (B) is the same profession, trade, or occupation or has some common economic,  
1151 representation of interest, or genuine organizational relationship;  
1152 (iii) has at least 100 members;  
1153 (iv) has been actively in existence for at least five years;  
1154 (v) has a constitution and bylaws that require:  
1155 (A) the association to hold regular meetings not less than annually to further the  
1156 purpose of the association's members; and  
1157 (B) members of the association to have voting privileges and representation on  
1158 any governing board or committee;  
1159 (vi) does not condition membership in the association group on any health  
1160 status-related factor;  
1161 (vii) makes insurance offered through the association group available exclusively to a  
1162 member of the association; and  
1163 (viii) only offers insurance through the association group in connection with a  
1164 member of the association group.
- 1165 (2) A group insurance policy offering life insurance that an insurer issues to an association  
1166 group may insure members and employees of the association, employees of the  
1167 members, one or more of the preceding entities, or all of any classes of these named  
1168 entities for the benefit of persons other than the employees' employer, or any officials,  
1169 representatives, trustees, or agents of the employer or association.
- 1170 (3)(a) The following shall pay the premium under a group insurance policy offering life  
1171 insurance that an insurer issues to an association group:  
1172 (i) the policyholder from funds contributed by the association;  
1173 (ii) employer members, from funds contributed by the covered persons; or  
1174 (iii) from any combination of Subsections (3)(a)(i) and (ii).
- 1175 (b) Except as provided under Section 31A-22-512, a policy on which no part of the  
1176 premium is contributed by the covered persons, specifically for their insurance, is  
1177 required to insure all eligible persons.
- 1178 (4)(a) An association group that meets the requirements described under Subsection (1)  
1179 shall disclose the following to each insured member:  
1180 (i) each cost related to joining and maintaining membership in the association;  
1181 (ii) that membership fees or dues are in addition to the policy premium;  
1182 (iii) that the association group holds the master group insurance policy;  
1183 (iv) that the association group and insurer determine the amount of the premium

charged and the terms and conditions of coverage under the group insurance policy; and

(v) that the association group policyholder and insurer may change the premium and terms and conditions of coverage under the insurance policy:

(A) through agreement; and

(B) without the consent of the individual certificate holder.

(b) If an insurer collects membership fees or dues on behalf of an association, the insurer shall disclose to each member of the association that the insurer is billing and collecting membership fees and dues on behalf of the association.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

- 1218 (ii) if requested by a network provider or the network provider's representative,  
1219 provides to the network provider by mail or email a written notice of modification  
1220 to a particular requirement for authorization described in the request from the  
1221 network provider.
- 1222 (b) Subsection (2)(a) does not apply if:
- 1223 (i) complying with Subsection (2)(a) would create a danger to the enrollee's health or  
1224 safety; or
- 1225 (ii) the modification is for a newly covered drug or device.
- 1226 (c) An insurer may not revoke an authorization for a drug, device, or covered service if:
- 1227 (i) the network provider submits a request for authorization for the drug, device, or  
1228 covered service to the insurer;
- 1229 (ii) the insurer grants the authorization requested under Subsection (2)(c)(i);
- 1230 (iii) the network provider renders the drug, device, or covered service to the enrollee  
1231 in accordance with the authorization and any terms and conditions of the network  
1232 provider's contract with the insurer;
- 1233 (iv) on the day on which the network provider renders the drug, device, or covered  
1234 service to the enrollee:
- 1235 (A) the enrollee is eligible for coverage under the enrollee's insurance policy; and
- 1236 (B) the enrollee's condition or circumstances related to the enrollee's care have not  
1237 changed;
- 1238 (v) the network provider submits an accurate claim that matches the information in  
1239 the request for authorization under Subsection (2)(c)(i); and
- 1240 (vi) the authorization was not based on fraudulent or materially incorrect information  
1241 from the network provider.
- 1242 (3)(a) An insurer that receives a request for authorization shall treat the request as a  
1243 pre-service claim as that term is defined in 29 C.F.R. Sec. 2560.503-1 and process the  
1244 request in accordance with:
- 1245 (i) 29 C.F.R. Sec. 2560.503-1, regardless of whether the coverage is offered through  
1246 an individual or group health insurance policy;
- 1247 (ii) Subsection 31A-4-116(2); and
- 1248 (iii) Section 31A-22-629.
- 1249 (b) If a network provider submits a claim to an insurer that includes an unintentional  
1250 error that results in a denial of the claim, the insurer shall permit the network  
1251 provider with an opportunity to resubmit the claim with corrected information within

- 1252 a reasonable amount of time.
- 1253 (c) Except as provided in Subsection (3)(d), the appeal of an adverse preauthorization  
1254 determination regarding clinical or medical necessity as requested by a physician  
1255 may only be reviewed by a physician who is currently licensed as a physician and  
1256 surgeon in a state, district, or territory of the United States.
- 1257 (d) The appeal of an adverse determination requested by a physician regarding clinical  
1258 or medical necessity of a drug, may only be reviewed by an individual who is  
1259 currently licensed in a state, district, or territory of the United States as:
- 1260 (i) a physician and surgeon; or  
1261 (ii) a pharmacist.
- 1262 (e) An insurer shall ensure that an adverse preauthorization determination regarding  
1263 clinical or medical necessity is made by an individual who:
- 1264 (i) has knowledge of the medical condition or disease of the enrollee for whom the  
1265 authorization is requested; or  
1266 (ii) consults with a specialist who has knowledge of the medical condition or disease  
1267 of the enrollee for whom the authorization is requested regarding the request  
1268 before making the determination.
- 1269 (f) An insurer shall specify how long an authorization is valid.
- 1270 (4)(a) An insurer that removes a drug from the insurer's formulary shall:
- 1271 (i) permit an enrollee, an enrollee's designee, or an enrollee's network provider to  
1272 request an exemption from the change to the formulary for the purpose of  
1273 providing the patient with continuity of care; and  
1274 (ii) have a process to review and make a decision regarding an exemption requested  
1275 under Subsection (4)(a)(i).
- 1276 (b) If an insurer makes a change to the formulary for a drug in the middle of a plan year,  
1277 the insurer may not implement the changes for an enrollee that is on an active course  
1278 of treatment for the drug unless the insurer provides the enrollee with notice at least  
1279 30 days before the day on which the change is implemented.
- 1280 (5)(a) Each April 1, an insurer with a preauthorization requirement shall report to the  
1281 department, for the previous calendar year, the percentage of authorizations, not  
1282 including a claim involving urgent care as defined in 29 C.F.R. Sec. 2560.503-1, for  
1283 which the insurer notified a provider regarding an authorization or adverse  
1284 preauthorization determination more than one week after the day on which the  
1285 insurer received the request for authorization.

- 1286 (b) Before ~~[March]~~ April 1, 2026, and each ~~[March]~~ April 1 thereafter, an insurer shall  
1287 report to the department the following for the previous calendar year:
- 1288 (i) a list of services that have preauthorization requirements;
- 1289 (ii) for pre-service preauthorization requests that were not urgent, the percentage of  
1290 individual service requests that:
- 1291 (A) were approved;
- 1292 (B) were denied;
- 1293 (C) were approved after appeal;
- 1294 (D) the time frame for review was extended, and the request was approved;
- 1295 (E) were denied due to incomplete information from the health care provider; and
- 1296 (F) were received through fax, phone, and electronic portal; and
- 1297 (iii) for urgent pre-service preauthorization requests, the percentage of individual  
1298 service requests that:
- 1299 (A) were approved;
- 1300 (B) were denied;
- 1301 (C) were denied due to incomplete information from the health care provider; and
- 1302 (D) were received through fax, phone, and electronic portal.
- 1303 (c) Data provided to the department under Subsections (5)(b)(ii) and (iii) shall be  
1304 aggregated for all services.
- 1305 (d) Subsection (5)(b) does not require an insurer to report information regarding  
1306 prescription drugs.
- 1307 (e) The department shall compile the information described in Subsection (5)(b) and  
1308 publish the information on the department's website.
- 1309 (6) An insurer may not have a preauthorization requirement for emergency health care as  
1310 described in Section 31A-22-627.
- 1311 (7) For each adverse preauthorization determination ~~[made by]~~ an insurer makes, the  
1312 insurer shall provide to the enrollee and the enrollee's health care provider:
- 1313 (a) a detailed and specific explanation that explains why the ~~[determination was made]~~  
1314 insurer made the determination; and
- 1315 (b) a notice explaining the enrollee may appeal the determination ~~[may be appealed]~~ and  
1316 the process for appealing the determination, including how to begin an expedited  
1317 appeal process as described in Section 31A-22-629.
- 1318 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1319 department may make rules to implement Subsection (5)(b).

Section 23. Section **31A-22-701** is amended to read:

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

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

(a) a group:

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

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

(b) a group [~~specifically authorized by~~] that the commissioner specifically authorizes, upon a finding that:

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

(ii) the group is actuarially sound;

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

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

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

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

(vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance; or

(c) a postsecondary educational institution covering students, upon a finding that:

(i) the policy provides standards for financial soundness;

(ii) the policy protects the students covered;

(iii) the policy provides for the establishment of a financially viable alternative to traditional health care plans;

(iv) authorization is not contrary to the public interest;

(v) the policy would not present hazards of adverse selection; and

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

(2) A blanket insurance policy offering accident and health insurance:

(a) covers a defined class of persons;

- 1354 (b) may not be offered or underwritten on an individual basis;
- 1355 (c) shall cover only a group that is:
- 1356 (i) actuarially sound; and
- 1357 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
- 1358 and
- 1359 (d) may be issued only to:
- 1360 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 1361 policyholder, covering persons who may become passengers as defined by
- 1362 reference to the person's travel status;
- 1363 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 1364 guests, as defined by reference to specified hazards incident to any activities of the
- 1365 policyholder;
- 1366 (iii) an institution of learning, including a school district, a school jurisdictional unit,
- 1367 or the head, principal, or governing board of a school jurisdictional unit, as
- 1368 policyholder, covering students, teachers, or employees;
- 1369 (iv) a religious, charitable, recreational, educational, or civic organization, or branch
- 1370 of one of those organizations, as policyholder, covering a group of members or
- 1371 participants as defined by reference to specified hazards incident to the activities
- 1372 sponsored or supervised by the policyholder;
- 1373 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder,
- 1374 covering members, campers, employees, officials, or supervisors;
- 1375 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer
- 1376 organization, as policyholder, covering a group of members or participants as
- 1377 defined by reference to specified hazards incident to activities sponsored,
- 1378 supervised, or participated in by the policyholder;
- 1379 (vii) a newspaper or other publisher, as policyholder, covering a newspaper's or
- 1380 publisher's carriers;
- 1381 (viii) a labor union, as a policyholder, covering a group of members or participants as
- 1382 defined by reference to specified hazards incident to the activities or operations
- 1383 sponsored or supervised by the policyholder;
- 1384 (ix) an association that has a constitution and bylaws covering a group of members or
- 1385 participants as defined by reference to specified hazards incident to the activities
- 1386 or operations sponsored or supervised by the policyholder; or
- 1387 (x) any other class of risks that, in the judgment of the commissioner, may be

properly eligible for a blanket insurance policy offering accident and health insurance.

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

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

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

Section 24. Section **31A-23a-111** is amended to read:

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

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

- (a) ~~[revoked or suspended]~~ the commissioner revokes or suspends the license under Subsection (5);
- (b) ~~[surrendered]~~ the licensee surrenders the license to the commissioner and [accepted by the commissioner] the commissioner accepts the license in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:
  - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
  - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
- (d) ~~[lapsed]~~ the license lapses under Section 31A-23a-113; or
- (e) ~~[voluntarily surrendered]~~ the licensee voluntarily surrenders the license.

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

- (a) a lapsed license; or
- (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

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

- (a) this title; or

- 1422 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah  
1423 Administrative Rulemaking Act.
- 1424 (4) A line of authority issued under this chapter remains in force until:
- 1425 (a) a licensee no longer meets the qualifications pertaining to a line of authority~~[-are no~~  
1426 ~~longer met by the licensee]~~;
- 1427 (b) the supporting license type:
- 1428 (i) is revoked or suspended under Subsection (5);
- 1429 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of  
1430 administrative action;
- 1431 (iii) lapses under Section 31A-23a-113; or
- 1432 (iv) is voluntarily surrendered; or
- 1433 (c) the licensee dies or is adjudicated incompetent as defined under:
- 1434 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 1435 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and  
1436 Minors.
- 1437 (5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an  
1438 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act,  
1439 the commissioner may:
- 1440 (i) revoke:
- 1441 (A) a license; or
- 1442 (B) a line of authority;
- 1443 (ii) suspend for a specified period of 12 months or less:
- 1444 (A) a license; or
- 1445 (B) a line of authority;
- 1446 (iii) limit in whole or in part:
- 1447 (A) a license; or
- 1448 (B) a line of authority;
- 1449 (iv) deny a license application;
- 1450 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
- 1451 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and  
1452 Subsection (5)(a)(v).
- 1453 (b) The commissioner may take an action described in Subsection (5)(a) if the  
1454 commissioner finds that the licensee or license applicant:
- 1455 (i) is unqualified for a license or line of authority under Section 31A-23a-104,

- 1456 31A-23a-105, or 31A-23a-107;
- 1457 (ii) violates:
- 1458 (A) an insurance statute;
- 1459 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 1460 (C) an order that is valid under Subsection 31A-2-201(4);
- 1461 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or
- 1462 other delinquency proceedings in any state;
- 1463 (iv) is more than 60 days past due on a final judgment;
- 1464 (v) fails to meet the same good faith obligations in claims settlement that is required
- 1465 of admitted insurers;
- 1466 (vi) is affiliated with and under the same general management or interlocking
- 1467 directorate or ownership as another insurance producer that transacts business in
- 1468 this state without a license;
- 1469 (vii) refuses:
- 1470 (A) to be examined; or
- 1471 (B) to produce the licensee's or license applicant's accounts, records, and files for
- 1472 examination;
- 1473 (viii) has an officer who refuses to:
- 1474 (A) give information with respect to the insurance producer's affairs; or
- 1475 (B) perform any other legal obligation as to an examination;
- 1476 (ix) provides information in the license application that is:
- 1477 (A) incorrect;
- 1478 (B) misleading;
- 1479 (C) incomplete; or
- 1480 (D) materially untrue;
- 1481 (x) violates an insurance law, valid rule, or valid order of another regulatory agency
- 1482 in any jurisdiction;
- 1483 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 1484 (xii) improperly withholds, misappropriates, or converts money or properties
- 1485 received in the course of doing insurance business;
- 1486 (xiii) intentionally misrepresents the terms of an actual or proposed:
- 1487 (A) insurance contract;
- 1488 (B) application for insurance; or
- 1489 (C) life settlement;

1490 (xiv) has been convicted of, or has entered a plea in abeyance as that term is defined  
1491 in Section 77-2a-1 to:  
1492 (A) a felony; or  
1493 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;  
1494 (xv) admits or is found to have committed an unfair trade practice or fraud;  
1495 (xvi) in the conduct of business in this state or elsewhere:  
1496 (A) uses fraudulent, coercive, or dishonest practices; or  
1497 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;  
1498 (xvii) has had an insurance license or other professional or occupational license, or an  
1499 equivalent to an insurance license or registration, or other professional or  
1500 occupational license or registration:  
1501 (A) denied;  
1502 (B) suspended;  
1503 (C) revoked; or  
1504 (D) surrendered to resolve an administrative action;  
1505 (xviii) forges another's name to:  
1506 (A) an application for insurance; or  
1507 (B) a document related to an insurance transaction;  
1508 (xix) improperly uses notes or another reference material to complete an examination  
1509 for an insurance license;  
1510 (xx) knowingly accepts insurance business from an individual who is not licensed;  
1511 (xxi) fails to comply with an administrative or court order imposing a child support  
1512 obligation;  
1513 (xxii) fails to comply with an administrative or court order directing payment of state  
1514 income tax;  
1515 (xxiii) has been convicted of violating the federal Violent Crime Control and Law  
1516 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written  
1517 consent to engage in the business of insurance or participate in such business as  
1518 required by 18 U.S.C. Sec. 1033;  
1519 (xxiv) engages in a method or practice in the conduct of business that endangers the  
1520 legitimate interests of customers and the public;~~[-or]~~  
1521 (xxv) has been convicted of any criminal felony involving dishonesty or breach of  
1522 trust and has not obtained written consent to engage in the business of insurance  
1523 or participate in such business as required by 18 U.S.C. Sec. 1033~~[-]~~ ; or

(xxvi) fails to maintain an active resident license in the home state or designated home state.

(c) For purposes of this section, if a license is held by an agency, both the agency [itself] and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in [its] the agency's supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii)(A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation;
- (iv) a violation of an insurance law or rule; or
- (v) payment of money.

- (8)(a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
- (b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.
- (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if ordered by a court.
- (10) The commissioner shall provide the license renewal and reinstatement procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 25. Section **31A-23a-202** is amended to read:

**31A-23a-202 . Continuing education requirements.**

- (1) ~~[Pursuant to]~~ In accordance with this section, the commissioner shall by rule prescribe the continuing education requirements for a producer and a consultant.
- (2)(a) The commissioner may not state a continuing education requirement in terms of formal education.
- (b) The commissioner may state a continuing education requirement in terms of hours of insurance-related instruction received.
- (c) Insurance-related formal education may be a substitute, in whole or in part, for the hours required under Subsection (2)(b).
- (3)(a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (3).
- (b)(i) Except as provided in this section, the continuing education requirements shall require:
- (A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;
  - (B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics

- 1592 courses; and
- 1593 (C) that the licensee complete at least half of the required hours through classroom
- 1594 hours of insurance-related instruction.
- 1595 (ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be
- 1596 obtained through:
- 1597 (A) classroom attendance;
- 1598 (B) home study;
- 1599 (C) watching a video recording;
- 1600 (D) experience credit; or
- 1601 (E) another method provided by rule.
- 1602 (iii)(A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title
- 1603 insurance producer is required to complete 12 credit hours of continuing
- 1604 education for every two-year licensing period, with 3 of the credit hours being
- 1605 ethics courses unless the individual title insurance producer is licensed in this
- 1606 state as an individual title insurance producer for 20 or more consecutive years.
- 1607 (B) If an individual title insurance producer is licensed in this state as an
- 1608 individual title insurance producer for 20 or more consecutive years, the
- 1609 individual title insurance producer is required to complete 6 credit hours of
- 1610 continuing education for every two-year licensing period, with 3 of the credit
- 1611 hours being ethics courses.
- 1612 (C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance
- 1613 producer is considered to have met the continuing education requirements
- 1614 imposed under Subsection (3)(b)(iii)(A) or (B) if at the time of license renewal
- 1615 the individual title insurance producer:
- 1616 (I) provides the department evidence that the individual title insurance
- 1617 producer is an active member in good standing with the Utah State Bar;
- 1618 (II) is in compliance with the continuing education requirements of the Utah
- 1619 State Bar; and
- 1620 (III) if requested by the department, provides the department evidence that the
- 1621 individual title insurance producer complied with the continuing education
- 1622 requirements of the Utah State Bar.
- 1623 (c) A licensee may obtain continuing education hours at any time during the two-year
- 1624 licensing period.
- 1625 (d)(i) A licensee is exempt from continuing education requirements under this section

1626 if:

1627 (A) the licensee was first licensed before December 31, [~~1982~~] 1988;

1628 (B) the license does not have a continuous lapse for a period of more than one  
1629 year, except for a license for which the licensee has had an exemption  
1630 approved before May 11, 2011;

1631 (C) the licensee requests an exemption from the department; and

1632 (D) the department approves the exemption.

1633 (ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee  
1634 is not required to apply again for the exemption.

1635 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1636 commissioner shall, by rule:

1637 (i) publish a list of insurance professional designations whose continuing education  
1638 requirements can be used to meet the requirements for continuing education under  
1639 Subsection (3)(b);

1640 (ii) authorize a continuing education provider or a state or national professional  
1641 producer or consultant association to:

1642 (A) offer a qualified program for a license type or line of authority on a  
1643 geographically accessible basis; and

1644 (B) collect a reasonable fee for funding and administration of a continuing  
1645 education program, subject to the review and approval of the commissioner;  
1646 and

1647 (iii) provide that membership by a producer or consultant in a state or national  
1648 professional producer or consultant association is considered a substitute for the  
1649 equivalent of two hours for each year during which the producer or consultant is a  
1650 member of the professional association, except that the commissioner may not  
1651 give more than two hours of continuing education credit in a year regardless of the  
1652 number of professional associations of which the producer or consultant is a  
1653 member.

1654 (f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a  
1655 professional producer or consultant association program may be less for an  
1656 association member, on the basis of the member's affiliation expense, but shall  
1657 preserve the right of a nonmember to attend without affiliation.

1658 (4) The commissioner shall approve a continuing education provider or continuing  
1659 education course that satisfies the requirements of this section.

- 1660 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1661 commissioner shall by rule set the processes and procedures for continuing education  
1662 provider registration and course approval.
- 1663 (6) The requirements of this section apply only to a producer or consultant who is an  
1664 individual.
- 1665 (7) A nonresident producer or consultant is considered to have satisfied this state's  
1666 continuing education requirements if the nonresident producer or consultant satisfies the  
1667 nonresident producer's or consultant's home state's continuing education requirements  
1668 for a licensed insurance producer or consultant.
- 1669 (8) A producer or consultant subject to this section shall keep documentation of completing  
1670 the continuing education requirements of this section for two years after the end of the  
1671 two-year licensing period to which the continuing education applies.

1672 Section 26. Section **31A-23a-203.5** is amended to read:

1673 **31A-23a-203.5 . Errors and omissions coverage requirements.**

- 1674 (1) In accordance with this section, a resident individual producer shall ensure that the  
1675 resident individual producer is covered:
- 1676 (a) for the legal liability of the resident individual producer as the result of an erroneous  
1677 act or failure to act in the resident individual producer's capacity as a producer; and  
1678 (b) at all times during the term of the resident individual producer's license.
- 1679 (2) The coverage required by Subsection (1) shall consist of:
- 1680 (a) a policy naming the resident individual producer;
- 1681 (b) a policy naming the agency that designates the resident individual producer in  
1682 accordance with this chapter; or
- 1683 (c) a written agreement by an insurer or group of affiliated insurers, on behalf of a  
1684 resident individual producer who is or will become an exclusive agent of the insurer  
1685 or group of affiliated insurers, under which the insurer or group of affiliated insurers  
1686 agrees to assume responsibility, to the benefit of an aggrieved person, for legal  
1687 liability of the resident individual producer as the result of an erroneous act or failure  
1688 to act in the resident individual producer's capacity as a producer for the insurer or  
1689 group of affiliated insurers.
- 1690 (3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3, Utah  
1691 Administrative Rulemaking Act, provide for:
- 1692 (a) the terms and conditions of the coverage required under Subsection (1); and  
1693 (b) if the coverage required by Subsection (1) is terminated during a resident individual

producer's license term, requirements to:

(i) provide notice; and

(ii) replace the coverage.

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

- (a) the individual title insurance producer who is not designated by an agency title producer maintains the individual title insurance producer's own bond, policy, or other financial protection in accordance with Subsection [31A-23a-204(2)] 31A-23a-204(3);
- (b) the individual title insurance producer is designated by an agency title insurance producer that maintains a bond, policy, or other financial protection in accordance with Subsection [31A-23a-204(2)] 31A-23a-204(3); or
- (c) the individual title insurance producer is an employee of and is appointed by a title insurer.

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

- (a) appointed by an insurer under this title; or
- (b) designated by an agency under this title.

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

Section 27. Section **31A-23a-204** is amended to read:

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

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

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

~~[(1)]~~ (2)(a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately ~~[preceeding the date on]~~ before the day on which the agency title insurance producer applies for a license with both:

- (i) a title examination line of authority; and
- (ii) an escrow line of authority.

(b) An agency title insurance producer subject to Subsection ~~[(1)(a)]~~ (2)(a) may comply with Subsection ~~[(1)(a)]~~ (2)(a) by having the agency title insurance producer owned or managed by:

- (i) one or more individuals who are licensed with the title examination line of authority for the time period provided in Subsection ~~[(1)(a)]~~ (2)(a); and
- (ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection ~~[(1)(a)]~~ (2)(a).

(c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:

- (i) a title examination line of authority; and
- (ii) an escrow line of authority.

(d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt an attorney with real estate experience from the experience requirements in Subsection ~~[(1)(a)]~~ (2)(a).

(e)(i) An individual who satisfies the requirements of this Subsection ~~[(1)]~~ (2) is known as a "qualifying licensee."

(ii) ~~[-]~~At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.

~~[(2)]~~ (3)(a) An individual title insurance producer or agency title insurance producer ~~[appointed by an insurer]~~ that an insurer appoints shall maintain:

- (i)(A) a fidelity bond that covers loss of third party funds that the producer holds and covers theft of funds by an owner of the producer; or
- (B) a [fidelity bond] crime insurance policy that covers loss of third party funds that the producer holds and covers theft of funds by an owner of the producer; and

(ii) a professional liability insurance policy~~[-or]~~ .

~~[(iii) a financial protection:]~~

~~[(A) equivalent to that described in Subsection (2)(a)(i) or (ii); and]~~

~~[(B) that the commissioner considers adequate.]~~

(b) The ~~[bond, ]insurance[-or financial protection]~~ required by this Subsection ~~[(2)]~~ (3):

- (i) shall be supplied under a contract ~~[approved by]~~ the commissioner approves to provide protection against the improper performance of ~~[any]~~ a service, including escrow service, in conjunction with the issuance of a contract or policy of title

insurance; and

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

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

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

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

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

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

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

(a) to perform only examinations of title as specified in Subsection [~~(4)~~] (5);

(b) to handle only escrow arrangements as specified in Subsection [~~(5)~~] (6); or

(c) to act as a title marketing representative.

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

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

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

[~~(10)~~] (11)(a) The [~~department~~] commissioner may, in accordance with Title 63G,

Chapter 4, Administrative Procedures Act, take ~~[any of the following actions]~~ an action described in Subsection (11)(b) against a title insurance producer if the title insurance producer:

(i)(A) conducts title insurance business without an appointment from a title insurer; or

(B) ~~[-does not have an appointment-]~~ has not had an appointment for a period of more than 28 consecutive days from a title insurer as described in Section 31A-23a-115[~~;~~].

(b) If the commissioner makes a finding under Subsection (11)(a), the commissioner may:

~~[(a)]~~ (i) suspend or revoke the title insurance producer's license;

~~[(b)]~~ (ii) freeze a bank account associated with the title insurance producer's business;

~~[(c)]~~ (iii) subpoena the title insurance producer's records;

~~[(d)]~~ (iv) enjoin the title producer's business operations; or

~~[(e)]~~ (v) post, at the title producer's business location, a notice of an action listed in

Subsections ~~[(10)(a)]~~ (11)(b)(i) through ~~[(10)(d)]~~ (iv).

(12)(a) If an agency title insurance producer becomes aware of facts that support a reasonable belief that an electronic wire funds transfer related to a real estate or title insurance transaction did not reach the intended recipient of the electronic wire funds transfer within two business days after the day on which the transfer occurs, the agency title insurance producer shall report the facts to:

(i) the commissioner; and

(ii) each insurer with whom the producer has an appointment.

(b) An agency title insurance producer shall make a report described in Subsection (12)(a) no later than seven business days after the day on which the agency title insurance producer became aware of the facts that initiated the report.

(c) A report described in Subsection (12)(a) is not required if the electronic funds transfer is successfully sent to, and received by, the intended recipient within one business day after the agency title insurance producer becomes aware of the facts described in Subsection (12)(a).

(d) The requirement described in Subsection (12)(a) applies if:

(i) the agency title insurance producer initiated the transfer; or

(ii) the agency title insurance producer was the intended recipient of the transfer.

(e)(i) Except as provided in Subsection (12)(e)(ii), an agency title insurance producer

1830 is immune from civil action, civil penalty, or damages, if the producer makes a  
1831 good faith report under this Subsection (12).

1832 (ii) Subsection (12)(e)(i) does not apply in an action that the department commences  
1833 against a producer for the violation of this title.

1834 (f) The identity of an agency title insurance producer that makes a report under  
1835 Subsection (12)(a)(i) is a protected record under Title 63G, Chapter 2, Government  
1836 Records Access and Management Act.

1837 (13)(a) A title insurer shall report to the commissioner the termination of an appointment  
1838 of a title insurance producer within seven days after the day on which termination  
1839 occurs.

1840 (b) A title insurance producer shall report to the commissioner a title insurer's  
1841 termination of the title insurance producer's appointment within seven days after the  
1842 day on which termination occurs.

1843 (c) The requirements of this Subsection (13) are in addition to the requirements of  
1844 Section 31A-23a-115.

1845 Section 28. Section **31A-23a-401** is amended to read:

1846 **31A-23a-401 . Disclosure of conflicting interests.**

1847 (1)(a) Except as provided under Subsection (1)(b):

1848 (i) a licensee under this chapter may not act in the same or any directly related  
1849 transaction as:

1850 (A) a producer for the insured or consultant; and

1851 (B) producer for the insurer; and

1852 (ii) a producer for the insured or consultant may not recommend or encourage the  
1853 purchase of insurance from or through an insurer or other producer:

1854 (A) of which the producer for the insured or consultant or producer for the  
1855 insured's or consultant's spouse is an owner, executive, or employee; or

1856 (B) to which the producer for the insured or consultant has the type of relation that  
1857 a material benefit would accrue to the producer for the insured or consultant or  
1858 spouse as a result of the purchase.

1859 (b) Subsection (1)(a) does not apply if the following three conditions are met:

1860 (i) Prior to performing the consulting services, the producer for the insured or  
1861 consultant shall disclose to the client, prominently, in writing:

1862 (A) the producer for the insured's or consultant's interest as a producer for the  
1863 insurer, or the relationship to an insurer or other producer; and

(B) that as a result of those interests, the producer for the insured's or the consultant's recommendations should be given appropriate scrutiny.

(ii) The producer for the insured's or consultant's fee shall be agreed upon, in writing, after the disclosure required under Subsection (1)(b)(i), but before performing the requested services.

(iii) Any report resulting from requested services shall contain a copy of the disclosure made under Subsection (1)(b)(i).

(2) A licensee under this chapter may not act as to the same client as both a producer for the insurer and a producer for the insured without the client's prior written consent based on full disclosure.

(3) Whenever a person applies for insurance coverage through a producer for the insured, the producer for the insured shall disclose to the applicant, in writing, that the producer for the insured is not the producer for the insurer or the potential insurer. This disclosure shall also inform the applicant that the applicant likely does not have the benefit of an insurer being financially responsible for the conduct of the producer for the insured.

~~[(4) If a licensee is subject to both this section and Subsection 31A-23a-501(4), the licensee shall provide the disclosure required under each statute.]~~

Section 29. Section **31A-23a-406** is amended to read:

**31A-23a-406 . Title insurance producer's business.**

(1) As used in this section:

(a) ~~["Automated clearing house network" or]~~ "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.

(b) "Depository institution" means the same as that term is defined in Section 7-1-103.

(c) "Funds transfer system" means the same as that term is defined in Section 70A-4a-105.

(2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

(i) the title line of authority; and

(ii) the escrow subline of authority;

(b) a title insurer authorized to do business in this state appoints the individual title

- insurance producer or agency title insurance producer~~[ is appointed by a title insurer authorized to do business in the state];~~
- (c) except as provided in Subsection (4), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:
- (i) an owner's policy offering title insurance;
  - (ii) a lender's policy offering title insurance; or
  - (iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;
- (d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:
- (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
    - (A) has a branch in this state~~[, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee];~~ and
    - (B) ~~[is authorized by]~~the depository institution's primary regulator authorizes to engage in trust business, as defined in Section 7-5-1, in this state; and
  - (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;
- (e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow;
- (f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;
- (g) earnings on money held in escrow may be paid out of the trust account to any person in accordance with the conditions of the escrow;
- (h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:
- (i) construction money; or
  - (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- (i) the individual title insurance producer or agency title insurance producer~~[ shall ]~~ :
- (i) [-maintain] maintains a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow~~[-]~~ ; and
  - (ii) upon initial delivery of a commitment for a title insurance policy, notifies the

parties proposed to be insured under the commitment of the availability of a closing protection letter described in Section 31A-4-117.

(3) Notwithstanding Subsection (2), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

(i) a mobile home;

(ii) a grazing right;

(iii) a water right; or

(iv) other personal property [~~authorized by~~] that the commissioner authorizes; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (2)(c).

(4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (2)(c) as part of a transaction described in Subsection (4)(a).

(5) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

(6) Assets or property other than escrow money [~~received by~~] that an individual title insurance producer or agency title insurance producer receives in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

(7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated trust account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be disbursed as follows:

- 1966 (i) cash may be disbursed on the same day the cash is deposited;
- 1967 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 1968 (iii) the proceeds of one or more of the following financial instruments may be
- 1969 disbursed on the same day the financial instruments are deposited if received from
- 1970 a single party to the real estate transaction and if the aggregate of the financial
- 1971 instruments for the real estate transaction is less than \$10,000:
- 1972 (A) a cashier's check, certified check, or official check that is drawn on an existing
- 1973 account at a federally insured financial institution;
- 1974 (B) a check drawn on the trust account of a principal broker or associate broker
- 1975 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if
- 1976 the individual title insurance producer or agency title insurance producer has
- 1977 reasonable and prudent grounds to believe sufficient money will be available
- 1978 from the trust account on which the check is drawn at the time of disbursement
- 1979 of proceeds from the individual title insurance producer or agency title
- 1980 insurance producer's trust account;
- 1981 (C) a personal check not to exceed \$500 per closing; or
- 1982 (D) a check drawn on the trust account of another individual title insurance
- 1983 producer or agency title insurance producer, if the individual title insurance
- 1984 producer or agency title insurance producer in the escrow transaction has
- 1985 reasonable and prudent grounds to believe that sufficient money will be
- 1986 available for withdrawal from the account upon which the check is drawn at
- 1987 the time of disbursement of money from the trust account of the individual title
- 1988 insurance producer or agency title insurance producer in the escrow transaction;
- 1989 (iv) deposits made through the ACH network may be disbursed on the same day the
- 1990 deposit is made if:
- 1991 (A) the transferred funds remain uniquely designated and traceable throughout the
- 1992 entire ACH network transfer process;
- 1993 (B) except as a function of the ACH network process, the transferred funds are not
- 1994 subject to comingling or third party access during the transfer process;
- 1995 (C) the transferred funds are deposited into the title insurance producer's trust
- 1996 account and are available for disbursement; and
- 1997 (D) either the ACH network payment type or the title insurance producer's
- 1998 systems prevent the transaction from being unilaterally canceled or reversed by
- 1999 the consumer once the transferred funds are deposited to the individual title

insurance producer or agency title producer; or

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

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

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

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

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

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

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

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

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

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

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

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

Section 30. Section **31A-23a-409** is amended to read:

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

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

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

(A) the licensee's own money; or

(B) money held in any other capacity.

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

(A) amounts necessary to pay bank charges; and

- 2034 (B) money paid by insureds and belonging in part to the licensee as a fee or  
 2035 commission.
- 2036 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the  
 2037 fiduciary duties of a trustee with respect to money to be forwarded to insurers or  
 2038 insureds through the licensee.
- 2039 (d)(i) Unless money is sent to the appropriate payee by the close of the next business  
 2040 day after their receipt, the licensee shall deposit them in an account authorized  
 2041 under Subsection (2).
- 2042 (ii) Money deposited under this Subsection (1)(d) shall remain in an account  
 2043 authorized under Subsection (2) until sent to the appropriate payee.
- 2044 (2)(a) ~~[Money]~~ A licensee shall deposit money required to be deposited under Subsection  
 2045 (1)~~[-shall be deposited]:~~
- 2046 ~~[(a)]~~ (i) into a federally insured trust account in a depository institution, as defined in  
 2047 Section 7-1-103, ~~[which]~~ that:
- 2048 ~~[(i)]~~ (A) has a branch in this state, if the ~~[individual title insurance producer or~~  
 2049 ~~agency title insurance producer depositing the money]~~ licensee is a resident  
 2050 licensee;
- 2051 ~~[(ii)]~~ (B) has federal deposit insurance; and
- 2052 ~~[(iii)]~~ (C) ~~[is authorized by its]~~ the depository institution's primary regulator  
 2053 authorizes to engage in the trust business, as that term is defined by Section  
 2054 7-5-1, in this state; or
- 2055 ~~[(b)]~~ (ii) into some other account, that:
- 2056 ~~[(i)]~~ (A) the commissioner approves by rule or order; and
- 2057 ~~[(ii)]~~ (B) provides safety comparable to an account described in Subsection ~~[(2)(a)]~~  
 2058 (2)(a)(i).
- 2059 (b) This Subsection (2) does not apply to a title insurance licensee.
- 2060 (3) ~~[It is not a violation of]~~ A licensee does not violate Subsection ~~[(2)(a)]~~ (2)(a)(i) if the  
 2061 amounts in the accounts exceed the amount of the federal insurance on the accounts.
- 2062 (4)(a) A trust account into which a licensee deposits money ~~[is deposited-]~~ may be  
 2063 interest bearing.
- 2064 (b) ~~[-]~~The interest accrued on the account may be paid to the licensee, so long as the  
 2065 licensee otherwise complies with this section and with the contract with the insurer.
- 2066 (5) A depository institution or other organization holding trust funds under this section may  
 2067 not offset or impound trust account funds against debts and obligations ~~[incurred by]~~ the

licensee incurs.

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

(7) A nonresident licensee:

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

and

(B) received from:

(I) an insurer; or

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

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

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

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

(c)(i) "Customer" means:

- 2102 (A) the person signing the application or submission for insurance; or  
2103 (B) the authorized representative of the insured actually negotiating the placement  
2104 of insurance with the producer.
- 2105 (ii) "Customer" does not mean a person who is a participant or beneficiary of:  
2106 (A) an employee benefit plan; or  
2107 (B) a group or blanket insurance policy or group annuity contract [~~sold, solicited,~~  
2108 ~~or negotiated by the producer or affiliate~~] the producer or affiliate sells, solicits,  
2109 or negotiates.
- 2110 (d)(i) "Noncommission compensation" includes all funds paid to or credited for the  
2111 benefit of a licensee other than commission compensation.
- 2112 (ii) "Noncommission compensation" does not include charges for pass-through costs  
2113 incurred by the licensee in connection with obtaining, placing, or servicing an  
2114 insurance policy.
- 2115 (e) "Pass-through costs" include:  
2116 (i) costs for copying documents to be submitted to the insurer; and  
2117 (ii) bank costs for processing cash or credit card payments.
- 2118 (2)(a) Except as provided in Subsection (3), a licensee may receive from an insured or  
2119 from a person purchasing an insurance policy, noncommission compensation.
- 2120 (b) Noncommission compensation shall be:  
2121 (i) limited to actual or reasonable expenses incurred for services; and  
2122 (ii) uniformly applied to all insureds or prospective insureds in a class or classes of  
2123 business or for a specific service or services.
- 2124 (c) The following additional noncommission compensation is authorized:  
2125 (i) compensation a surety bond's principal debtor pays, under procedures approved by  
2126 a rule or order of the commissioner, to a producer of a compensation corporate  
2127 surety for an extra service;  
2128 (ii) compensation an insurance producer receives for services performed for an  
2129 insured in connection with a claim adjustment, if the producer:  
2130 (A) does not receive and is not promised compensation for aiding in the claim  
2131 adjustment before the claim occurs; and  
2132 (B) is also licensed as a public adjuster in accordance with Section 31A-26-203;  
2133 (iii) compensation a consultant receives as a consulting fee, if the consultant complies  
2134 with the requirements under Section 31A-23a-401; and  
2135 (iv) a compensation arrangement that the commissioner approves after finding that

- 2136 the arrangement:
- 2137 (A) does not violate Section 31A-23a-401; and
- 2138 (B) is not harmful to the public.
- 2139 (d) All accounting records relating to noncommission compensation shall be maintained
- 2140 in a manner that facilitates an audit.
- 2141 (3)(a) A surplus lines producer may receive noncommission compensation when acting
- 2142 as a producer for the insured in a surplus lines transaction, if:
- 2143 (i) the producer and the insured have agreed on the producer's noncommission
- 2144 compensation; and
- 2145 (ii) the producer has disclosed to the insured the existence and source of any other
- 2146 compensation that accrues to the producer as a result of the transaction.
- 2147 (b) The disclosure required by this Subsection (3) shall:
- 2148 (i) include the signature of the insured or prospective insured acknowledging the
- 2149 noncommission compensation;
- 2150 (ii) clearly specify:
- 2151 (A) the amount of any known noncommission compensation;
- 2152 (B) the type and amount, if known, of any potential and contingent
- 2153 noncommission compensation; and
- 2154 (C) the existence and source of any other compensation; and
- 2155 (iii) be provided to the insured or prospective insured before the performance of the
- 2156 service.
- 2157 ~~[(4)(a) For purposes of this Subsection (4):]~~
- 2158 ~~[(i) "Large customer" means an employer who, with respect to a calendar year and to~~
- 2159 ~~a plan year:]~~
- 2160 ~~[(A) employed an average of at least 100 eligible employees on each business day~~
- 2161 ~~during the preceding calendar year; and]~~
- 2162 ~~[(B) employs at least two employees on the first day of the plan year.]~~
- 2163 ~~[(ii) "Producer" includes:]~~
- 2164 ~~[(A) a producer;]~~
- 2165 ~~[(B) an affiliate of a producer; or]~~
- 2166 ~~[(C) a consultant.]~~
- 2167 ~~[(b) A producer may not accept or receive any compensation from an insurer or third~~
- 2168 ~~party administrator for the initial placement of a health benefit plan, other than a~~
- 2169 ~~hospital confinement indemnity policy, unless prior to a large customer's initial~~

purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.]

[(e) A producer shall:]

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

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

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

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

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

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

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

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

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

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

[(A) the state;]

[(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);]

~~[(C) a county, city, town, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or]~~

~~[(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.]~~

~~[(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance-related information on Internal Revenue Service Form 5500 and its relevant attachments.]~~

~~[(g) At the request of the department, a producer shall provide the department a copy of:]~~

~~[(i) a disclosure required by this Subsection (4); or]~~

~~[(ii) an Internal Revenue Service Form 5500 and its relevant attachments.]~~

~~[(5)] (4)~~ This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

~~[(6)] (5)~~ This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

~~[(7)] (6)~~ A licensee may not receive noncommission compensation from an insurer, insured, or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 32. Section **31A-26-301.6** is amended to read:

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

(1) As used in this section:

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

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

(ii) Title 58, Occupations and Professions.

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

(i) a health maintenance organization; and

(ii) a third party administrator that is subject to this title, provided that nothing in this section may be construed as requiring a third party administrator to use [its] the

2238 third party administrator's own funds to pay claims that have not been funded by  
2239 the entity for which the third party administrator is paying claims.

2240 (c) "Provider" means a health care provider to whom an insurer is obligated to pay  
2241 directly in connection with a claim by virtue of:

2242 (i) an agreement between the insurer and the provider;

2243 (ii) an accident and health insurance policy or contract of the insurer; or

2244 (iii) state or federal law.

2245 (2) An insurer shall timely pay every valid insurance claim [~~submitted by~~] that a provider or  
2246 insured submits in accordance with this section.

2247 (3)(a) Except as provided in Subsection (4), within 30 days of the day on which the  
2248 insurer receives a written claim, an insurer shall:

2249 (i) pay the claim; or

2250 (ii) deny the claim and provide a written explanation for the denial.

2251 (b)(i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)  
2252 may be extended by 15 days if the insurer:

2253 (A) determines that the extension is necessary due to matters beyond the control  
2254 of the insurer; and

2255 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the  
2256 provider and insured in writing of:

2257 (I) the circumstances requiring the extension of time; and

2258 (II) the date by which the insurer expects to pay the claim or deny the claim  
2259 with a written explanation for the denial.

2260 (ii) If an extension is necessary due to a failure of the provider or insured to submit  
2261 the information necessary to decide the claim:

2262 (A) the notice of extension required by this Subsection (3)(b) shall specifically  
2263 describe the required information; and

2264 (B) the insurer shall give the provider or insured at least 45 days from the day on  
2265 which the provider or insured receives the notice before the insurer denies the  
2266 claim for failure to provide the information requested in Subsection  
2267 (3)(b)(ii)(A).

2268 (4)(a) In the case of a claim for income replacement benefits, within 45 days of the day  
2269 on which the insurer receives a written claim, an insurer shall:

2270 (i) pay the claim; or

2271 (ii) deny the claim and provide a written explanation of the denial.

- 2272 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)  
2273 may be extended for 30 days if the insurer:
- 2274 (i) determines that the extension is necessary due to matters beyond the control of the  
2275 insurer; and
- 2276 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies  
2277 the insured of:
- 2278 (A) the circumstances requiring the extension of time; and  
2279 (B) the date by which the insurer expects to pay the claim or deny the claim with a  
2280 written explanation for the denial.
- 2281 (c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection  
2282 (4)(a) may be extended for up to an additional 30 days from the day on which the  
2283 30-day extension period provided in Subsection (4)(b) ends if before the day on  
2284 which the 30-day extension period ends, the insurer:
- 2285 (i) determines that due to matters beyond the control of the insurer a decision cannot  
2286 be rendered within the 30-day extension period; and
- 2287 (ii) notifies the insured of:
- 2288 (A) the circumstances requiring the extension; and  
2289 (B) the date as of which the insurer expects to pay the claim or deny the claim  
2290 with a written explanation for the denial.
- 2291 (d) A notice of extension under this Subsection (4) shall specifically explain:
- 2292 (i) the standards on which entitlement to a benefit is based; and  
2293 (ii) the unresolved issues that prevent a decision on the claim.
- 2294 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the  
2295 insured to submit the information necessary to decide the claim:
- 2296 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically  
2297 describe the necessary information; and
- 2298 (ii) the insurer shall give the insured at least 45 days from the day on which the  
2299 insured receives the notice before the insurer denies the claim for failure to  
2300 provide the information requested in Subsection (4)(b) or (c).
- 2301 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c),  
2302 due to an insured or provider failing to submit information necessary to decide a claim,  
2303 the period for making the benefit determination shall be tolled from the date on which  
2304 the notification of the extension is sent to the insured or provider until the date on which  
2305 the insured or provider responds to the request for additional information.

- (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to pay on the claim, and provide a written explanation of the insurer's decision regarding any part of the claim that is denied within 20 days of receiving the information requested under Subsection (3)(b), (4)(b), or (4)(c).
- (7)(a) Whenever an insurer makes a payment to a provider on any part of a claim under this section, the insurer shall also send to the insured an explanation of benefits paid.
- (b) Whenever an insurer denies any part of a claim under this section, the insurer shall also send to the insured:
- (i) a written explanation of the part of the claim that was denied; and
  - (ii) notice of the adverse benefit determination review process established under Section 31A-22-629.
- (c) This Subsection (7) does not apply to a person receiving benefits under the state Medicaid program as defined in Section 26B-3-101, unless required by the Department of Health and Human Services or federal law.
- (8)(a) A late fee shall be imposed on:
- (i) an insurer that fails to timely pay a claim in accordance with this section; and
  - (ii) a provider that fails to timely provide information on a claim in accordance with this section.
- (b) The late fee described in Subsection (8)(a) shall be determined by multiplying together:
- (i) the total amount of the claim the insurer is obliged to pay;
  - (ii) the total number of days the response or the payment is late; and
  - (iii) 0.033% daily interest rate.
- (c) Any late fee paid or collected under this Subsection (8) shall be separately identified on the documentation used by the insurer to pay the claim.
- (d) For purposes of this Subsection (8), "late fee" does not include an amount that is less than \$1.
- (9) Each insurer shall establish a review process to resolve claims-related disputes between the insurer and providers.
- (10) An insurer or person representing an insurer may not engage in any unfair claim settlement practice with respect to a provider. Unfair claim settlement practices include:
- (a) knowingly misrepresenting a material fact or the contents of an insurance policy in connection with a claim;
  - (b) failing to acknowledge and substantively respond within 15 days to any written

- 2340 communication from a provider relating to a pending claim;
- 2341 (c) denying or threatening to deny the payment of a claim for any reason that is not
- 2342 clearly described in the insured's policy;
- 2343 (d) failing to maintain a payment process sufficient to comply with this section;
- 2344 (e) failing to maintain claims documentation sufficient to demonstrate compliance with
- 2345 this section;
- 2346 (f) failing, upon request, to give to the provider written information regarding the
- 2347 specific rate and terms under which the provider will be paid for health care services;
- 2348 (g) failing to timely pay a valid claim in accordance with this section as a means of
- 2349 influencing, intimidating, retaliating, or gaining an advantage over the provider with
- 2350 respect to an unrelated claim, an undisputed part of a pending claim, or some other
- 2351 aspect of the contractual relationship;
- 2352 (h) failing to pay the sum when required and as required under Subsection (8) when a
- 2353 violation has occurred;
- 2354 (i) threatening to retaliate or actual retaliation against a provider for the provider
- 2355 applying this section;
- 2356 (j) any material violation of this section; and
- 2357 (k) any other unfair claim settlement practice established in rule or law.
- 2358 (11)(a) The provisions of this section shall apply to each contract between an insurer and
- 2359 a provider for the duration of the contract.
- 2360 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith
- 2361 insurance claim.
- 2362 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer
- 2363 and a provider from including provisions in their contract that are more stringent than
- 2364 the provisions of this section.
- 2365 (12)(a) ~~[Pursuant to]~~ In accordance with Chapter 2, Part 2, Duties and Powers of
- 2366 Commissioner, the commissioner may conduct examinations to determine an
- 2367 insurer's level of compliance with this section and impose sanctions for each
- 2368 violation.
- 2369 (b) The commissioner may adopt rules only as necessary to implement this section.
- 2370 (c) The commissioner may establish rules to facilitate the exchange of electronic
- 2371 confirmations when claims-related information has been received.
- 2372 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules
- 2373 regarding the review process required by Subsection (9).

(13) Nothing in this section may be construed as limiting the collection rights of a provider under Section 31A-26-301.5.

(14) Nothing in this section may be construed as limiting the ability of an insurer to:

(a) recover any amount improperly paid to a provider or an insured:

(i) in accordance with Section 31A-31-103 or any other provision of state or federal law;

(ii) within 24 months of the amount improperly paid for a coordination of benefits error;

(iii) within 12 months of the amount improperly paid for any other reason not identified in Subsection (14)(a)(i) or (ii); or

(iv) within 36 months of the amount improperly paid when the improper payment was due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any other state or federal health care program;

(b) take any action against a provider that is permitted under the terms of the provider contract and not prohibited by this section;

(c) report the provider to a state or federal agency with regulatory authority over the provider for unprofessional, unlawful, or fraudulent conduct; or

(d) enter into a mutual agreement with a provider to resolve alleged violations of this section through mediation or binding arbitration.

(15) A provider may only seek recovery from the insurer for an amount the insurer improperly ~~[paid by the insurer]~~ pays within the same time frames ~~[as Subsections]~~ described in Subsection (14)(a)[- and (b)].

(16)(a) An insurer may offer the remittance of payment through a credit card or other similar arrangement.

(b)(i) A provider may elect not to receive remittance through a credit card or other similar arrangement.

(ii) An insurer:

(A) shall permit a provider's election described in Subsection (16)(b)(i) to apply to the provider's entire practice;

(B) may not require a provider's election described in Subsection (16)(b)(i) to be made on a patient-by-patient basis; and

(C) shall allow a provider to opt out of all credit card or other similar arrangements for every plan offered by the insurer through a single opt out process.

- 2408 (iii) If a provider elects not to receive remittance through a credit card or other  
2409 similar arrangement, that decision remains in effect until:  
2410 (A) the provider affirmatively elects to receive remittance through credit card or  
2411 similar arrangement; or  
2412 (B) a new contract is issued.
- 2413 (c) An insurer may not require a provider or insured to accept remittance through a  
2414 credit card or other similar arrangement.
- 2415 (d) An insurer shall allow a tangible check as a form of acceptable payment.

2416 Section 33. Section **31A-26-401** is amended to read:

2417 **31A-26-401 . Required contracts.**

- 2418 (1)(a) A public adjuster may not, directly or indirectly, act within this state as a public  
2419 adjuster without having first entered into a contract, in writing, on a form [filed] a  
2420 public adjuster files with the department in accordance with Section 31A-21-201, [  
2421 ~~executed in duplicate by~~] that the public adjuster and the insured or the insured's duly  
2422 authorized representative executes in duplicate. [~~A public adjuster may not use a~~  
2423 ~~form of contract that is not filed with the department.]~~
- 2424 (b) A public adjuster shall provide a signed copy of the contract to the insured at the  
2425 time of signing.
- 2426 (c) A public adjuster may not use a form of contract that the public adjuster has not filed  
2427 with the department.
- 2428 (d) A public adjuster may not redact a compensation provision from a contract form the  
2429 public adjuster files with the department.
- 2430 (2)(a) [~~A~~] An insured may rescind a contract described in Subsection (1) [is subject to  
2431 rescission] in accordance with Section 31A-26-311.
- 2432 (b) If an insured rescinds a contract, the public adjuster shall return to the insured  
2433 anything of value the insured gives to the public adjuster under the terms of the  
2434 contract within 15 business days after the day on which the public adjuster receives  
2435 the notice of rescission.
- 2436 [(3)(a) A contract described in Subsection (1) shall include a prominently displayed  
2437 notice in 12-point boldface type that states "WE REPRESENT THE INSURED  
2438 ONLY."]
- 2439 [(b) The commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah  
2440 Administrative Rulemaking Act, may require additional prominently displayed notice  
2441 requirements in the contract as the commissioner considers necessary.]

(3) A contract described in Subsection (1):

(a) shall include each notice and statement that the commissioner:

(i) deems necessary; and

(ii) requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) may not include a term that:

(i) allows a public adjuster to collect the public adjuster's percentage fee when money is due from an insurance company but the insurance company has not paid;

(ii) allows a public adjuster to collect the entire fee from the first check an insurance company issues instead of a percentage of each check the insurance company issues;

(iii) requires an insured to authorize an insurance company to issue a check only in the name of the public adjuster;

(iv) imposes a collection cost or a late fee; or

(v) prevents an insured from pursuing a civil remedy.

(4)(a) A public adjuster shall provide to the insurer a notification letter, that the insured signs, authorizing the public adjuster to represent the insured's interest.

(b) After receiving the letter described in Subsection (4)(a), an insurer shall verify with the department that the public adjuster holds a valid license.

~~[(4) A public adjuster shall keep at the public adjuster's principal place of business a copy of each contract entered into in this state for the current year plus three years, and each contract shall be available at all times for inspection, without notice, by the commissioner or the commissioner's authorized representative.]~~

(5) A public adjuster may not enter into a contract with an insured and collect compensation as provided in the contract without actually performing the services a licensed public adjuster customarily [provided by a licensed public adjuster for] provides the insured.

Section 34. Section **31A-26-402** is amended to read:

**31A-26-402 . Compensation.**

(1) Except as provided by [Subsection (2)] Subsection (4), a public adjuster may receive compensation for service [provided] a public adjuster provides under this chapter consisting of: [-]

(a) an hourly fee[-] ;

(b) [-]a flat rate[-] ;

(c) [-]a percentage of the total amount [paid by]an insurer pays to resolve a claim[-] ; or

- 2476 (d) ~~[-]~~another method of compensation.
- 2477 (2)(a) If a person compensates a public adjuster at an hourly rate, the contract between
- 2478 the person and public adjuster shall state:
- 2479 (i) the hourly rate; and
- 2480 (ii) how the hourly rate applies to the hours of service the public adjuster provides to
- 2481 calculate the amount payable to the public adjuster.
- 2482 (b) If a person compensates a public adjuster on a flat fee basis, the contract between the
- 2483 person and public adjuster shall state the amount payable to the public adjuster.
- 2484 (c) If a person compensates a public adjuster on a percentage basis, the contract between
- 2485 the person and the public adjuster shall state the exact percentage that applies to the
- 2486 settlement of a claim to calculate the amount payable to the public adjuster.
- 2487 (d) If a person uses a method of calculation not described in Subsections (2)(a) through
- 2488 (c) to determine a public adjuster's compensation, the contract between the person
- 2489 and the public adjuster shall include a detailed explanation of how the person
- 2490 determines the amount payable to the public adjuster based on the service the public
- 2491 adjuster provides.
- 2492 (3)(a) A contract between an insured and a public adjuster for compensation under this
- 2493 section shall state the type of initial expenses, with dollar estimates, that the insured
- 2494 approves to reimburse the public adjuster from the proceeds of the claim payment.
- 2495 (b) A public adjuster shall provide an itemized invoice of each expense the public
- 2496 adjuster incurs during the process of resolving a claim to the insured at the
- 2497 conclusion of a claim.
- 2498 ~~[(2)]~~ (4)(a) A public adjuster may not receive a compensation consisting of a percentage
- 2499 of the total amount ~~[paid by]~~an insurer ~~pays~~ to resolve a claim on a claim on which
- 2500 the insurer, not later than 72 hours after the ~~[date]~~ day on which the loss is reported to
- 2501 the insurer, either pays or commits in writing to pay to the insured the policy limit of
- 2502 the insurance policy.
- 2503 (b) ~~[A]~~ Subject to Subsection (6), a public adjuster is entitled to reasonable compensation
- 2504 from the insured for services ~~[provided by]~~the public adjuster provides on behalf of
- 2505 the insured, based on the time spent on a claim that is subject to this ~~[Subsection (2)]~~
- 2506 Subsection (4) and expenses ~~[incurred by]~~the public adjuster incurs, until the claim
- 2507 is paid or the insured receives a written commitment to pay from the insurer.
- 2508 ~~[(3)]~~ (5) Except for the payment of compensation by the insured, a person paying proceeds
- 2509 of a policy of insurance or making a payment affecting an insured's rights under a policy

2510 of insurance shall:

- 2511 (a) include the insured as a payee on the payment draft or check; and  
 2512 (b) require the written signature and endorsement of the insured on the payment draft or  
 2513 check.

2514 [(4)] (6) A public adjuster may not:

- 2515 (a) [-]accept [any] a payment that violates this section notwithstanding [whether] a written  
 2516 authorization that the insured gives [authorization-]to the public adjuster[-] ;  
 2517 (b) [-A public adjuster may not -]sign and endorse [any] a payment draft or check on  
 2518 behalf of an insured[-] ;  
 2519 (c) charge, agree to, or accept as compensation or reimbursement, a payment,  
 2520 commission, fee, or another thing of value equal to more than:  
 2521 (i) 10% for a catastrophic insurance claim settlement; or  
 2522 (ii) 20% for a non-catastrophic insurance claim settlement; or  
 2523 (d) require, demand, or accept a fee, retainer, compensation, deposit, or other thing of  
 2524 value before the settlement of a claim.

2525 Section 35. Section **31A-26-403.1** is enacted to read:

2526 **31A-26-403.1 . Assignment of property insurance policy rights and benefits.**

2527 (1) A property insurance policy may prohibit the assignment of a right or benefit under the  
 2528 property insurance policy to a property repair contractor, roofing company, disaster  
 2529 clean up company, appraiser, inspector, or other person hired to remedy the damage that  
 2530 is the subject of an insured's claim.

2531 (2) A person may not circumvent the prohibition described in Subsection (1) by obtaining a  
 2532 power of attorney from an insured.

2533 (3) A property insurance policy may not prohibit the assignment of a right or benefit under  
 2534 the policy to a policy adjuster.

2535 Section 36. Section **31A-26-404** is enacted to read:

2536 **31A-26-404 . Funds that a public adjuster holds.**

2537 A public adjuster that receives, accepts, or holds funds on behalf of an insured shall  
 2538 deposit the funds into a trust account within a federally insured depository institution that:

- 2539 (1)(a) has a branch in this state, if the public adjuster depositing the money is a resident  
 2540 licensee;  
 2541 (b) has a branch in the public adjuster's home state, if the public adjuster is a nonresident  
 2542 licensee; or  
 2543 (c) has a branch where the loss occurred; and

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

Section 37. Section **31A-26-405** is enacted to read:

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

A public adjuster may not:

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

- 2578 (b) on behalf of the insured;  
2579 (12) adjust a claim if the terms and conditions of the insurance coverage exceed the public  
2580 adjuster's competence, knowledge, or expertise;  
2581 (13) represent or act as a company adjuster or independent adjuster on the same claim;  
2582 (14) enter into a contract or accept a power of attorney that vests in the public adjuster the  
2583 authority to choose the persons that will perform repair work;  
2584 (15) agree to a loss settlement without the insured's knowledge or consent; or  
2585 (16) allow the following to obtain an insured's signature on the public adjuster's contract:  
2586 (a) a home repair contractor;  
2587 (b) a roofing company;  
2588 (c) a disaster clean up company;  
2589 (d) an appraiser;  
2590 (e) an inspector; or  
2591 (f) any other person hired to remedy the damage that is the subject of the insured's claim.

2592 Section 38. Section **31A-26-406** is enacted to read:

2593 **31A-26-406 . Record retention requirements.**

- 2594 (1) A public adjuster shall keep at the public adjuster's address that the public adjuster  
2595 registers with the commissioner a record of each investigation, adjustment, or  
2596 transaction the public adjuster undertakes or completes under the public adjuster's  
2597 license.  
2598 (2) For each investigation, adjustment, or transaction, a record described in Subsection (1)  
2599 shall include:  
2600 (a) the name of the insured;  
2601 (b) the date, location, and amount of the loss the insured incurs;  
2602 (c) a copy of the contract between the public adjuster and the insured;  
2603 (d) for each policy an insured carries that relates to the loss the insured incurs:  
2604 (i) the name of the insurer;  
2605 (ii) the amount of the policy;  
2606 (iii) the expiration date of the policy; and  
2607 (iv) the number of the policy;  
2608 (e) an itemized statement of each of the insured's recoveries;  
2609 (f) an itemized statement of all compensation the public adjuster receives in connection  
2610 with the investigation, adjustment, or transaction;  
2611 (g) a register of all money the public adjuster receives, deposits, disburses, or withdraws

- 2612 in connection with a transaction with an insured, including:
- 2613 (i) a fee transfer;
- 2614 (ii) a disbursement from a trust account; or
- 2615 (iii) a transaction that involves an interest-bearing account;
- 2616 (h) the name of the public adjuster that executed the contract;
- 2617 (i) the name of the attorney that represents the insured, if applicable;
- 2618 (j) the name of the insurance company's claims representative; and
- 2619 (k) documentation that the public adjuster meets all applicable statutory financial
- 2620 responsibility requirements.

2621 Section 39. Section **31A-26-407**, which is renumbered from Section 31A-26-403 is renumbered

2622 and amended to read:

2623 **[31A-26-403] 31A-26-407 . Rulemaking.**

2624 The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah

2625 Administrative Rulemaking Act:

- 2626 (1) addressing the forms required by this part;
- 2627 (2) providing for notice requirements in contracts; and
- 2628 (3) establishing the scope of a contract a public adjuster enters into with an insured that the
- 2629 public adjuster represents.

2630 Section 40. Section **31A-28-203** is amended to read:

2631 **Part 2. Utah Property and Casualty Insurance Guaranty Association Act**

2632 **31A-28-203 . Definitions.**

2633 As used in this part:

- 2634 (1) "Affiliate" ~~[is as defined]~~ means the same as that term is defined in Section 31A-1-301.
- 2635 (2) "Association account" means the Utah Property and Casualty Insurance Guaranty
- 2636 Association Account created by Section 31A-28-205.
- 2637 (3)(a) "Claimant" means:
- 2638 (i) an insured making a first-party claim; or
- 2639 (ii) a person instituting a liability claim.
- 2640 (b) A person who is an affiliate of the insolvent insurer may not be a claimant.
- 2641 (4)(a) "Covered claim" means an unpaid claim, including an unpaid claim under a
- 2642 personal lines policy for unearned premiums ~~[submitted by]~~ a claimant submits, if:
- 2643 (i) the claim arises out of the coverage;
- 2644 (ii) the claim is within the coverage;
- 2645 (iii) the claim is not in excess of the applicable limits of an insurance policy to which

2646 this part applies;

2647 (iv) the insurer who issued the policy becomes an insolvent insurer; and

2648 (v)(A) the claimant or insured is a resident of this state at the time of the insured  
2649 event; or

2650 (B) the claim is a first-party claim for damage to property that is permanently  
2651 located in this state.

2652 (b) "Covered claim" does not include:

2653 (i) ~~[any]~~ an amount awarded as punitive or exemplary damages or ~~[any]~~ an amount  
2654 due any reinsurer, insurer, insurance pool, or underwriting association, as  
2655 subrogation recoveries or otherwise~~[-]~~ ;

2656 (ii) ~~[nor does it include any]~~ a supplementary payment obligation, including  
2657 adjustment fees and expenses, attorneys' fees and expenses, court costs, interest,  
2658 and bond premiums, ~~[prior to]~~ before the appointment of a liquidator;

2659 ~~[(ii)]~~ (iii) ~~[any]~~ an amount sought as a return of premium under a retrospective rating  
2660 plan;

2661 ~~[(iii)]~~ (iv) ~~[any]~~ a first-party claim by an insured if:

2662 (A) the insured's net worth exceeds \$25,000,000 on December 31 of the year [  
2663 ~~preceeding the date]~~ before the day on which the insurer becomes an insolvent  
2664 insurer; and

2665 (B) the insured's net worth includes the aggregate net worth of the insured and all  
2666 of ~~[its]~~ the insured's subsidiaries as calculated on a consolidated basis;~~[-or]~~

2667 ~~[(iv)]~~ (v) any first-party claims by an insured that is an affiliate of the insolvent insurer~~[-]~~ ;  
2668 or

2669 (vi) a claim by or against an insured of an insolvent insurer, if the insured has a net  
2670 worth of more than \$25,000,000 on the day on which the insurer becomes:

2671 (A) insolvent; or

2672 (B) subject to an order of liquidation.

2673 (5) "Insolvent insurer" means a member insurer that is placed under an order of liquidation  
2674 by a court ~~[of competent]~~ with jurisdiction ~~[with]~~ that makes a finding of insolvency.

2675 (6) "Member insurer" means ~~[any]~~ a person ~~[who]~~ that:

2676 (a) writes any kind of insurance to which this part applies under Section 31A-28-202,  
2677 including the exchange of reciprocal or inter-insurance contracts; and

2678 (b) is licensed to transact insurance in this state.

2679 (7)(a) "Net direct written premiums" means direct gross premiums written in this state

- 2680 on insurance policies that this part applies to, less return premiums and dividends  
2681 paid or credited to policyholders on the direct business.
- 2682 (b) "Net direct written premiums" does not include premiums on contracts between  
2683 insurers or reinsurers.
- 2684 (8) "Personal lines policy" means an insurance policy issued to an individual that:  
2685 (a) insures a motor vehicle used for personal purposes and not used in trade or business;  
2686 or  
2687 (b) insures a residential dwelling.
- 2688 (9) "Residence" means, for [entities] an entity other than a natural person, the state where  
2689 the principal place of business of a claimant, insured, or policyholder is located at the  
2690 time of the insured event.
- 2691 Section 41. Section **31A-35-103** is amended to read:  
2692 **31A-35-103 . Exemption from other provisions of this title.**
- 2693 Bail bond agencies are exempted from:
- 2694 (1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;  
2695 (2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and  
2696 31A-4-107;  
2697 (3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section  
2698 31A-5-103;  
2699 (4) Chapter 6a, Service Contracts;  
2700 (5) Chapter 6b, Guaranteed Asset Protection Waiver Act;  
2701 (6) Chapter 7, Nonprofit Health Service Insurance Corporations;  
2702 (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;  
2703 (8) Chapter 8a, Health Discount Program Consumer Protection Act;  
2704 (9) Chapter 9, Insurance Fraternal;  
2705 (10) Chapter 10, Annuities;  
2706 (11) Chapter 11, Motor Clubs;  
2707 (12) Chapter 12, State Risk Management Fund;  
2708 (13) Chapter 14, Foreign Insurers;  
2709 (14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;  
2710 (15) Chapter 16, Insurance Holding Companies;  
2711 (16) Chapter 17, Determination of Financial Condition;  
2712 (17) Chapter 18, Investments;  
2713 (18) Chapter 19a, Utah Rate Regulation Act;

- 2714 (19) Chapter 20, Underwriting Restrictions;
- 2715 (20) Chapter 23b, Navigator License Act;
- 2716 (21) Chapter 25, Third Party Administrators;
- 2717 (22) Chapter 26, Insurance Adjusters;
- 2718 (23) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 2719 Administrative Supervision of Insurers;
- 2720 (24) Chapter 27a, Insurer Receivership Act;
- 2721 (25) Chapter 28, Guaranty Associations;
- 2722 (26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
- 2723 (27) Chapter 31, Insurance Fraud Act;
- 2724 (28) Chapter 32a, Medical Care Savings Account Act;
- 2725 (29) Chapter 36, Life Settlements Act;
- 2726 (30) Chapter 37, Captive Insurance Companies Act;
- 2727 (31) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;
- 2728 (32) Chapter 38, Federal Health Care Tax Credit Program Act;
- 2729 (33) Chapter 39, Interstate Insurance Product Regulation Compact;
- 2730 (34) Chapter 40, Professional Employer Organization Licensing Act;
- 2731 (35) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act; and
- 2732 (36) Chapter 43, Small Employer Stop-Loss Insurance Act.

2733 Section 42. Section **31A-37-102** is amended to read:

2734 **31A-37-102 . Definitions.**

2735 As used in this chapter:

- 2736 (1)(a) "Affiliated company" means a business entity that because of common ownership,
- 2737 control, operation, or management is in the same corporate or limited liability
- 2738 company system as:
  - 2739 (i) a parent;
  - 2740 (ii) an industrial insured; or
  - 2741 (iii) a member organization.
- 2742 (b) "Affiliated company" does not include a business entity for which the commissioner
- 2743 issues an order finding that the business entity is not an affiliated company.
- 2744 (2) "Agency captive" means a captive insurer that:
  - 2745 (a) is owned by one or more business entities that are licensed in any state as insurance
  - 2746 producers or managing general agents; and
  - 2747 (b) only insures risks on policies placed through the captive insurer's owners.

- 2748 (3) "Alien captive insurance company" means an insurer:
- 2749 (a) formed to write insurance business for a parent or affiliate of the insurer; and
- 2750 (b) licensed ~~[pursuant to]~~ in accordance with the laws of an alien or foreign jurisdiction
- 2751 that imposes statutory or regulatory standards:
- 2752 (i) on a business entity transacting the business of insurance in the alien or foreign
- 2753 jurisdiction; and
- 2754 (ii) in a form acceptable to the commissioner.
- 2755 (4) "Applicant captive insurance company" means an entity that has submitted an
- 2756 application for a certificate of authority for a captive insurance company, unless the
- 2757 application has been denied or withdrawn.
- 2758 (5) "Association" means a legal association of two or more persons that meets the following
- 2759 requirements:
- 2760 (a) the persons are exposed to similar or related liability because of related, similar, or
- 2761 common business trade, products, services, premises, or operations; and
- 2762 (b)(i) the association or the association's member organizations:
- 2763 (A) own, control, or hold power to vote all of the outstanding voting securities of
- 2764 an association captive insurance company incorporated as a stock insurer;
- 2765 (B) have complete voting control over an association captive insurance company
- 2766 incorporated as a mutual insurer; or
- 2767 (C) have complete voting control over an association captive insurance company
- 2768 formed as a limited liability company; or
- 2769 (ii) the association's member organizations collectively constitute all of the
- 2770 subscribers of an association captive insurance company formed as a reciprocal
- 2771 insurer.
- 2772 (6) "Association captive insurance company" means a business entity that insures risks of:
- 2773 (a) a member organization of the association;
- 2774 (b) an affiliate of a member organization of the association; and
- 2775 (c) the association.
- 2776 (7) "Branch business" means an insurance business transacted by a branch captive
- 2777 insurance company in this state.
- 2778 (8) "Branch captive insurance company" means an alien captive insurance company that
- 2779 has a certificate of authority from the commissioner to transact the business of insurance
- 2780 in this state through a captive insurance company that is domiciled outside of this state.
- 2781 (9) "Branch operation" means a business operation of a branch captive insurance company

- 2782 in this state.
- 2783 (10)(a) "Captive insurance company" means the same as that term is defined in Section  
2784 31A-1-301.
- 2785 (b) "Captive insurance company" includes any of the following formed or holding a  
2786 certificate of authority under this chapter:
- 2787 (i) an agency captive insurance company;
  - 2788 (ii) ~~[a branch]~~ an association captive insurance company;
  - 2789 (iii) a ~~[pooling]~~ branch captive insurance company;
  - 2790 (iv) ~~[a pure]~~ an industrial insured captive insurance company;
  - 2791 (v) ~~[an association]~~ a pooling captive insurance company;
  - 2792 (vi) a ~~[sponsored]~~ pure captive insurance company;
  - 2793 (vii) ~~[an industrial insured captive insurance company, including an industrial insured~~  
2794 ~~captive insurance company formed as]~~ a risk retention group [captive in this  
2795 state pursuant to the provisions of the Federal Liability Risk Retention Act of  
2796 1986;] formed in this state as a corporation or other limited liability entity under  
2797 the Liability Risk Retention Act of 1986, 15 U.S.C. Sec. 3901 et seq.;
  - 2798 (viii) a ~~[special purpose]~~ sponsored captive insurance company;~~[-or]~~
  - 2799 (ix) a special purpose ~~[financial]~~ captive insurance company~~[-]; or~~
  - 2800 (x) a special purpose financial captive insurance company.
- 2801 (11)(a) "Cell" means a separate account for one or more participants formed and  
2802 operating under the authority of a sponsored captive insurance company to write  
2803 insurance coverage as described in this title.
- 2804 (b) "Cell" includes an account formed as either:
- 2805 (i) an incorporated cell; or
  - 2806 (ii) a protected cell.
- 2807 (12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's  
2808 designee.
- 2809 (13) "Common ownership and control" means that two or more captive insurance  
2810 companies are owned or controlled by the same person or group of persons as follows:
- 2811 (a) in the case of a captive insurance company that is a stock corporation, the direct or  
2812 indirect ownership of 80% or more of the outstanding voting stock of the stock  
2813 corporation;
  - 2814 (b) in the case of a captive insurance company that is a mutual corporation, the direct or  
2815 indirect ownership of 80% or more of the surplus and the voting power of the mutual

- 2816 corporation;
- 2817 (c) in the case of a captive insurance company that is a limited liability company, the
- 2818 direct or indirect ownership by the same member or members of 80% or more of the
- 2819 membership interests in the limited liability company; or
- 2820 (d) in the case of a sponsored captive insurance company, a cell is a separate captive
- 2821 insurance company owned and controlled by the cell's participant, only if:
- 2822 (i) the participant is the only participant with respect to the cell; and
- 2823 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored
- 2824 captive insurance company through common ownership and control.
- 2825 (14) "Consolidated debt to total capital ratio" means the ratio of Subsection (14)(a) to (b).
- 2826 (a) This Subsection (14)(a) is an amount equal to the sum of all debts and hybrid capital
- 2827 instruments including:
- 2828 (i) all borrowings from depository institutions;
- 2829 (ii) all senior debt;
- 2830 (iii) all subordinated debts;
- 2831 (iv) all trust preferred shares; and
- 2832 (v) all other hybrid capital instruments that are not included in the determination of
- 2833 consolidated GAAP net worth issued and outstanding.
- 2834 (b) This Subsection (14)(b) is an amount equal to the sum of:
- 2835 (i) total capital consisting of all debts and hybrid capital instruments as described in
- 2836 Subsection (14)(a); and
- 2837 (ii) shareholders' equity determined in accordance with generally accepted accounting
- 2838 principles for reporting to the United States Securities and Exchange Commission.
- 2839 (15) "Consolidated GAAP net worth" means the consolidated shareholders' or members'
- 2840 equity determined in accordance with generally accepted accounting principles for
- 2841 reporting to the United States Securities and Exchange Commission.
- 2842 (16) "Controlled unaffiliated business" means a business entity:
- 2843 (a)(i) in the case of a ~~[pure]~~captive insurance company, other than a risk retention
- 2844 group, that is not in the corporate or limited liability company system of a parent
- 2845 or the parent's affiliate; or
- 2846 (ii) in the case of an industrial insured captive insurance company, that is not in the
- 2847 corporate or limited liability company system of an industrial insured or an
- 2848 affiliated company of the industrial insured;
- 2849 (b)(i) in the case of a ~~[pure]~~captive insurance company, other than a risk retention

- 2850 group, that has a contractual relationship with a parent or affiliate; or
- 2851 (ii) in the case of an industrial insured captive insurance company, that has a
- 2852 contractual relationship with an industrial insured or an affiliated company of the
- 2853 industrial insured; and
- 2854 (c) whose risks that are or will be insured by a [~~pure~~]captive insurance company, [~~an~~
- 2855 ~~industrial insured captive insurance company, or both~~] other than a risk retention
- 2856 group, are managed in accordance with Subsection 31A-37-106(1)(j) by:
- 2857 (i)(A) a [~~pure~~]captive insurance company; or
- 2858 (B) an industrial insured captive insurance company; or
- 2859 (ii) a parent or affiliate of:
- 2860 (A) a [~~pure~~]captive insurance company; or
- 2861 (B) an industrial insured captive insurance company.
- 2862 (17) "Criminal act" means an act for which a person receives a verdict or finding of guilt
- 2863 after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 2864 (18) "Establisher" means a person who establishes a business entity or a trust.
- 2865 (19) "Governing body" means the persons who hold the ultimate authority to direct and
- 2866 manage the affairs of an entity.
- 2867 (20) "Incorporated cell" means a separate account:
- 2868 (a) established and maintained by a sponsored captive insurance company for a
- 2869 participant; and
- 2870 (b) that has been organized as a corporation, a limited liability company, or a
- 2871 not-for-profit organization.
- 2872 (21) "Industrial insured" means an insured:
- 2873 (a) that produces insurance:
- 2874 (i) by the services of a full-time employee acting as a risk manager or insurance
- 2875 manager; or
- 2876 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 2877 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000;
- 2878 and
- 2879 (c) that has at least 25 full-time employees.
- 2880 (22) "Industrial insured captive insurance company" means a business entity that:
- 2881 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
- 2882 (b) may insure the risks of:
- 2883 (i) an affiliated company of an industrial insured; or

- 2884 (ii) a controlled unaffiliated business of:
- 2885 (A) an industrial insured; or
- 2886 (B) an affiliated company of an industrial insured.
- 2887 (23) "Industrial insured group" means:
- 2888 (a) a group of industrial insureds that collectively:
- 2889 (i) own, control, or hold with power to vote all of the outstanding voting securities of
- 2890 an industrial insured captive insurance company incorporated or organized as a
- 2891 limited liability company as a stock insurer; or
- 2892 (ii) have complete voting control over an industrial insured captive insurance
- 2893 company incorporated or organized as a limited liability company as a mutual
- 2894 insurer; or
- 2895 ~~[(b) a group that is:]~~
- 2896 ~~[(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec.~~
- 2897 ~~3901 et seq., as amended, as a corporation or other limited liability association;~~
- 2898 ~~and]~~
- 2899 ~~[(ii) taxable under this title as a:]~~
- 2900 ~~[(A) stock corporation; or]~~
- 2901 ~~[(B) mutual insurer; or]~~
- 2902 ~~[(e)]~~ (b) a group that has complete voting control over an industrial captive insurance
- 2903 company formed as a limited liability company.
- 2904 (24) "Member organization" means a person that belongs to an association.
- 2905 (25) "Parent" means a person that directly or indirectly owns, controls, or holds with power
- 2906 to vote more than 50% of the outstanding securities of an organization.
- 2907 (26) "Participant" means an entity that is insured by a sponsored captive insurance company:
- 2908 (a) if the losses of the participant are limited through a participant contract to the assets
- 2909 of a protected cell; and
- 2910 (b)(i) the entity is permitted to be a participant under Section 31A-37-403; or
- 2911 (ii) the entity is an affiliate of an entity permitted to be a participant under Section
- 2912 31A-37-403.
- 2913 (27) "Participant contract" means a contract by which a sponsored captive insurance
- 2914 company:
- 2915 (a) insures the risks of a participant; and
- 2916 (b) limits the losses of the participant to the assets of a protected cell.
- 2917 (28) "Pooling captive" means a captive insurer organized for the purpose of establishing a

2918 risk-sharing arrangement between other captive insurers.

2919 (29) "Protected cell" means a separate account:

2920 (a) established and maintained by a sponsored captive insurance company for a  
2921 participant; and

2922 (b) that has not been organized as an entity including a corporation, a limited liability  
2923 company, or a not-for-profit organization.

2924 (30) "Pure captive insurance company" means a business entity that insures risks of a  
2925 parent, affiliate, or controlled unaffiliated business of the business entity.

2926 (31) "Special purpose financial captive insurance company" means the same as that term is  
2927 defined in Section 31A-37a-102.

2928 (32) "Sponsor" means an entity that:

2929 (a) meets the requirements of Section 31A-37-402; and

2930 (b) is approved by the commissioner to:

2931 (i) provide all or part of the capital and surplus in an amount:

2932 (A) required by Section 31A-37-204; or

2933 (B) greater than the amount required by Section 31A-37-204, if, by order, the  
2934 commissioner deems the increase necessary; and

2935 (ii) organize and operate a sponsored captive insurance company.

2936 (33) "Sponsored captive insurance company" means a captive insurance company:

2937 (a) in which the minimum capital and surplus required by applicable law is provided by  
2938 one or more sponsors or participants;

2939 (b) that is formed or holding a certificate of authority under this chapter;

2940 (c) that insures the risks of a separate participant through the contract; and

2941 (d) that segregates each participant's liability through one or more cells.

2942 (34) "Treasury rates" means the United States Treasury strip asked yield as published in the  
2943 Wall Street Journal as of a balance sheet date.

2944 Section 43. Section **31A-37-103** is amended to read:

2945 **31A-37-103 . Chapter exclusivity.**

2946 (1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a  
2947 provision of this title other than this chapter does not apply to a captive insurance  
2948 company.

2949 (2) To the extent that a provision of the following does not contradict this chapter, the  
2950 provision applies to a captive insurance company that receives a certificate of authority  
2951 under this chapter:

- 2952 (a) Chapter 1, General Provisions;
- 2953 (b) Chapter 2, Administration of the Insurance Laws;
- 2954 (c) Chapter 4, Insurers in General;
- 2955 (d) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 2956 (e) Chapter 14, Foreign Insurers;
- 2957 (f) Chapter 16, Insurance Holding Companies;
- 2958 (g) Chapter 17, Determination of Financial Condition;
- 2959 (h) Chapter 18, Investments;
- 2960 (i) Chapter 19a, Utah Rate Regulation Act;
- 2961 (j) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 2962 Administrative Supervision of Insurers; and
- 2963 (k) Chapter 27a, Insurer Receivership Act.
- 2964 (3) In addition to this chapter, and subject to Section 31A-37a-103:
- 2965 (a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a
- 2966 special purpose financial captive insurance company; and
- 2967 (b) for purposes of a special purpose financial captive insurance company, a reference in
- 2968 this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose
- 2969 Financial Captive Insurance Company Act.
- 2970 (4) In addition to this chapter, [~~an industrial group captive insurance company formed as~~]a
- 2971 risk retention group [~~eaptive~~]is subject to Chapter 15, Part 2, Risk Retention Groups Act,
- 2972 to the extent that this chapter is silent regarding regulation of risk retention groups
- 2973 conducting business in the state.
- 2974 Section 44. Section **31A-37-201** is amended to read:
- 2975 **31A-37-201 . Certificate of authority.**
- 2976 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to
- 2977 a captive insurance company that meets the requirements of this chapter.
- 2978 (2) To conduct insurance business in this state, a captive insurance company shall:
- 2979 (a) obtain from the commissioner a certificate of authority authorizing the captive
- 2980 insurance company to conduct insurance business in this state;
- 2981 (b)(i) hold a meeting of the governing body:
- 2982 (A) at least once each year;
- 2983 (B) at which a quorum is present;
- 2984 (C) in the state; and
- 2985 (D) at which at least one out-of-state individual is physically present; or

- 2986 (ii) become a member of the Utah Captive Insurance Association at the highest level  
2987 of membership;
- 2988 (c) maintain in this state:
- 2989 (i) the principal place of business of the captive insurance company; or  
2990 (ii) in the case of a branch captive insurance company, the principal place of business  
2991 for the branch operations of the branch captive insurance company; and
- 2992 (d) except as provided in Subsection (3), appoint a resident registered agent to accept  
2993 service of process and to otherwise act on behalf of the captive insurance company in  
2994 the state.
- 2995 (3) In the case of a captive insurance company formed as a corporation, if the registered  
2996 agent cannot with reasonable diligence be found at the registered office of the captive  
2997 insurance company, the commissioner is the agent of the captive insurance company  
2998 upon whom process, notice, or demand may be served.
- 2999 (4)(a) Before receiving a certificate of authority, an applicant captive insurance company  
3000 shall file with the commissioner:
- 3001 (i) a certified copy of the captive insurance company's organizational charter;  
3002 (ii) a statement under oath of the captive insurance company's president and secretary  
3003 or their equivalents showing the captive insurance company's financial condition;  
3004 and
- 3005 (iii) any other statement or document required by the commissioner under Section  
3006 31A-37-106.
- 3007 (b) In addition to the information required under Subsection (4)(a), an applicant captive  
3008 insurance company shall file with the commissioner evidence of:
- 3009 (i) the amount and liquidity of the assets of the applicant captive insurance company  
3010 relative to the risks to be assumed by the applicant captive insurance company;  
3011 (ii) the adequacy of the expertise, experience, and character of the person who will  
3012 manage the applicant captive insurance company;  
3013 (iii) the overall soundness of the plan of operation of the applicant captive insurance  
3014 company;  
3015 (iv) the adequacy of the loss prevention programs for the prospective insureds of the  
3016 applicant captive insurance company as the commissioner deems necessary; and  
3017 (v) any other factor the commissioner:
- 3018 (A) adopts by rule under Section 31A-37-106; and  
3019 (B) considers relevant in ascertaining whether the applicant captive insurance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3054 (i) a fee for examining, investigating, and processing, by a department employee, of  
3055 an application for a certificate of authority made by an applicant captive insurance  
3056 company;
- 3057 (ii) a fee for obtaining a certificate of authority for the year the captive insurance  
3058 company is issued a certificate of authority by the department; and
- 3059 (iii) a certificate of authority renewal fee, assessed annually.
- 3060 (b) The commissioner may:
- 3061 (i) assign a department employee or retain legal, financial, or examination services  
3062 from outside the department to perform the services described in:
- 3063 (A) Subsection (6)(a); and
- 3064 (B) Section 31A-37-502; and
- 3065 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the  
3066 applicant captive insurance company.
- 3067 (7) If the commissioner is satisfied that the documents and statements filed by the applicant  
3068 captive insurance company comply with this chapter, the commissioner may grant a  
3069 certificate of authority authorizing the company to do insurance business in this state.
- 3070 (8) A certificate of authority granted under this section expires annually and shall be  
3071 renewed by July 1 of each year.
- 3072 Section 45. Section **31A-37-204** is amended to read:
- 3073 **31A-37-204 . Paid-in capital -- Other capital.**
- 3074 (1) For purposes of this section, "marketable securities" means:
- 3075 (a) a bond or other evidence of indebtedness of a governmental unit in the United States  
3076 or Canada or any instrumentality of the United States or Canada; or
- 3077 (b) securities:
- 3078 (i) traded on one or more of the following exchanges in the United States:
- 3079 (A) New York;
- 3080 (B) American; or
- 3081 (C) NASDAQ;
- 3082 (ii) when no particular security, or a substantially related security, applied toward the  
3083 required minimum capital and surplus requirement of Subsection (2) represents  
3084 more than 50% of the minimum capital and surplus requirement; and
- 3085 (iii) when no group of up to four particular securities, consolidating substantially  
3086 related securities, applied toward the required minimum capital and surplus  
3087 requirement of Subsection (2) represents more than 90% of the minimum capital

3088 and surplus requirement.

3089 (2)(a) The commissioner may not issue a certificate of authority to a captive insurance  
3090 company [~~described in Subsection (2)(e)~~] unless the company possesses and  
3091 maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

3092 (i) in the case of a pure captive insurance company:

3093 (A) except as provided in Subsection (2)(a)(i)(B), not less than \$250,000; or

3094 (B) if the pure captive insurance company is not acting as a pool that facilitates  
3095 risk distribution for other captive insurers, an amount that is the greater of:

3096 (I) not less than 20% of the company's total aggregate risk; or

3097 (II) \$50,000;

3098 (ii) in the case of an association captive insurance company, not less than \$500,000;

3099 (iii) in the case of an industrial insured captive insurance company [~~incorporated as a~~  
3100 ~~stock insurer~~] or a risk retention group, not less than \$700,000;

3101 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of  
3102 which a minimum of \$50,000 is provided by the sponsor; or

3103 (v) in the case of a special purpose captive insurance company, an amount  
3104 determined by the commissioner after giving due consideration to the company's  
3105 business plan, feasibility study, and pro-formas, including the nature of the risks  
3106 to be insured.

3107 (b) The paid-in capital and surplus required under this Subsection (2) may be in the form  
3108 of:

3109 (i)(A) cash; or

3110 (B) cash equivalent;

3111 (ii) an irrevocable letter of credit:

3112 (A) issued by:

3113 (I) a bank chartered by this state;

3114 (II) a member bank of the Federal Reserve System; or

3115 (III) a member bank of the Federal Deposit Insurance Corporation;

3116 (B) [~~approved by~~] that the commissioner approves;

3117 (iii) marketable securities as determined by Subsection (1); or

3118 (iv) some other thing of value [~~approved by~~] that the commissioner approves, for a  
3119 period not to exceed 45 days, to facilitate the formation of a captive insurance  
3120 company in this state [~~pursuant to~~] in accordance with an approved plan of  
3121 liquidation and reorganization of another captive insurance company or alien

captive insurance company in another jurisdiction.

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

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

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

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

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

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

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

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

(i) cash;

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

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

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

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

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

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

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

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

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

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

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

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

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

- 3156 (i) the commissioner may permit a branch captive insurance company that is required  
3157 to post security for loss reserves on branch business by the branch captive  
3158 insurance company's reinsurer to reduce the funds in the trust account required by  
3159 this section by the same amount as the security posted if the security remains  
3160 posted with the reinsurer; and
- 3161 (ii) a branch captive insurance company that is the result of the licensure of an alien  
3162 captive insurance company that is not formed in an alien jurisdiction is not subject  
3163 to the requirements of this Subsection (4).

3164 (5)(a) A captive insurance company may not pay the following without the prior  
3165 approval of the commissioner:

- 3166 (i) a dividend out of capital or surplus; or  
3167 (ii) a distribution with respect to capital or surplus.
- 3168 (b) The commissioner shall condition approval of an ongoing plan for the payment of  
3169 dividends or other distributions on the retention, at the time of each payment, of  
3170 capital or surplus.

3171 (6) Notwithstanding Subsection (1), to protect the solvency and liquidity of a captive  
3172 insurance company, the commissioner may reject the application of specific assets or  
3173 amounts of specific assets to ~~[satisfying]~~ satisfy the requirement of Subsection (2).

3174 Section 46. Section **31A-37-302** is amended to read:

3175 **31A-37-302 . Investment requirements.**

3176 (1)(a) Except as provided in Subsection (1)(b), a captive insurance company ~~[and an~~  
3177 ~~industrial insured captive insurance company]~~ and a risk retention group shall comply  
3178 with the investment requirements contained in this title.

3179 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the  
3180 commissioner may approve the use of alternative reliable methods of valuation and  
3181 rating under Section 31A-37-106 for a captive insurance company or ~~[an industrial~~  
3182 ~~insured captive insurance company]~~ a risk retention group.

3183 (2)(a) Except as provided in Subsection (2)(b), a ~~[pure-]~~ captive insurance company, ~~[or~~  
3184 ~~industrial insured captive insurance company]~~ other than a risk retention group, is not  
3185 subject to any restrictions on ~~[allowable]~~ authorized classes of investments described  
3186 in Section ~~[31A-18-108]~~ 31A-18-110.

3187 (b) Under Section 31A-37-106, the commissioner may prohibit or limit an investment  
3188 that threatens the solvency or liquidity of a captive insurance company or ~~[industrial~~  
3189 ~~insured captive insurance company]~~ risk retention group.

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

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

(B) an affiliate of the captive insurance company.

(ii) A pure captive insurance company and an incorporated cell of a sponsored captive insurance company may make loans to:

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

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

(b) A loan under Subsection (3)(a):

(i) may be made only on the prior written approval of the commissioner and, when applicable, the sponsor for an incorporated cell; and

(ii) shall be evidenced by a note in a form approved by the commissioner and, when applicable, the sponsor for an incorporated cell.

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

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

(4)(a) For purposes of this chapter, the excess surplus of a captive insurance company, other than a risk retention group, is the amount of the company's assets that exceeds 120% of the company's minimum capital required by Section 31A-37-204 plus an actuarially determined reserve estimate.

(b) A captive insurer may only invest excess surplus in a manner inconsistent with the authorized classes of investments described in Section 31A-18-110 with prior written approval of the commissioner.

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

Section 47. Section **31A-37-501** is amended to read:

**31A-37-501 . Reports to commissioner.**

(1) A captive insurance company is not required to make a report except those provided in this chapter.

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

- 3258 this section with respect to business written in the alien or foreign jurisdiction.
- 3259 (c) A waiver by the commissioner under Subsection (4)(b):
- 3260 (i) shall be in writing; and
- 3261 (ii) is subject to public inspection.
- 3262 (5) Before March 1 of each year, a sponsored captive insurance company shall submit to
- 3263 the commissioner a consolidated report of the financial condition of each cell, including
- 3264 a financial statement for each cell.
- 3265 (6)(a) A captive insurance company shall notify the commissioner in writing if there is:
- 3266 (i) a material change to the captive insurance company's most recently filed report of
- 3267 financial condition; or
- 3268 (ii) an adverse material change in the financial condition of a captive insurance
- 3269 company since the captive insurance company's most recently filed report of
- 3270 financial condition.
- 3271 (b) A captive insurance company shall submit a notification described in this subsection
- 3272 within 20 days after the day on which the captive insurance company learns of the
- 3273 material change.
- 3274 Section 48. Section **31A-37-505** is amended to read:
- 3275 **31A-37-505 . Suspension or revocation -- Grounds.**
- 3276 (1) The commissioner may suspend or revoke the certificate of authority of a captive
- 3277 insurance company to conduct an insurance business in this state for:
- 3278 (a) insolvency or impairment of capital or surplus;
- 3279 (b) failure to meet the requirements [~~of Section 31A-37-204~~] of Part 2, Certificate of
- 3280 Authority;
- 3281 (c) refusal or failure to submit:
- 3282 (i) an annual report required by Section 31A-37-501; or
- 3283 (ii) any other report or statement required by law or by lawful order of the
- 3284 commissioner;
- 3285 (d) failure to comply with the charter, bylaws, or other organizational document of the
- 3286 captive insurance company;
- 3287 (e) failure to submit to:
- 3288 (i) an examination under Section 31A-37-502; or
- 3289 (ii) any legal obligation relative to an examination under Section 31A-37-502;
- 3290 (f) refusal or failure to pay:
- 3291 (i) an annual fee described in Section 31A-3-304;

- (ii) the cost of examination described in Section 31A-37-502; or
- (iii) any other fee prescribed by this title;
- (g) use of methods that, although not otherwise specifically prohibited by law, render:
  - (i) the operation of the captive insurance company detrimental to the public or the policyholders of the captive insurance company; or
  - (ii) the condition of the captive insurance company unsound with respect to the public or to the policyholders of the captive insurance company; or
- (h) failure otherwise to comply with laws of this state.

(2) Notwithstanding any other provision of this title, if the commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed ~~[any of the acts specified in]~~ an act described in Subsection (1), the commissioner may suspend or revoke the certificate of authority of the captive insurance company if the commissioner considers ~~[it]~~ that the revocation or suspension is in the best interest of the public and the policyholders of the captive insurance company~~[to revoke the certificate of authority]~~.

Section 49. Section **31A-37-701** is amended to read:

**31A-37-701 . Certificate of dormancy.**

- (1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group, may apply, without fee, to the commissioner for a certificate of dormancy.
- (2)(a) A captive insurance company, other than ~~[an industrial insured captive insurance company]~~ a risk retention group or a cell of a sponsored captive insurance company, is eligible for a certificate of dormancy if the company:
  - (i) has ceased transacting the business of insurance, including the issuance of insurance policies; and
  - (ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.
- (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.
- (3) Except as provided in Subsection (4), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.
- (4) A captive insurance company that holds a certificate of dormancy:
  - (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus

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

(b) is not required to:

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

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

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

Section 50. Section **31A-41-202** is amended to read:

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

- (1) An agency title insurance producer licensed under this title shall pay an annual assessment determined by the commission by rule made in accordance with Section 31A-2-404, except that the annual assessment:
  - (a) may not exceed \$1,000; and
  - (b) shall be determined on the basis of title insurance premium volume.
- (2) An individual who applies for a license or renewal of a license as an individual title insurance producer, shall pay in addition to any other fee required by this title, an assessment not to exceed \$20, as determined by the commission by rule made in accordance with Section 31A-2-404, except that if the individual holds more than one license, the total of all assessments under this Subsection (2) may not exceed \$20 in a fiscal year.
- (3)(a) To be licensed as an agency title insurance producer, a person shall pay to the department an assessment of \$1,000 before the day on which the person is licensed as a title insurance agency.
- (b)(i) The department shall assess on a licensed agency title insurance producer an

amount equal to the greater of:

(A) \$1,000; or

(B) subject to Subsection (3)(b)(ii), 2% of the balance in the agency title insurance producer's reserve account described in Subsection [~~31A-23a-204(3)~~]  
31A-23a-204(4).

(ii) The department may assess on an agency title insurance producer an amount less than 2% of the balance described in Subsection (3)(b)(i)(B) if:

(A) before issuing the assessments under this Subsection (3)(b) the department determines that the total of all assessments under Subsection (3)(b)(i) will exceed \$250,000;

(B) the amount assessed on the agency title insurance producer is not less than \$1,000; and

(C) the department reduces the assessment in a proportionate amount for agency title insurance producers assessed on the basis of the 2% of the balance described in Subsection (3)(b)(i)(B).

(iii) An agency title insurance producer assessed under this Subsection (3)(b) shall pay the assessment by no later than August [~~1~~] 31.

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

Section 51. Section **63G-2-305** is amended to read:

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

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

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to

the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the

- 3428 governmental entity's need to acquire the property on the best terms possible;
- 3429 (b) the information has already been disclosed to persons not employed by or under a
- 3430 duty of confidentiality to the entity;
- 3431 (c) in the case of records that would identify property, potential sellers of the described
- 3432 property have already learned of the governmental entity's plans to acquire the
- 3433 property;
- 3434 (d) in the case of records that would identify the appraisal or estimated value of
- 3435 property, the potential sellers have already learned of the governmental entity's
- 3436 estimated value of the property; or
- 3437 (e) the property under consideration for public acquisition is a single family residence
- 3438 and the governmental entity seeking to acquire the property has initiated negotiations
- 3439 to acquire the property as required under Section 78B-6-505;
- 3440 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
- 3441 transaction of real or personal property including intellectual property, which, if
- 3442 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
- 3443 value of the subject property, unless:
- 3444 (a) the public interest in access is greater than or equal to the interests in restricting
- 3445 access, including the governmental entity's interest in maximizing the financial
- 3446 benefit of the transaction; or
- 3447 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
- 3448 the value of the subject property have already been disclosed to persons not
- 3449 employed by or under a duty of confidentiality to the entity;
- 3450 (10) records created or maintained for civil, criminal, or administrative enforcement
- 3451 purposes or audit purposes, or for discipline, licensing, certification, or registration
- 3452 purposes, if release of the records:
- 3453 (a) reasonably could be expected to interfere with investigations undertaken for
- 3454 enforcement, discipline, licensing, certification, or registration purposes;
- 3455 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
- 3456 proceedings;
- 3457 (c) would create a danger of depriving a person of a right to a fair trial or impartial
- 3458 hearing;
- 3459 (d) reasonably could be expected to disclose the identity of a source who is not generally
- 3460 known outside of government and, in the case of a record compiled in the course of
- 3461 an investigation, disclose information furnished by a source not generally known

- 3462 outside of government if disclosure would compromise the source; or
- 3463 (e) reasonably could be expected to disclose investigative or audit techniques,
- 3464 procedures, policies, or orders not generally known outside of government if
- 3465 disclosure would interfere with enforcement or audit efforts;
- 3466 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 3467 (12) records the disclosure of which would jeopardize the security of governmental
- 3468 property, governmental programs, or governmental recordkeeping systems from
- 3469 damage, theft, or other appropriation or use contrary to law or public policy;
- 3470 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
- 3471 facility, or records relating to incarceration, treatment, probation, or parole, that would
- 3472 interfere with the control and supervision of an offender's incarceration, treatment,
- 3473 probation, or parole;
- 3474 (14) records that, if disclosed, would reveal recommendations made to the Board of
- 3475 Pardons and Parole by an employee of or contractor for the Department of Corrections,
- 3476 the Board of Pardons and Parole, or the Department of Health and Human Services that
- 3477 are based on the employee's or contractor's supervision, diagnosis, or treatment of any
- 3478 person within the board's jurisdiction;
- 3479 (15) records and audit workpapers that identify audit, collection, and operational procedures
- 3480 and methods used by the State Tax Commission, if disclosure would interfere with
- 3481 audits or collections;
- 3482 (16) records of a governmental audit agency relating to an ongoing or planned audit until
- 3483 the final audit is released;
- 3484 (17) records that are subject to the attorney client privilege;
- 3485 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
- 3486 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
- 3487 judicial, quasi-judicial, or administrative proceeding;
- 3488 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
- 3489 from a member of the Legislature; and
- 3490 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
- 3491 legislative action or policy may not be classified as protected under this section;
- 3492 and
- 3493 (b)(i) an internal communication that is part of the deliberative process in connection
- 3494 with the preparation of legislation between:
- 3495 (A) members of a legislative body;

3496 (B) a member of a legislative body and a member of the legislative body's staff; or  
3497 (C) members of a legislative body's staff; and  
3498 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
3499 legislative action or policy may not be classified as protected under this section;  
3500 (20)(a) records in the custody or control of the Office of Legislative Research and  
3501 General Counsel, that, if disclosed, would reveal a particular legislator's  
3502 contemplated legislation or contemplated course of action before the legislator has  
3503 elected to support the legislation or course of action, or made the legislation or course  
3504 of action public; and  
3505 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
3506 Office of Legislative Research and General Counsel is a public document unless a  
3507 legislator asks that the records requesting the legislation be maintained as protected  
3508 records until such time as the legislator elects to make the legislation or course of  
3509 action public;  
3510 (21) a research request from a legislator to a legislative staff member and research findings  
3511 prepared in response to the request;  
3512 (22) drafts, unless otherwise classified as public;  
3513 (23) records concerning a governmental entity's strategy about:  
3514 (a) collective bargaining; or  
3515 (b) imminent or pending litigation;  
3516 (24) records of investigations of loss occurrences and analyses of loss occurrences that may  
3517 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
3518 Uninsured Employers' Fund, or similar divisions in other governmental entities;  
3519 (25) records, other than personnel evaluations, that contain a personal recommendation  
3520 concerning an individual if disclosure would constitute a clearly unwarranted invasion  
3521 of personal privacy, or disclosure is not in the public interest;  
3522 (26) records that reveal the location of historic, prehistoric, paleontological, or biological  
3523 resources that if known would jeopardize the security of those resources or of valuable  
3524 historic, scientific, educational, or cultural information;  
3525 (27) records of independent state agencies if the disclosure of the records would conflict  
3526 with the fiduciary obligations of the agency;  
3527 (28) records of an institution of higher education defined in Section 53H-1-101 regarding  
3528 tenure evaluations, appointments, applications for admissions, retention decisions, and  
3529 promotions, which could be properly discussed in a meeting closed in accordance with

3530 Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final  
3531 decisions about tenure, appointments, retention, promotions, or those students admitted,  
3532 may not be classified as protected under this section;

3533 (29) records of the governor's office, including budget recommendations, legislative  
3534 proposals, and policy statements, that if disclosed would reveal the governor's  
3535 contemplated policies or contemplated courses of action before the governor has  
3536 implemented or rejected those policies or courses of action or made them public;

3537 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
3538 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
3539 recommendations in these areas;

3540 (31) records provided by the United States or by a government entity outside the state that  
3541 are given to the governmental entity with a requirement that they be managed as  
3542 protected records if the providing entity certifies that the record would not be subject to  
3543 public disclosure if retained by it;

3544 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
3545 public body except as provided in Section 52-4-206;

3546 (33) records that would reveal the contents of settlement negotiations but not including final  
3547 settlements or empirical data to the extent that they are not otherwise exempt from  
3548 disclosure;

3549 (34) memoranda prepared by staff and used in the decision-making process by an  
3550 administrative law judge, a member of the Board of Pardons and Parole, or a member of  
3551 any other body charged by law with performing a quasi-judicial function;

3552 (35) records that would reveal negotiations regarding assistance or incentives offered by or  
3553 requested from a governmental entity for the purpose of encouraging a person to expand  
3554 or locate a business in Utah, but only if disclosure would result in actual economic harm  
3555 to the person or place the governmental entity at a competitive disadvantage, but this  
3556 section may not be used to restrict access to a record evidencing a final contract;

3557 (36) materials to which access must be limited for purposes of securing or maintaining the  
3558 governmental entity's proprietary protection of intellectual property rights including  
3559 patents, copyrights, and trade secrets;

3560 (37) the name of a donor or a prospective donor to a governmental entity, including an  
3561 institution of higher education defined in Section 53H-1-101, and other information  
3562 concerning the donation that could reasonably be expected to reveal the identity of the  
3563 donor, provided that:

- 3564 (a) the donor requests anonymity in writing;
- 3565 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
- 3566 classified protected by the governmental entity under this Subsection (37); and
- 3567 (c) except for an institution of higher education defined in Section 53H-1-101, the
- 3568 governmental unit to which the donation is made is primarily engaged in educational,
- 3569 charitable, or artistic endeavors, and has no regulatory or legislative authority over
- 3570 the donor, a member of the donor's immediate family, or any entity owned or
- 3571 controlled by the donor or the donor's immediate family;

3572 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

3573 (39) a notification of workers' compensation insurance coverage described in Section

3574 34A-2-205;

3575 (40) subject to Subsections (40)(g) and (h), the following records of an institution[-] of

3576 higher education defined in Section 53H-1-101, which have been developed, discovered,

3577 disclosed to, or received by or on behalf of faculty, staff, employees, or students of the

3578 institution:

3579 (a) unpublished lecture notes;

3580 (b) unpublished notes, data, and information:

3581 (i) relating to research; and

3582 (ii) of:

3583 (A) the institution of higher education defined in Section 53H-1-101; or

3584 (B) a sponsor of sponsored research;

3585 (c) unpublished manuscripts;

3586 (d) creative works in process;

3587 (e) scholarly correspondence; and

3588 (f) confidential information contained in research proposals;

3589 (g) this Subsection (40) may not be construed to prohibit disclosure of public

3590 information required ~~[pursuant to]~~ in accordance with Subsection 53H-14-202(2)(a)

3591 or (b); and

3592 (h) this Subsection (40) may not be construed to affect the ownership of a record;

3593 (41)(a) records in the custody or control of the Office of the Legislative Auditor General

3594 that would reveal the name of a particular legislator who requests a legislative audit

3595 prior to the date that audit is completed and made public; and

3596 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

3597 Office of the Legislative Auditor General is a public document unless the legislator

3598 asks that the records in the custody or control of the Office of the Legislative Auditor  
3599 General that would reveal the name of a particular legislator who requests a  
3600 legislative audit be maintained as protected records until the audit is completed and  
3601 made public;

3602 (42) records that provide detail as to the location of an explosive, including a map or other  
3603 document that indicates the location of:

3604 (a) a production facility; or  
3605 (b) a magazine;

3606 (43) information contained in the statewide database of the Division of Aging and Adult  
3607 Services created by Section 26B-6-210;

3608 (44) information contained in the Licensing Information System described in Title 80,  
3609 Chapter 2, Child Welfare Services;

3610 (45) information regarding National Guard operations or activities in support of the  
3611 National Guard's federal mission;

3612 (46) records provided by any pawn or secondhand business to a law enforcement agency or  
3613 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand  
3614 Merchandise, and Catalytic Converter Transaction Information Act;

3615 (47) information regarding food security, risk, and vulnerability assessments performed by  
3616 the Department of Agriculture and Food;

3617 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] in  
3618 accordance with Section 63G-2-106, records related to an emergency plan or program, a  
3619 copy of which is provided to or prepared or maintained by the Division of Emergency  
3620 Management, and the disclosure of which would jeopardize:

3621 (a) the safety of the general public; or  
3622 (b) the security of:

3623 (i) governmental property;  
3624 (ii) governmental programs; or  
3625 (iii) the property of a private person who provides the Division of Emergency  
3626 Management information;

3627 (49) records of the Department of Agriculture and Food that provides for the identification,  
3628 tracing, or control of livestock diseases, including any program established under Title  
3629 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control  
3630 of Animal Disease;

3631 (50) as provided in Section 26B-2-709:

- 3632 (a) information or records held by the Department of Health and Human Services related  
3633 to a complaint regarding a provider, program, or facility which the department is  
3634 unable to substantiate; and
- 3635 (b) information or records related to a complaint received by the Department of Health  
3636 and Human Services from an anonymous complainant regarding a provider, program,  
3637 or facility;
- 3638 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided  
3639 under Section 41-1a-116, an individual's home address, home telephone number, or  
3640 personal mobile phone number, if:
- 3641 (a) the individual is required to provide the information in order to comply with a law,  
3642 ordinance, rule, or order of a government entity; and
- 3643 (b) the subject of the record has a reasonable expectation that this information will be  
3644 kept confidential due to:
- 3645 (i) the nature of the law, ordinance, rule, or order; and  
3646 (ii) the individual complying with the law, ordinance, rule, or order;
- 3647 (52) the portion of the following documents that contains a candidate's residential or  
3648 mailing address, if the candidate provides to the filing officer another address or phone  
3649 number where the candidate may be contacted:
- 3650 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,  
3651 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,  
3652 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 3653 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or  
3654 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 3655 (53) the name, home address, work addresses, and telephone numbers of an individual that  
3656 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 3657 (a) conducted within the state system of higher education, as described in Section  
3658 53H-1-102; and  
3659 (b) conducted using animals;
- 3660 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
3661 Evaluation Commission concerning an individual commissioner's vote, in relation to  
3662 whether a judge meets or exceeds minimum performance standards under Subsection  
3663 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 3664 (55) information collected and a report prepared by the Judicial Performance Evaluation  
3665 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,

- 3666 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes  
3667 public, the information or report;
- 3668 (56) records provided or received by the Public Lands Policy Coordinating Office in  
3669 furtherance of any contract or other agreement made in accordance with Section  
3670 63L-11-202;
- 3671 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
- 3672 (58) in accordance with Section 73-10-33:
- 3673 (a) a management plan for a water conveyance facility in the possession of the Division  
3674 of Water Resources or the Board of Water Resources; or
- 3675 (b) an outline of an emergency response plan in possession of the state or a county or  
3676 municipality;
- 3677 (59) the following records in the custody or control of the Office of Inspector General of  
3678 Medicaid Services, created in Section 63A-13-201:
- 3679 (a) records that would disclose information relating to allegations of personal  
3680 misconduct, gross mismanagement, or illegal activity of a person if the information  
3681 or allegation cannot be corroborated by the Office of Inspector General of Medicaid  
3682 Services through other documents or evidence, and the records relating to the  
3683 allegation are not relied upon by the Office of Inspector General of Medicaid  
3684 Services in preparing a final investigation report or final audit report;
- 3685 (b) records and audit workpapers to the extent they would disclose the identity of a  
3686 person who, during the course of an investigation or audit, communicated the  
3687 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected  
3688 violation of a law, rule, or regulation adopted under the laws of this state, a political  
3689 subdivision of the state, or any recognized entity of the United States, if the  
3690 information was disclosed on the condition that the identity of the person be  
3691 protected;
- 3692 (c) before the time that an investigation or audit is completed and the final investigation  
3693 or final audit report is released, records or drafts circulated to a person who is not an  
3694 employee or head of a governmental entity for the person's response or information;
- 3695 (d) records that would disclose an outline or part of any investigation, audit survey plan,  
3696 or audit program; or
- 3697 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
3698 investigation or audit;
- 3699 (60) records that reveal methods used by the Office of Inspector General of Medicaid

Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53H-3-302;

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an

individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Legislative Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(68) work papers as defined in Section 31A-2-204;

(69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(71) a record described in Section 31A-37-503;

(72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is

3768 prohibited under Section 63G-26-103;

3769 (80) an image taken of an individual during the process of booking the individual into jail,  
3770 unless:

3771 (a) the individual is convicted of a criminal offense based upon the conduct for which  
3772 the individual was incarcerated at the time the image was taken;

3773 (b) a law enforcement agency releases or disseminates the image:

3774 (i) after determining that the individual is a fugitive or an imminent threat to an  
3775 individual or to public safety and releasing or disseminating the image will assist  
3776 in apprehending the individual or reducing or eliminating the threat; or

3777 (ii) to a potential witness or other individual with direct knowledge of events relevant  
3778 to a criminal investigation or criminal proceeding for the purpose of identifying or  
3779 locating an individual in connection with the criminal investigation or criminal  
3780 proceeding;

3781 (c) a judge orders the release or dissemination of the image based on a finding that the  
3782 release or dissemination is in furtherance of a legitimate law enforcement interest; or

3783 (d) the image is displayed to a person who is permitted to view the image under Section  
3784 17-72-802;

3785 (81) a record:

3786 (a) concerning an interstate claim to the use of waters in the Colorado River system;

3787 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
3788 representative from another state or the federal government as provided in Section  
3789 63M-14-205; and

3790 (c) the disclosure of which would:

3791 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
3792 Colorado River system;

3793 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to  
3794 negotiate the best terms and conditions regarding the use of water in the Colorado  
3795 River system; or

3796 (iii) give an advantage to another state or to the federal government in negotiations  
3797 regarding the use of water in the Colorado River system;

3798 (82) any part of an application described in Section 63N-16-201 that the Governor's Office  
3799 of Economic Opportunity determines is nonpublic, confidential information that if  
3800 disclosed would result in actual economic harm to the applicant, but this Subsection (82)  
3801 may not be used to restrict access to a record evidencing a final contract or approval

3802 decision;

3803 (83) the following records of a drinking water or wastewater facility:

3804 (a) an engineering or architectural drawing of the drinking water or wastewater facility;  
3805 and

3806 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the  
3807 drinking water or wastewater facility uses to secure, or prohibit access to, the records  
3808 described in Subsection (83)(a);

3809 (84) a statement that an employee of a governmental entity provides to the governmental  
3810 entity as part of the governmental entity's personnel or administrative investigation into  
3811 potential misconduct involving the employee if the governmental entity:

3812 (a) requires the statement under threat of employment disciplinary action, including  
3813 possible termination of employment, for the employee's refusal to provide the  
3814 statement; and

3815 (b) provides the employee assurance that the statement cannot be used against the  
3816 employee in any criminal proceeding;

3817 (85) any part of an application for a Utah Fits All Scholarship account described in Section  
3818 53F-6-402 or other information identifying a scholarship student as defined in Section  
3819 53F-6-401;

3820 (86) a record:

3821 (a) concerning a claim to the use of waters in the Great Salt Lake;

3822 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
3823 person concerning the claim, including a representative from another state or the  
3824 federal government; and

3825 (c) the disclosure of which would:

3826 (i) reveal a legal strategy relating to the state's claim to the use of the water in the  
3827 Great Salt Lake;

3828 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms  
3829 and conditions regarding the use of water in the Great Salt Lake; or

3830 (iii) give an advantage to another person including another state or to the federal  
3831 government in negotiations regarding the use of water in the Great Salt Lake;

3832 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is  
3833 reclassified as public as described in Subsection 13-2-11(4);

3834 (88) a record of the Utah water agent, appointed under Section 73-10g-702:

3835 (a) concerning a claim to the use of waters;

3836 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a  
3837 representative from another state, a tribe, the federal government, or other  
3838 government entity as provided in Title 73, Chapter 10g, Part 7, Utah Water Agent;  
3839 and  
3840 (c) the disclosure of which would:  
3841 (i) reveal a legal strategy relating to the state's claim to the use of the water;  
3842 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions  
3843 regarding the use of water; or  
3844 (iii) give an advantage to another state, a tribe, the federal government, or other  
3845 government entity in negotiations regarding the use of water;[~~and~~]  
3846 (89) a record created or maintained for an investigation of the Prosecutor Conduct  
3847 Commission, created in Section 63M-7-1102, that contains any personal identifying  
3848 information of a prosecuting attorney, including:  
3849 (a) a complaint, or a document that is submitted or created for a complaint, received by  
3850 the Prosecutor Conduct Commission; or  
3851 (b) a finding by the Prosecutor Conduct Commission[~~:~~] ; and  
3852 (90) the identity of an agency title insurance producer that makes a report to the Insurance  
3853 Commissioner in accordance with Subsection 31A-23a-204(11)(a).  
3854 Section 52. **Repealer.**  
3855 This bill repeals:  
3856 Section **31A-20-109, Single risk limitation for title insurance.**  
3857 Section 53. **Effective Date.**  
3858 This bill takes effect on May 6, 2026.