

# INSURANCE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

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## LONG TITLE

### General Description:

This bill updates the Insurance Code.

### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts a health care sharing ministry from regulation under the Insurance Code, provided the health care sharing ministry makes certain disclosures to participants and the commissioner;
- ▶ requires that the commissioner evaluate annually the state's health insurance market and provide that evaluation to the Health and Human Services Interim Committee;
- ▶ clarifies the scope of the consumer assistance that the commissioner provides;
- ▶ updates the duties of the Office of Consumer Health Assistance;
- ▶ modifies the commissioner's enforcement authority to allow the commissioner to accept or compromise a forfeiture after the filing of a complaint;
- ▶ removes the filing fee for a rate filing;
- ▶ addresses the allowable amount of a rate or other charge used by a title insurer;
- ▶ requires that motor vehicle liability coverage cover substitute transportation and prohibits certain practices in providing the coverage;
- ▶ describes the process for renewal, cancellation, and modification of a life insurance policy;
- ▶ requires that certain licensees and prospective licensees report to the commissioner any civil action that is filed against the licensee or prospective licensee and involves conduct related to a professional or occupational license;
- ▶ institutes new capital and net worth requirements for title insurance producers;
- ▶ removes the requirement that an individual title insurance producer file an annual report with the commissioner;
- ▶ allows a federal home loan bank to obtain collateral pledged by an insurer-member

- 33 when the member-insurer is in receivership;
- 34 ▶ increases the fee that the commissioner may assess certain admitted and
- 35 nonadmitted insurers;
- 36 ▶ authorizes an association captive insurance company to provide homeowners'
- 37 insurance, subject to commissioner approval; and
- 38 ▶ makes technical changes.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

- 45 **31A-1-103**, as last amended by Laws of Utah 2021, Chapter 252
- 46 **31A-1-301**, as last amended by Laws of Utah 2023, Chapter 327
- 47 **31A-2-201.2**, as last amended by Laws of Utah 2019, Chapters 241, 439
- 48 **31A-2-215**, as last amended by Laws of Utah 2002, Chapter 308
- 49 **31A-2-216**, as last amended by Laws of Utah 2002, Chapter 308
- 50 **31A-2-308**, as last amended by Laws of Utah 2019, Chapter 193
- 51 **31A-4-113.5**, as last amended by Laws of Utah 2023, Chapter 194
- 52 **31A-19a-203**, as last amended by Laws of Utah 2004, Chapter 117
- 53 **31A-19a-209**, as last amended by Laws of Utah 2023, Chapter 194
- 54 **31A-21-402**, as last amended by Laws of Utah 2021, Chapter 252
- 55 **31A-22-303**, as last amended by Laws of Utah 2023, Chapter 415
- 56 **31A-22-605**, as last amended by Laws of Utah 2017, Chapter 168
- 57 **31A-22-620**, as last amended by Laws of Utah 2015, Chapter 244
- 58 **31A-22-802**, as last amended by Laws of Utah 2011, Chapter 366
- 59 **31A-22-2002**, as last amended by Laws of Utah 2021, Chapter 252
- 60 **31A-23a-105**, as last amended by Laws of Utah 2014, Chapters 290, 300
- 61 **31A-23a-406**, as last amended by Laws of Utah 2023, Chapter 194
- 62 **31A-23a-413**, as last amended by Laws of Utah 2015, Chapter 312
- 63 **31A-28-113**, as last amended by Laws of Utah 2018, Chapter 391

64           **31A-31-108**, as last amended by Laws of Utah 2013, Chapter 319

65           **31A-35-202**, as last amended by Laws of Utah 2016, Chapter 234

66           **31A-35-406**, as last amended by Laws of Utah 2021, Chapter 252

67           **31A-37-202**, as last amended by Laws of Utah 2023, Chapter 194

68 ENACTS:

69           **31A-22-323**, Utah Code Annotated 1953

70           **31A-22-432**, Utah Code Annotated 1953

71           **31A-22-523**, Utah Code Annotated 1953

72           **31A-23a-119**, Utah Code Annotated 1953

73           **31A-27a-108.1**, Utah Code Annotated 1953

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

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

77           **31A-1-103. Scope and applicability of title.**

78           (1) This title does not apply to:

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

80           (i) with an individual client; and

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

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

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

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

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

93           (f) death, accident, health, or disability benefits provided to a person by an organization

94 or its affiliate if:

95 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue  
96 Code and has had its principal place of business in Utah for at least five years;

97 (ii) the person is not an employee of the organization; and

98 (iii) (A) substantially all the person's time in the organization is spent providing  
99 voluntary services:

100 (I) in furtherance of the organization's purposes;

101 (II) for a designated period of time; and

102 (III) for which no compensation, other than expenses, is paid; or

103 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more  
104 than 18 months; or

105 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.

106 (2) (a) This title restricts otherwise legitimate business activity.

107 (b) What this title does not prohibit is permitted unless contrary to other provisions of  
108 Utah law.

109 (3) Except as otherwise expressly provided, this title does not apply to:

110 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of  
111 the federal Employee Retirement Income Security Act of 1974, as amended;

112 (b) ocean marine insurance;

113 (c) death, accident, health, or disability benefits provided by an organization [~~if the~~  
114 ~~organization:] that:~~

115 (i) has as the organization's principal purpose to achieve charitable, educational, social,  
116 or religious objectives rather than to provide death, accident, health, or disability benefits;

117 (ii) does not incur a legal obligation to pay a specified amount; [~~and~~]

118 (iii) does not create reasonable expectations of receiving a specified amount on the part  
119 of an insured person; and

120 (iv) is not a health care sharing ministry.

121 (d) other business specified in rules adopted by the commissioner on a finding that:

122 (i) the transaction of the business in this state does not require regulation for the  
123 protection of the interests of the residents of this state; or

124 (ii) it would be impracticable to require compliance with this title;

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

- 156 (A) expenses submitted for sharing;  
157 (B) expenses qualified for sharing;  
158 (C) qualified expenses published or assigned to participants for sharing;  
159 (D) contributions provided to participants toward qualified expenses; and  
160 (E) denied expenses; and  
161 (ii) includes a written disclaimer, titled "Notice", on or with each application and all  
162 guideline materials that states:  
163 (A) the health care sharing ministry is not an insurance company;  
164 (B) nothing the health care sharing ministry offers or provides is an insurance policy,  
165 including the health care sharing ministry's guidelines or plan of operations;  
166 (C) participation in the health care sharing ministry is entirely voluntary and no  
167 participant is compelled by law to contribute to another participant's expenses;  
168 (D) participation in the health care sharing ministry or subscription to any of the health  
169 care sharing ministry's services is not insurance; and  
170 (E) each participant is always personally responsible for the participant's expenses  
171 regardless of whether the participant receives payment for the expenses through the health care  
172 sharing ministry or whether this health care sharing ministry continues to operate; and  
173 (iii) submits to the commissioner no later than April 1 of each year:  
174 (A) the information in Subsection (1)(i);  
175 (B) nationwide and Utah-specific enrollment data from the prior calendar year; and  
176 (C) the health care sharing ministry's contact information for consumers, providers, and  
177 the commissioner.  
178 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section  
179 31A-3-301.  
180 (5) (a) After a hearing, the commissioner may order an insurer of certain group  
181 insurance policies or blanket insurance policies to transfer the Utah portion of the business  
182 otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been  
183 written by an unauthorized insurer.  
184 (b) If the commissioner finds that the conditions required for the exemption of a group  
185 or blanket insurer are not satisfied or that adequate protection to residents of this state is not  
186 provided, the commissioner may require:

- 187 (i) the insurer to be authorized to do business in this state; or  
188 (ii) that any of the insurer's transactions be subject to this title.  
189 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and  
190 health insurance.
- 191 (6) (a) As used in Subsection (3)(i) and this Subsection (6):  
192 (i) "manufacturer's or seller's service contract" means a service contract:  
193 (A) made available by:  
194 (I) a manufacturer of a product;  
195 (II) a seller of a product; or  
196 (III) an affiliate of a manufacturer or seller of a product;  
197 (B) made available:  
198 (I) on one or more specific products; or  
199 (II) on products that are components of a system; and  
200 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to  
201 be provided under the service contract including, if the manufacturer's or seller's service  
202 contract designates, providing parts and labor;
- 203 (ii) "manufacturer's or seller's warranty" means the guaranty of:  
204 (A) (I) the manufacturer of a product;  
205 (II) a seller of a product; or  
206 (III) an affiliate of a manufacturer or seller of a product;  
207 (B) (I) on one or more specific products; or  
208 (II) on products that are components of a system; and  
209 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services  
210 to be provided under the warranty, including, if the manufacturer's or seller's warranty  
211 designates, providing parts and labor; and
- 212 (iii) "service contract" means the same as that term is defined in Section 31A-6a-101.  
213 (b) A manufacturer's or seller's warranty may be designated as:  
214 (i) a warranty;  
215 (ii) a guaranty; or  
216 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).  
217 (c) This title does not apply to:

- 218 (i) a manufacturer's or seller's warranty;
- 219 (ii) a manufacturer's or seller's service contract paid for with consideration that is in  
220 addition to the consideration paid for the product itself; and
- 221 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's  
222 or seller's service contract if:
- 223 (A) the service contract is paid for with consideration that is in addition to the  
224 consideration paid for the product itself;
- 225 (B) the service contract is for the repair or maintenance of goods;
- 226 (C) the purchase price of the product is \$3,700 or less;
- 227 (D) the product is not a motor vehicle; and
- 228 (E) the product is not the subject of a home warranty service contract.
- 229 (d) This title does not apply to a manufacturer's or seller's warranty or service contract  
230 paid for with consideration that is in addition to the consideration paid for the product itself  
231 regardless of whether the manufacturer's or seller's warranty or service contract is sold:
- 232 (i) at the time of the purchase of the product; or
- 233 (ii) at a time other than the time of the purchase of the product.
- 234 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an  
235 entity formed by two or more political subdivisions or public agencies of the state:
- 236 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
- 237 (ii) for the purpose of providing for the political subdivisions or public agencies:
- 238 (A) subject to Subsection (7)(b), insurance coverage; or
- 239 (B) risk management.
- 240 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may  
241 not provide health insurance unless the public agency insurance mutual provides the health  
242 insurance using:
- 243 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
- 244 (ii) an admitted insurer; or
- 245 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and  
246 Insurance Program Act.
- 247 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from  
248 this title.



249 (d) A public agency insurance mutual is considered to be a governmental entity and  
250 political subdivision of the state with all of the rights, privileges, and immunities of a  
251 governmental entity or political subdivision of the state including all the rights and benefits of  
252 Title 63G, Chapter 7, Governmental Immunity Act of Utah.

253 Section 2. Section **31A-1-301** is amended to read:

254 **31A-1-301. Definitions.**

255 As used in this title, unless otherwise specified:

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

258 (i) a medical condition including:

259 (A) a medical care expense; or

260 (B) the risk of disability;

261 (ii) accident; or

262 (iii) sickness.

263 (b) "Accident and health insurance":

264 (i) includes a contract with disability contingencies including:

265 (A) an income replacement contract;

266 (B) a health care contract;

267 (C) a fixed indemnity contract;

268 (D) a credit accident and health contract;

269 (E) a continuing care contract; and

270 (F) a long-term care contract; and

271 (ii) may provide:

272 (A) hospital coverage;

273 (B) surgical coverage;

274 (C) medical coverage;

275 (D) loss of income coverage;

276 (E) prescription drug coverage;

277 (F) dental coverage; or

278 (G) vision coverage.

279 (c) "Accident and health insurance" does not include workers' compensation insurance.

280 (d) For purposes of a national licensing registry, "accident and health insurance" is the  
281 same as "accident and health or sickness insurance."

282 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title  
283 63G, Chapter 3, Utah Administrative Rulemaking Act.

284 (3) "Administrator" means the same as that term is defined in Subsection [(182).]  
285 (187).

286 (4) "Adult" means an individual who is 18 years old or older.

287 (5) "Affiliate" means a person who controls, is controlled by, or is under common  
288 control with, another person. A corporation is an affiliate of another corporation, regardless of  
289 ownership, if substantially the same group of individuals manage the corporations.

290 (6) "Agency" means:

291 (a) a person other than an individual, including a sole proprietorship by which an  
292 individual does business under an assumed name; and

293 (b) an insurance organization licensed or required to be licensed under Section  
294 31A-23a-301, 31A-25-207, or 31A-26-209.

295 (7) "Alien insurer" means an insurer domiciled outside the United States.

296 (8) "Amendment" means an endorsement to an insurance policy or certificate.

297 (9) "Annuity" means an agreement to make periodical payments for a period certain or  
298 over the lifetime of one or more individuals if the making or continuance of all or some of the  
299 series of the payments, or the amount of the payment, is dependent upon the continuance of  
300 human life.

301 (10) "Application" means a document:

302 (a) (i) completed by an applicant to provide information about the risk to be insured;  
303 and

304 (ii) that contains information that is used by the insurer to evaluate risk and decide  
305 whether to:

306 (A) insure the risk under:

307 (I) the coverage as originally offered; or

308 (II) a modification of the coverage as originally offered; or

309 (B) decline to insure the risk; or

310 (b) used by the insurer to gather information from the applicant before issuance of an

311 annuity contract.

312 (11) "Articles" or "articles of incorporation" means:

313 (a) the original articles;

314 (b) a special law;

315 (c) a charter;

316 (d) an amendment;

317 (e) restated articles;

318 (f) articles of merger or consolidation;

319 (g) a trust instrument;

320 (h) another constitutive document for a trust or other entity that is not a corporation;

321 and

322 (i) an amendment to an item listed in Subsections (11)(a) through (h).

323 (12) "Bail bond insurance" means a guarantee that a person will attend court when

324 required, up to and including surrender of the person in execution of a sentence imposed under

325 Subsection 77-20-501(1), as a condition to the release of that person from confinement.

326 (13) "Binder" means the same as that term is defined in Section 31A-21-102.

327 (14) "Blanket insurance policy" or "blanket contract" means a group insurance policy

328 covering a defined class of persons:

329 (a) without individual underwriting or application; and

330 (b) that is determined by definition without designating each person covered.

331 (15) "Board," "board of trustees," or "board of directors" means the group of persons

332 with responsibility over, or management of, a corporation, however designated.

333 (16) "Bona fide office" means a physical office in this state:

334 (a) that is open to the public;

335 (b) that is staffed during regular business hours on regular business days; and

336 (c) at which the public may appear in person to obtain services.

337 (17) "Business entity" means:

338 (a) a corporation;

339 (b) an association;

340 (c) a partnership;

341 (d) a limited liability company;

342 (e) a limited liability partnership; or

343 (f) another legal entity.

344 (18) "Business of insurance" means the same as that term is defined in Subsection  
345 [~~(95)~~] (98).

346 (19) "Business plan" means the information required to be supplied to the  
347 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required  
348 when these subsections apply by reference under:

349 (a) Section 31A-8-205; or

350 (b) Subsection 31A-9-205(2).

351 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a  
352 corporation's affairs, however designated.

353 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a  
354 corporation.

355 (21) "Captive insurance company" means:

356 (a) an insurer:

357 (i) owned by a parent organization; and

358 (ii) whose purpose is to insure risks of the parent organization and other risks as  
359 authorized under:

360 (A) Chapter 37, Captive Insurance Companies Act; and

361 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

362 (b) in the case of a group or association, an insurer:

363 (i) owned by the insureds; and

364 (ii) whose purpose is to insure risks of:

365 (A) a member organization;

366 (B) a group member; or

367 (C) an affiliate of:

368 (I) a member organization; or

369 (II) a group member.

370 (22) "Casualty insurance" means liability insurance.

371 (23) "Certificate" means evidence of insurance given to:

372 (a) an insured under a group insurance policy; or

373 (b) a third party.

374 (24) "Certificate of authority" is included within the term "license."

375 (25) "Claim," unless the context otherwise requires, means a request or demand on an  
376 insurer for payment of a benefit according to the terms of an insurance policy.

377 (26) "Claims-made coverage" means an insurance contract or provision limiting  
378 coverage under a policy insuring against legal liability to claims that are first made against the  
379 insured while the policy is in force.

380 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance  
381 commissioner.

382 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent  
383 supervisory official of another jurisdiction.

384 (28) (a) "Continuing care insurance" means insurance that:

385 (i) provides board and lodging;

386 (ii) provides one or more of the following:

387 (A) a personal service;

388 (B) a nursing service;

389 (C) a medical service; or

390 (D) any other health-related service; and

391 (iii) provides the coverage described in this Subsection (28)(a) under an agreement  
392 effective:

393 (A) for the life of the insured; or

394 (B) for a period in excess of one year.

395 (b) Insurance is continuing care insurance regardless of whether or not the board and  
396 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

397 (29) (a) "Control," "controlling," "controlled," or "under common control" means the  
398 direct or indirect possession of the power to direct or cause the direction of the management  
399 and policies of a person. This control may be:

400 (i) by contract;

401 (ii) by common management;

402 (iii) through the ownership of voting securities; or

403 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

404 (b) There is no presumption that an individual holding an official position with another  
405 person controls that person solely by reason of the position.

406 (c) A person having a contract or arrangement giving control is considered to have  
407 control despite the illegality or invalidity of the contract or arrangement.

408 (d) There is a rebuttable presumption of control in a person who directly or indirectly  
409 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the  
410 voting securities of another person.

411 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly  
412 controlled by a producer.

413 (31) "Controlling person" means a person that directly or indirectly has the power to  
414 direct or cause to be directed, the management, control, or activities of a reinsurance  
415 intermediary.

416 (32) "Controlling producer" means a producer who directly or indirectly controls an  
417 insurer.

418 (33) "Corporate governance annual disclosure" means a report an insurer or insurance  
419 group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual  
420 Disclosure Act.

421 (34) (a) "Corporation" means an insurance corporation, except when referring to:

422 (i) a corporation doing business:

423 (A) as:

424 (I) an insurance producer;

425 (II) a surplus lines producer;

426 (III) a limited line producer;

427 (IV) a consultant;

428 (V) a managing general agent;

429 (VI) a reinsurance intermediary;

430 (VII) a third party administrator; or

431 (VIII) an adjuster; and

432 (B) under:

433 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

434 Reinsurance Intermediaries;

- 435 (II) Chapter 25, Third Party Administrators; or  
436 (III) Chapter 26, Insurance Adjusters; or  
437 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance  
438 Holding Companies.
- 439 (b) "Mutual" or "mutual corporation" means a mutual insurance corporation.  
440 (c) "Stock corporation" means a stock insurance corporation.
- 441 (35) (a) "Creditable coverage" has the same meaning as provided in federal regulations  
442 adopted pursuant to the Health Insurance Portability and Accountability Act.
- 443 (b) "Creditable coverage" includes coverage that is offered through a public health plan  
444 such as:
- 445 (i) the Primary Care Network Program under a Medicaid primary care network  
446 demonstration waiver obtained subject to Section 26B-3-108;
- 447 (ii) the Children's Health Insurance Program under Section 26B-3-904; or  
448 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.  
449 No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No.  
450 109-415.
- 451 (36) "Credit accident and health insurance" means insurance on a debtor to provide  
452 indemnity for payments coming due on a specific loan or other credit transaction while the  
453 debtor has a disability.
- 454 (37) (a) "Credit insurance" means insurance offered in connection with an extension of  
455 credit that is limited to partially or wholly extinguishing that credit obligation.
- 456 (b) "Credit insurance" includes:
- 457 (i) credit accident and health insurance;  
458 (ii) credit life insurance;  
459 (iii) credit property insurance;  
460 (iv) credit unemployment insurance;  
461 (v) guaranteed automobile protection insurance;  
462 (vi) involuntary unemployment insurance;  
463 (vii) mortgage accident and health insurance;  
464 (viii) mortgage guaranty insurance; and  
465 (ix) mortgage life insurance.

466 (38) "Credit life insurance" means insurance on the life of a debtor in connection with  
467 an extension of credit that pays a person if the debtor dies.

468 (39) "Creditor" means a person, including an insured, having a claim, whether:

- 469 (a) matured;
- 470 (b) unmatured;
- 471 (c) liquidated;
- 472 (d) unliquidated;
- 473 (e) secured;
- 474 (f) unsecured;
- 475 (g) absolute;
- 476 (h) fixed; or
- 477 (i) contingent.

478 (40) "Credit property insurance" means insurance:

- 479 (a) offered in connection with an extension of credit; and
- 480 (b) that protects the property until the debt is paid.

481 (41) "Credit unemployment insurance" means insurance:

- 482 (a) offered in connection with an extension of credit; and
- 483 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
  - 484 (i) specific loan; or
  - 485 (ii) credit transaction.

486 (42) (a) "Crop insurance" means insurance providing protection against damage to  
487 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,  
488 disease, or other yield-reducing conditions or perils that is:

- 489 (i) provided by the private insurance market; or
- 490 (ii) subsidized by the Federal Crop Insurance Corporation.
- 491 (b) "Crop insurance" includes multiperil crop insurance.

492 (43) (a) "Customer service representative" means a person that provides an insurance  
493 service and insurance product information:

- 494 (i) for the customer service representative's:
  - 495 (A) producer;
  - 496 (B) surplus lines producer; or



- 497 (C) consultant employer; and
- 498 (ii) to the customer service representative's employer's:
- 499 (A) customer;
- 500 (B) client; or
- 501 (C) organization.
- 502 (b) A customer service representative may only operate within the scope of authority of
- 503 the customer service representative's producer, surplus lines producer, or consultant employer.
- 504 (44) "Deadline" means a final date or time:
- 505 (a) imposed by:
- 506 (i) statute;
- 507 (ii) rule; or
- 508 (iii) order; and
- 509 (b) by which a required filing or payment must be received by the department.
- 510 (45) "Deemer clause" means a provision under this title under which upon the
- 511 occurrence of a condition precedent, the commissioner is considered to have taken a specific
- 512 action. If the statute so provides, a condition precedent may be the commissioner's failure to
- 513 take a specific action.
- 514 (46) "Degree of relationship" means the number of steps between two persons
- 515 determined by counting the generations separating one person from a common ancestor and
- 516 then counting the generations to the other person.
- 517 (47) "Department" means the Insurance Department.
- 518 (48) (a) "Direct response solicitation" means an offer for life or accident and health
- 519 insurance coverage that allows the individual to apply for or enroll in the insurance coverage
- 520 on the basis of the offer.
- 521 (b) "Direct response solicitation" does not include an offer for:
- 522 (i) insurance through an employee benefit plan that is exempt from state regulation
- 523 under federal law; or
- 524 (ii) credit life insurance or credit accident and health insurance through a individual's
- 525 creditor.
- 526 (49) "Direct response insurance policy" means an insurance policy solicited and sold
- 527 without the policyholder having direct contact with a natural person intermediary.

- 528            [~~(48)~~] (50) "Director" means a member of the board of directors of a corporation.
- 529            [~~(49)~~] (51) "Disability" means a physiological or psychological condition that partially
- 530 or totally limits an individual's ability to:
- 531            (a) perform the duties of:
- 532            (i) that individual's occupation; or
- 533            (ii) an occupation for which the individual is reasonably suited by education, training,
- 534 or experience; or
- 535            (b) perform two or more of the following basic activities of daily living:
- 536            (i) eating;
- 537            (ii) toileting;
- 538            (iii) transferring;
- 539            (iv) bathing; or
- 540            (v) dressing.
- 541            [~~(50)~~] (52) "Disability income insurance" means the same as that term is defined in
- 542 Subsection [~~(86)~~] (89).
- 543            [~~(51)~~] (53) "Domestic insurer" means an insurer organized under the laws of this state.
- 544            [~~(52)~~] (54) "Domiciliary state" means the state in which an insurer:
- 545            (a) is incorporated;
- 546            (b) is organized; or
- 547            (c) in the case of an alien insurer, enters into the United States.
- 548            [~~(53)~~] (55) (a) "Eligible employee" means:
- 549            (i) an employee who:
- 550            (A) works on a full-time basis; and
- 551            (B) has a normal work week of 30 or more hours; or
- 552            (ii) a person described in Subsection [~~(53)(b)~~] (55)(b).
- 553            (b) "Eligible employee" includes:
- 554            (i) an owner, sole proprietor, or partner who:
- 555            (A) works on a full-time basis;
- 556            (B) has a normal work week of 30 or more hours; and
- 557            (C) employs at least one common employee; and
- 558            (ii) an independent contractor if the individual is included under a health benefit plan

559 of a small employer.

560 (c) "Eligible employee" does not include, unless eligible under Subsection [~~(53)(b):~~]

561 (55)(b):

562 (i) an individual who works on a temporary or substitute basis for a small employer;

563 (ii) an employer's spouse who does not meet the requirements of Subsection

564 [~~(53)(a)(i);~~ (55)(a)(i); or

565 (iii) a dependent of an employer who does not meet the requirements of Subsection

566 [~~(53)(a)(i);~~ (55)(a)(i).

567 [~~(54)~~ (56) "Emergency medical condition" means a medical condition that:

568 (a) manifests itself by acute symptoms, including severe pain; and

569 (b) would cause a prudent layperson possessing an average knowledge of medicine and

570 health to reasonably expect the absence of immediate medical attention through a hospital

571 emergency department to result in:

572 (i) placing the layperson's health or the layperson's unborn child's health in serious

573 jeopardy;

574 (ii) serious impairment to bodily functions; or

575 (iii) serious dysfunction of any bodily organ or part.

576 [~~(55)~~ (57) "Employee" means:

577 (a) an individual employed by an employer; or

578 (b) an individual who meets the requirements of Subsection [~~(53)(b):~~ (55)(b).

579 [~~(56)~~ (58) "Employee benefits" means one or more benefits or services provided to:

580 (a) an employee; or

581 (b) a dependent of an employee.

582 [~~(57)~~ (59) (a) "Employee welfare fund" means a fund:

583 (i) established or maintained, whether directly or through a trustee, by:

584 (A) one or more employers;

585 (B) one or more labor organizations; or

586 (C) a combination of employers and labor organizations; and

587 (ii) that provides employee benefits paid or contracted to be paid, other than income

588 from investments of the fund:

589 (A) by or on behalf of an employer doing business in this state; or

590 (B) for the benefit of a person employed in this state.

591 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax  
592 revenues.

593 [~~(58)~~] (60) "Endorsement" means a written agreement attached to a policy or certificate  
594 to modify the policy or certificate coverage.

595 [~~(59)~~] (61) (a) "Enrollee" means:

596 (i) a policyholder;

597 (ii) a certificate holder;

598 (iii) a subscriber; or

599 (iv) a covered individual:

600 (A) who has entered into a contract with an organization for health care; or

601 (B) on whose behalf an arrangement for health care has been made.

602 (b) "Enrollee" includes an insured.

603 [~~(60)~~] (62) "Enrollment date," with respect to a health benefit plan, means:

604 (a) the first day of coverage; or

605 (b) if there is a waiting period, the first day of the waiting period.

606 [~~(61)~~] (63) "Enterprise risk" means an activity, circumstance, event, or series of events  
607 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a  
608 material adverse effect upon the financial condition or liquidity of the insurer or its insurance  
609 holding company system as a whole, including anything that would cause:

610 (a) the insurer's risk-based capital to fall into an action or control level as set forth in  
611 Sections 31A-17-601 through 31A-17-613; or

612 (b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

613 [~~(62)~~] (64) (a) "Escrow" means:

614 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,  
615 when a person not a party to the transaction, and neither having nor acquiring an interest in the  
616 title, performs, in accordance with the written instructions or terms of the written agreement  
617 between the parties to the transaction, any of the following actions:

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

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

620 (ii) a settlement or closing involving:

- 621 (A) a mobile home;
- 622 (B) a grazing right;
- 623 (C) a water right; or
- 624 (D) other personal property authorized by the commissioner.
- 625 (b) "Escrow" does not include:
- 626 (i) the following notarial acts performed by a notary within the state:
- 627 (A) an acknowledgment;
- 628 (B) a copy certification;
- 629 (C) jurat; and
- 630 (D) an oath or affirmation;
- 631 (ii) the receipt or delivery of a document; or
- 632 (iii) the receipt of money for delivery to the escrow agent.
- 633 ~~[(63)]~~ (65) "Escrow agent" means an agency title insurance producer meeting the
- 634 requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an
- 635 individual title insurance producer licensed with an escrow subline of authority.
- 636 ~~[(64)]~~ (66) (a) "Excludes" is not exhaustive and does not mean that another thing is not
- 637 also excluded.
- 638 (b) The items listed in a list using the term "excludes" are representative examples for
- 639 use in interpretation of this title.
- 640 ~~[(65)]~~ (67) "Exclusion" means for the purposes of accident and health insurance that an
- 641 insurer does not provide insurance coverage, for whatever reason, for one of the following:
- 642 (a) a specific physical condition;
- 643 (b) a specific medical procedure;
- 644 (c) a specific disease or disorder; or
- 645 (d) a specific prescription drug or class of prescription drugs.
- 646 ~~[(66)]~~ (68) "Fidelity insurance" means insurance guaranteeing the fidelity of a person
- 647 holding a position of public or private trust.
- 648 ~~[(67)]~~ (69) (a) "Filed" means that a filing is:
- 649 (i) submitted to the department as required by and in accordance with applicable
- 650 statute, rule, or filing order;
- 651 (ii) received by the department within the time period provided in applicable statute,

652 rule, or filing order; and

653 (iii) accompanied by the appropriate fee in accordance with:

654 (A) Section 31A-3-103; or

655 (B) rule.

656 (b) "Filed" does not include a filing that is rejected by the department because it is not  
657 submitted in accordance with Subsection [~~(67)~~(a).] (69)(a).

658 [~~(68)~~] (70) "Filing," when used as a noun, means an item required to be filed with the  
659 department including:

660 (a) a policy;

661 (b) a rate;

662 (c) a form;

663 (d) a document;

664 (e) a plan;

665 (f) a manual;

666 (g) an application;

667 (h) a report;

668 (i) a certificate;

669 (j) an endorsement;

670 (k) an actuarial certification;

671 (l) a licensee annual statement;

672 (m) a licensee renewal application;

673 (n) an advertisement;

674 (o) a binder; or

675 (p) an outline of coverage.

676 [~~(69)~~] (71) "First party insurance" means an insurance policy or contract in which the  
677 insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

678 [~~(70)~~] (72) (a) "Fixed indemnity insurance" means accident and health insurance  
679 written to provide a fixed amount for a specified event relating to or resulting from an illness or  
680 injury.

681 (b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

682 [~~(71)~~] (73) "Foreign insurer" means an insurer domiciled outside of this state, including

683 an alien insurer.

684 ~~[(72)]~~ (74) (a) "Form" means one of the following prepared for general use:

685 (i) a policy;

686 (ii) a certificate;

687 (iii) an application;

688 (iv) an outline of coverage; or

689 (v) an endorsement.

690 (b) "Form" does not include a document specially prepared for use in an individual

691 case.

692 ~~[(73)]~~ (75) "Franchise insurance" means an individual insurance policy provided  
693 through a mass marketing arrangement involving a defined class of persons related in some  
694 way other than through the purchase of insurance.

695 ~~[(74)]~~ (76) "General lines of authority" include:

696 (a) the general lines of insurance in Subsection ~~[(75);]~~ (77);

697 (b) title insurance under one of the following sublimes of authority:

698 (i) title examination, including authority to act as a title marketing representative;

699 (ii) escrow, including authority to act as a title marketing representative; and

700 (iii) title marketing representative only;

701 (c) surplus lines;

702 (d) workers' compensation; and

703 (e) another line of insurance that the commissioner considers necessary to recognize in

704 the public interest.

705 ~~[(75)]~~ (77) "General lines of insurance" include:

706 (a) accident and health;

707 (b) casualty;

708 (c) life;

709 (d) personal lines;

710 (e) property; and

711 (f) variable contracts, including variable life and annuity.

712 ~~[(76)]~~ (78) "Group health plan" means an employee welfare benefit plan to the extent

713 that the plan provides medical care:

- 714 (a) (i) to an employee; or  
715 (ii) to a dependent of an employee; and  
716 (b) (i) directly;  
717 (ii) through insurance reimbursement; or  
718 (iii) through another method.
- 719 [~~(77)~~] (79) (a) "Group insurance policy" means a policy covering a group of persons  
720 that is issued:
- 721 (i) to a policyholder on behalf of the group; and  
722 (ii) for the benefit of a member of the group who is selected under a procedure defined  
723 in:
- 724 (A) the policy; or  
725 (B) an agreement that is collateral to the policy.
- 726 (b) A group insurance policy may include a member of the policyholder's family or a  
727 dependent.
- 728 [~~(78)~~] (80) "Group-wide supervisor" means the commissioner or other regulatory  
729 official designated as the group-wide supervisor for an internationally active insurance group  
730 under Section 31A-16-108.6.
- 731 [~~(79)~~] (81) "Guaranteed automobile protection insurance" means insurance offered in  
732 connection with an extension of credit that pays the difference in amount between the  
733 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 734 [~~(80)~~] (82) (a) "Health benefit plan" means a policy, contract, certificate, or agreement  
735 offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the  
736 costs of health care, including major medical expense coverage.
- 737 (b) "Health benefit plan" does not include:
- 738 (i) coverage only for accident or disability income insurance, or any combination  
739 thereof;
- 740 (ii) coverage issued as a supplement to liability insurance;
- 741 (iii) liability insurance, including general liability insurance and automobile liability  
742 insurance;
- 743 (iv) workers' compensation or similar insurance;
- 744 (v) automobile medical payment insurance;



- 745 (vi) credit-only insurance;
- 746 (vii) coverage for on-site medical clinics;
- 747 (viii) other similar insurance coverage, specified in federal regulations issued pursuant  
748 to Pub. L. No. 104-191, under which benefits for health care services are secondary or  
749 incidental to other insurance benefits;
- 750 (ix) the following benefits if they are provided under a separate policy, certificate, or  
751 contract of insurance or are otherwise not an integral part of the plan:
- 752 (A) limited scope dental or vision benefits;
- 753 (B) benefits for long-term care, nursing home care, home health care,  
754 community-based care, or any combination thereof; or
- 755 (C) other similar limited benefits, specified in federal regulations issued pursuant to  
756 Pub. L. No. 104-191;
- 757 (x) the following benefits if the benefits are provided under a separate policy,  
758 certificate, or contract of insurance, there is no coordination between the provision of benefits  
759 and any exclusion of benefits under any health plan, and the benefits are paid with respect to an  
760 event without regard to whether benefits are provided under any health plan:
- 761 (A) coverage only for specified disease or illness; or
- 762 (B) fixed indemnity insurance;
- 763 (xi) the following if offered as a separate policy, certificate, or contract of insurance:
- 764 (A) Medicare [~~supplemental health~~] [~~insurance as defined under the Social Security~~  
765 ~~Act, 42 U.S.C. Sec. 1395ss(g)(1);~~] supplement insurance;
- 766 (B) coverage supplemental to the coverage provided under United States Code,  
767 Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services  
768 (CHAMPUS); or
- 769 (C) similar supplemental coverage provided to coverage under a group health insurance  
770 plan;
- 771 (xii) short-term limited duration health insurance; and
- 772 (xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.
- 773 [(81)] (83) "Health care" means any of the following intended for use in the diagnosis,  
774 treatment, mitigation, or prevention of a human ailment or impairment:
- 775 (a) a professional service;

776 (b) a personal service;

777 (c) a facility;

778 (d) equipment;

779 (e) a device;

780 (f) supplies; or

781 (g) medicine.

782 [~~(82)~~] (84) (a) "Health care insurance" or "health insurance" means insurance  
783 providing:

784 (i) a health care benefit; or

785 (ii) payment of an incurred health care expense.

786 (b) "Health care insurance" or "health insurance" does not include accident and health  
787 insurance providing a benefit for:

788 (i) replacement of income;

789 (ii) short-term accident;

790 (iii) fixed indemnity;

791 (iv) credit accident and health;

792 (v) supplements to liability;

793 (vi) workers' compensation;

794 (vii) automobile medical payment;

795 (viii) no-fault automobile;

796 (ix) equivalent self-insurance; or

797 (x) a type of accident and health insurance coverage that is a part of or attached to  
798 another type of policy.

799 [~~(83)~~] (85) "Health care provider" means the same as that term is defined in Section  
800 78B-3-403.

801 (86) "Health care sharing ministry" means an entity that:

802 (a) is a tax-exempt nonprofit entity under the Internal Revenue Code;

803 (b) limits participants to those who are of a similar faith;

804 (c) facilitates the sharing of a participant's qualified expenses, as defined by the entity,  
805 among other participants by:

806 (i) matching a participant who has qualified expenses with one or more participants

807 who are able to contribute to paying for the qualified expenses; and

808 (ii) arranging, directly or indirectly, for each contributing participant's contribution to  
809 be used to pay for the qualified expenses;

810 (d) provides that a participant make a contribution to pay another participant's qualified  
811 expenses with no assumption of risk or promise to pay;

812 (e) requires an individual to make one or more minimum payments or contributions as  
813 a condition of one or more of the following:

814 (i) becoming a participant;

815 (ii) remaining a participant; or

816 (iii) receiving a contribution to pay qualified expenses; and

817 (f) in carrying out the functions described in this Subsection (86), makes no  
818 assumption of risk or promise to pay any qualified expenses.

819 ~~[(84)]~~ (87) "Health insurance exchange" means an exchange as defined in 45 C.F.R.  
820 Sec. 155.20.

821 ~~[(85)]~~ (88) "Health Insurance Portability and Accountability Act" means the Health  
822 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as  
823 amended.

824 ~~[(86)]~~ (89) "Income replacement insurance" or "disability income insurance" means  
825 insurance written to provide payments to replace income lost from accident or sickness.

826 ~~[(87)]~~ (90) "Indemnity" means the payment of an amount to offset all or part of an  
827 insured loss.

828 ~~[(88)]~~ (91) "Independent adjuster" means an insurance adjuster required to be licensed  
829 under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

830 ~~[(89)]~~ (92) "Independently procured insurance" means insurance procured under  
831 Section 31A-15-104.

832 ~~[(90)]~~ (93) "Individual" means a natural person.

833 ~~[(91)]~~ (94) "Inland marine insurance" includes insurance covering:

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

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

836 (c) bailee liability;

837 (d) fixed transportation property such as bridges, electric transmission systems, radio

838 and television transmission towers and tunnels; and

839 (e) personal and commercial property floaters.

840 [~~(92)~~] (95) "Insolvency" or "insolvent" means that:

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

842 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level

843 RBC under Subsection 31A-17-601(8)(c); or

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

845 [~~(93)~~] (96) (a) "Insurance" means:

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

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

850 (b) "Insurance" includes:

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

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

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

857 [~~(94)~~] (97) "Insurance adjuster" means a person who directs or conducts the  
858 investigation, negotiation, or settlement of a claim under an insurance policy other than life  
859 insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance  
860 policy.

861 [~~(95)~~] (98) "Insurance business" or "business of insurance" includes:

862 (a) providing health care insurance by an organization that is or is required to be  
863 licensed under this title;

864 (b) providing a benefit to an employee in the event of a contingency not within the  
865 control of the employee, in which the employee is entitled to the benefit as a right, which  
866 benefit may be provided either:

867 (i) by a single employer or by multiple employer groups; or

868 (ii) through one or more trusts, associations, or other entities;

- 869 (c) providing an annuity:
- 870 (i) including an annuity issued in return for a gift; and
- 871 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
- 872 and (3);
- 873 (d) providing the characteristic services of a motor club;
- 874 (e) providing another person with insurance;
- 875 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
- 876 or surety, a contract or policy offering title insurance;
- 877 (g) transacting or proposing to transact any phase of title insurance, including:
- 878 (i) solicitation;
- 879 (ii) negotiation preliminary to execution;
- 880 (iii) execution of a contract of title insurance;
- 881 (iv) insuring; and
- 882 (v) transacting matters subsequent to the execution of the contract and arising out of
- 883 the contract, including reinsurance;
- 884 (h) transacting or proposing a life settlement; and
- 885 (i) doing, or proposing to do, any business in substance equivalent to Subsections
- 886 [~~95~~](a) (98)(a) through (h) in a manner designed to evade this title.
- 887 [~~96~~] (99) "Insurance consultant" or "consultant" means a person who:
- 888 (a) advises another person about insurance needs and coverages;
- 889 (b) is compensated by the person advised on a basis not directly related to the insurance
- 890 placed; and
- 891 (c) except as provided in Section 31A-23a-501, is not compensated directly or
- 892 indirectly by an insurer or producer for advice given.
- 893 [~~97~~] (100) "Insurance group" means the persons that comprise an insurance holding
- 894 company system.
- 895 [~~98~~] (101) "Insurance holding company system" means a group of two or more
- 896 affiliated persons, at least one of whom is an insurer.
- 897 [~~99~~] (102) (a) "Insurance producer" or "producer" means a person licensed or
- 898 required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 899 (b) (i) "Producer for the insurer" means a producer who is compensated directly or

900 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that  
901 insurer.

902 (ii) "Producer for the insurer" may be referred to as an "agent."

903 (c) (i) "Producer for the insured" means a producer who:

904 (A) is compensated directly and only by an insurance customer or an insured; and

905 (B) receives no compensation directly or indirectly from an insurer for selling,  
906 soliciting, or negotiating an insurance product of that insurer to an insurance customer or  
907 insured.

908 (ii) "Producer for the insured" may be referred to as a "broker."

909 [~~(100)~~] (103) (a) "Insured" means a person to whom or for whose benefit an insurer  
910 makes a promise in an insurance policy and includes:

911 (i) a policyholder;

912 (ii) a subscriber;

913 (iii) a member; and

914 (iv) a beneficiary.

915 (b) The definition in Subsection [~~(100)(a):~~] (103)(a):

916 (i) applies only to this title;

917 (ii) does not define the meaning of "insured" as used in an insurance policy or  
918 certificate; and

919 (iii) includes an enrollee.

920 [~~(101)~~] (104) (a) "Insurer," "carrier," "insurance carrier," or "insurance company"

921 means a person doing an insurance business as a principal including:

922 (i) a fraternal benefit society;

923 (ii) an issuer of a gift annuity other than an annuity specified in Subsections

924 31A-22-1305(2) and (3);

925 (iii) a motor club;

926 (iv) an employee welfare plan;

927 (v) a person purporting or intending to do an insurance business as a principal on that  
928 person's own account; and

929 (vi) a health maintenance organization.

930 (b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a

931 governmental entity.

932 ~~[(102)]~~ (105) "Interinsurance exchange" means the same as that term is defined in

933 Subsection ~~[(163):]~~ (168).

934 ~~[(103)]~~ (106) "Internationally active insurance group" means an insurance holding  
935 company system:

936 (a) that includes an insurer registered under Section 31A-16-105;

937 (b) that has premiums written in at least three countries;

938 (c) whose percentage of gross premiums written outside the United States is at least  
939 10% of its total gross written premiums; and

940 (d) that, based on a three-year rolling average, has:

941 (i) total assets of at least \$50,000,000,000; or

942 (ii) total gross written premiums of at least \$10,000,000,000.

943 ~~[(104)]~~ (107) "Involuntary unemployment insurance" means insurance:

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

945 (b) that provides indemnity if the debtor is involuntarily unemployed for payments  
946 coming due on a:

947 (i) specific loan; or

948 (ii) credit transaction.

949 ~~[(105)]~~ (108) "Large employer," in connection with a health benefit plan, means an  
950 employer who, with respect to a calendar year and to a plan year:

951 (a) employed an average of at least 51 employees on business days during the  
952 preceding calendar year; and

953 (b) employs at least one employee on the first day of the plan year.

954 ~~[(106)]~~ (109) "Late enrollee," with respect to an employer health benefit plan, means  
955 an individual whose enrollment is a late enrollment.

956 ~~[(107)]~~ (110) "Late enrollment," with respect to an employer health benefit plan, means  
957 enrollment of an individual other than:

958 (a) on the earliest date on which coverage can become effective for the individual  
959 under the terms of the plan; or

960 (b) through special enrollment.

961 ~~[(108)]~~ (111) (a) Except for a retainer contract or legal assistance described in Section

962 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a  
963 specified legal expense.

964 (b) "Legal expense insurance" includes an arrangement that creates a reasonable  
965 expectation of an enforceable right.

966 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,  
967 legal services incidental to other insurance coverage.

968 ~~[(109)]~~ (112) (a) "Liability insurance" means insurance against liability:

969 (i) for death, injury, or disability of a human being, or for damage to property,  
970 exclusive of the coverages under:

971 (A) medical malpractice insurance;

972 (B) professional liability insurance; and

973 (C) workers' compensation insurance;

974 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the  
975 insured who is injured, irrespective of legal liability of the insured, when issued with or  
976 supplemental to insurance against legal liability for the death, injury, or disability of a human  
977 being, exclusive of the coverages under:

978 (A) medical malpractice insurance;

979 (B) professional liability insurance; and

980 (C) workers' compensation insurance;

981 (iii) for loss or damage to property resulting from an accident to or explosion of a  
982 boiler, pipe, pressure container, machinery, or apparatus;

983 (iv) for loss or damage to property caused by:

984 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or

985 (B) water entering through a leak or opening in a building; or

986 (v) for other loss or damage properly the subject of insurance not within another kind  
987 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

988 (b) "Liability insurance" includes:

989 (i) vehicle liability insurance;

990 (ii) residential dwelling liability insurance; and

991 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,  
992 boiler, machinery, or apparatus of any kind when done in connection with insurance on the



- 993 elevator, boiler, machinery, or apparatus.
- 994 ~~[(110)]~~ (113) (a) "License" means authorization issued by the commissioner to engage
- 995 in an activity that is part of or related to the insurance business.
- 996 (b) "License" includes a certificate of authority issued to an insurer.
- 997 ~~[(111)]~~ (114) (a) "Life insurance" means:
- 998 (i) insurance on a human life; and
- 999 (ii) insurance pertaining to or connected with human life.
- 1000 (b) The business of life insurance includes:
- 1001 (i) granting a death benefit;
- 1002 (ii) granting an annuity benefit;
- 1003 (iii) granting an endowment benefit;
- 1004 (iv) granting an additional benefit in the event of death by accident;
- 1005 (v) granting an additional benefit to safeguard the policy against lapse; and
- 1006 (vi) providing an optional method of settlement of proceeds.
- 1007 ~~[(112)]~~ (115) "Limited license" means a license that:
- 1008 (a) is issued for a specific product of insurance; and
- 1009 (b) limits an individual or agency to transact only for that product or insurance.
- 1010 ~~[(113)]~~ (116) "Limited line credit insurance" includes the following forms of
- 1011 insurance:
- 1012 (a) credit life;
- 1013 (b) credit accident and health;
- 1014 (c) credit property;
- 1015 (d) credit unemployment;
- 1016 (e) involuntary unemployment;
- 1017 (f) mortgage life;
- 1018 (g) mortgage guaranty;
- 1019 (h) mortgage accident and health;
- 1020 (i) guaranteed automobile protection; and
- 1021 (j) another form of insurance offered in connection with an extension of credit that:
- 1022 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 1023 (ii) the commissioner determines by rule should be designated as a form of limited line

1024 credit insurance.

1025 ~~[(114)]~~ (117) "Limited line credit insurance producer" means a person who sells,  
1026 solicits, or negotiates one or more forms of limited line credit insurance coverage to an  
1027 individual through a master, corporate, group, or individual policy.

1028 ~~[(115)]~~ (118) "Limited line insurance" includes:

- 1029 (a) bail bond;
- 1030 (b) limited line credit insurance;
- 1031 (c) legal expense insurance;
- 1032 (d) motor club insurance;
- 1033 (e) car rental related insurance;
- 1034 (f) travel insurance;
- 1035 (g) crop insurance;
- 1036 (h) self-service storage insurance;
- 1037 (i) guaranteed asset protection waiver;
- 1038 (j) portable electronics insurance; and
- 1039 (k) another form of limited insurance that the commissioner determines by rule should  
1040 be designated a form of limited line insurance.

1041 ~~[(116)]~~ (119) "Limited lines authority" includes the lines of insurance listed in  
1042 Subsection ~~[(115);]~~ (118).

1043 ~~[(117)]~~ (120) "Limited lines producer" means a person who sells, solicits, or negotiates  
1044 limited lines insurance.

1045 ~~[(118)]~~ (121) (a) "Long-term care insurance" means an insurance policy or rider  
1046 advertised, marketed, offered, or designated to provide coverage:

- 1047 (i) in a setting other than an acute care unit of a hospital;
- 1048 (ii) for not less than 12 consecutive months for a covered person on the basis of:
  - 1049 (A) expenses incurred;
  - 1050 (B) indemnity;
  - 1051 (C) prepayment; or
  - 1052 (D) another method;
- 1053 (iii) for one or more necessary or medically necessary services that are:
  - 1054 (A) diagnostic;

- 1055 (B) preventative;
- 1056 (C) therapeutic;
- 1057 (D) rehabilitative;
- 1058 (E) maintenance; or
- 1059 (F) personal care; and
- 1060 (iv) that may be issued by:
- 1061 (A) an insurer;
- 1062 (B) a fraternal benefit society;
- 1063 (C) (I) a nonprofit health hospital; and
- 1064 (II) a medical service corporation;
- 1065 (D) a prepaid health plan;
- 1066 (E) a health maintenance organization; or
- 1067 (F) an entity similar to the entities described in Subsections [~~(118)(a)(iv)(A)~~]
- 1068 (121)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or
- 1069 health care insurance.
- 1070 (b) "Long-term care insurance" includes:
- 1071 (i) any of the following that provide directly or supplement long-term care insurance:
- 1072 (A) a group or individual annuity or rider; or
- 1073 (B) a life insurance policy or rider;
- 1074 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 1075 (A) cognitive impairment; or
- 1076 (B) functional capacity; or
- 1077 (iii) a qualified long-term care insurance contract.
- 1078 (c) "Long-term care insurance" does not include:
- 1079 (i) a policy that is offered primarily to provide basic Medicare supplement [~~coverage~~]
- 1080 insurance;
- 1081 (ii) basic hospital expense coverage;
- 1082 (iii) basic medical/surgical expense coverage;
- 1083 (iv) hospital confinement indemnity coverage;
- 1084 (v) major medical expense coverage;
- 1085 (vi) income replacement or related asset-protection coverage;

- 1086 (vii) accident only coverage;
- 1087 (viii) coverage for a specified:
- 1088 (A) disease; or
- 1089 (B) accident;
- 1090 (ix) limited benefit health coverage;
- 1091 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 1092 lump sum payment:
- 1093 (A) if the following are not conditioned on the receipt of long-term care:
- 1094 (I) benefits; or
- 1095 (II) eligibility; and
- 1096 (B) the coverage is for one or more the following qualifying events:
- 1097 (I) terminal illness;
- 1098 (II) medical conditions requiring extraordinary medical intervention; or
- 1099 (III) permanent institutional confinement; or
- 1100 (xi) limited long-term care as defined in Section 31A-22-2002.
- 1101 [~~(119)~~] (122) "Managed care organization" means a person:
- 1102 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
- 1103 Organizations and Limited Health Plans; or
- 1104 (b) (i) licensed under:
- 1105 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 1106 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 1107 (C) Chapter 14, Foreign Insurers; and
- 1108 (ii) that requires an enrollee to use, or offers incentives, including financial incentives,
- 1109 for an enrollee to use, network providers.
- 1110 [~~(120)~~] (123) "Medical malpractice insurance" means insurance against legal liability
- 1111 incident to the practice and provision of a medical service other than the practice and provision
- 1112 of a dental service.
- 1113 (124) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the
- 1114 federal Social Security Act, as then constituted or later amended.
- 1115 (125) (a) "Medicare supplement insurance" means health insurance coverage that is
- 1116 advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare

1117 for the hospital, medical, or surgical expenses of individuals eligible for Medicare, including a  
1118 Medicare supplement policy.

1119 (b) "Medicare supplement insurance" does not include:

1120 (i) a policy issued pursuant to a contract under Section 1876 of the federal Social  
1121 Security Act;

1122 (ii) a policy issued under a demonstration project specified in 42 U.S.C. Sec.  
1123 1395ss(g)(1);

1124 (iii) a Medicare Advantage plan established under Medicare Part C;

1125 (iv) an outpatient prescription drug plan established under Medicare Part D; or

1126 (v) any health care prepayment plan that provides benefits pursuant to an agreement  
1127 under Section 1833(a)(1)(A) of the Social Security Act.

1128 [~~(121)~~] (126) "Member" means a person having membership rights in an insurance  
1129 corporation.

1130 [~~(122)~~] (127) "Minimum capital" or "minimum required capital" means the capital that  
1131 must be constantly maintained by a stock insurance corporation as required by statute.

1132 [~~(123)~~] (128) "Mortgage accident and health insurance" means insurance offered in  
1133 connection with an extension of credit that provides indemnity for payments coming due on a  
1134 mortgage while the debtor has a disability.

1135 [~~(124)~~] (129) "Mortgage guaranty insurance" means surety insurance under which a  
1136 mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

1137 [~~(125)~~] (130) "Mortgage life insurance" means insurance on the life of a debtor in  
1138 connection with an extension of credit that pays if the debtor dies.

1139 [~~(126)~~] (131) "Motor club" means a person:

1140 (a) licensed under:

1141 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1142 (ii) Chapter 11, Motor Clubs; or

1143 (iii) Chapter 14, Foreign Insurers; and

1144 (b) that promises for an advance consideration to provide for a stated period of time  
1145 one or more:

1146 (i) legal services under Subsection 31A-11-102(1)(b);

1147 (ii) bail services under Subsection 31A-11-102(1)(c); or

- 1148 (iii) (A) trip reimbursement;
- 1149 (B) towing services;
- 1150 (C) emergency road services;
- 1151 (D) stolen automobile services;
- 1152 (E) a combination of the services listed in Subsections [~~(126)(b)(iii)(A)~~]
- 1153 (131)(b)(iii)(A) through (D); or
- 1154 (F) other services given in Subsections 31A-11-102(1)(b) through (f).
- 1155 [~~(127)~~] (132) "Mutual" means a mutual insurance corporation.
- 1156 [~~(128)~~] (133) "NAIC" means the National Association of Insurance Commissioners.
- 1157 [~~(129)~~] (134) "NAIC liquidity stress test framework" means a NAIC publication that
- 1158 includes:
- 1159 (a) a history of the NAIC's development of regulatory liquidity stress testing;
- 1160 (b) the scope criteria applicable for a specific data year; and
- 1161 (c) the liquidity stress test instructions and reporting templates for a specific data year,
- 1162 as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.
- 1163 [~~(130)~~] (135) "Network plan" means health care insurance:
- 1164 (a) that is issued by an insurer; and
- 1165 (b) under which the financing and delivery of medical care is provided, in whole or in
- 1166 part, through a defined set of providers under contract with the insurer, including the financing
- 1167 and delivery of an item paid for as medical care.
- 1168 [~~(131)~~] (136) "Network provider" means a health care provider who has an agreement
- 1169 with a managed care organization to provide health care services to an enrollee with an
- 1170 expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly
- 1171 from the managed care organization.
- 1172 [~~(132)~~] (137) "Nonparticipating" means a plan of insurance under which the insured is
- 1173 not entitled to receive a dividend representing a share of the surplus of the insurer.
- 1174 [~~(133)~~] (138) "Ocean marine insurance" means insurance against loss of or damage to:
- 1175 (a) ships or hulls of ships;
- 1176 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
- 1177 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
- 1178 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

1179 (c) earnings such as freight, passage money, commissions, or profits derived from  
1180 transporting goods or people upon or across the oceans or inland waterways; or

1181 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,  
1182 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons  
1183 in connection with maritime activity.

1184 ~~[(134)]~~ (139) "Order" means an order of the commissioner.

1185 ~~[(135)]~~ (140) "ORSA guidance manual" means the current version of the Own Risk  
1186 and Solvency Assessment Guidance Manual developed and adopted by the National  
1187 Association of Insurance Commissioners and as amended from time to time.

1188 ~~[(136)]~~ (141) "ORSA summary report" means a confidential high-level summary of an  
1189 insurer or insurance group's own risk and solvency assessment.

1190 ~~[(137)]~~ (142) "Outline of coverage" means a summary that explains an accident and  
1191 health insurance policy.

1192 ~~[(138)]~~ (143) "Own risk and solvency assessment" means an insurer or insurance  
1193 group's confidential internal assessment:

1194 (a) (i) of each material and relevant risk associated with the insurer or insurance group;

1195 (ii) of the insurer or insurance group's current business plan to support each risk

1196 described in Subsection ~~[(138)(a)(i);]~~ (143)(a)(i); and

1197 (iii) of the sufficiency of capital resources to support each risk described in Subsection

1198 ~~[(138)(a)(i);]~~ (143)(a)(i); and

1199 (b) that is appropriate to the nature, scale, and complexity of an insurer or insurance  
1200 group.

1201 ~~[(139)]~~ (144) "Participating" means a plan of insurance under which the insured is  
1202 entitled to receive a dividend representing a share of the surplus of the insurer.

1203 ~~[(140)]~~ (145) "Participation," as used in a health benefit plan, means a requirement  
1204 relating to the minimum percentage of eligible employees that must be enrolled in relation to  
1205 the total number of eligible employees of an employer reduced by each eligible employee who  
1206 voluntarily declines coverage under the plan because the employee:

1207 (a) has other group health care insurance coverage; or

1208 (b) receives:

1209 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social

- 1210 Security Amendments of 1965; or
- 1211 (ii) another government health benefit.
- 1212 [~~(141)~~] (146) "Person" includes:
- 1213 (a) an individual;
- 1214 (b) a partnership;
- 1215 (c) a corporation;
- 1216 (d) an incorporated or unincorporated association;
- 1217 (e) a joint stock company;
- 1218 (f) a trust;
- 1219 (g) a limited liability company;
- 1220 (h) a reciprocal;
- 1221 (i) a syndicate; or
- 1222 (j) another similar entity or combination of entities acting in concert.
- 1223 [~~(142)~~] (147) "Personal lines insurance" means property and casualty insurance
- 1224 coverage sold for primarily noncommercial purposes to:
- 1225 (a) an individual; or
- 1226 (b) a family.
- 1227 [~~(143)~~] (148) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.
- 1228 1002(16)(B).
- 1229 [~~(144)~~] (149) "Plan year" means:
- 1230 (a) the year that is designated as the plan year in:
- 1231 (i) the plan document of a group health plan; or
- 1232 (ii) a summary plan description of a group health plan;
- 1233 (b) if the plan document or summary plan description does not designate a plan year or
- 1234 there is no plan document or summary plan description:
- 1235 (i) the year used to determine deductibles or limits;
- 1236 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 1237 or
- 1238 (iii) the employer's taxable year if:
- 1239 (A) the plan does not impose deductibles or limits on a yearly basis; and
- 1240 (B) (I) the plan is not insured; or



- 1241 (II) the insurance policy is not renewed on an annual basis; or
- 1242 (c) in a case not described in Subsection [~~(144)~~(a)] (149)(a) or (b), the calendar year.
- 1243 [~~(145)~~] (150) (a) "Policy" means a document, including an attached endorsement or
- 1244 application that:
- 1245 (i) purports to be an enforceable contract; and
- 1246 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 1247 (b) "Policy" includes a service contract issued by:
- 1248 (i) a motor club under Chapter 11, Motor Clubs;
- 1249 (ii) a service contract provided under Chapter 6a, Service Contracts; and
- 1250 (iii) a corporation licensed under:
- 1251 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 1252 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 1253 (c) "Policy" does not include:
- 1254 (i) a certificate under a group insurance contract; or
- 1255 (ii) a document that does not purport to have legal effect.
- 1256 [~~(146)~~] (151) "Policyholder" means a person who controls a policy, binder, or oral
- 1257 contract by ownership, premium payment, or otherwise.
- 1258 [~~(147)~~] (152) "Policy illustration" means a presentation or depiction that includes
- 1259 nonguaranteed elements of a policy offering life insurance over a period of years.
- 1260 [~~(148)~~] (153) "Policy summary" means a synopsis describing the elements of a life
- 1261 insurance policy.
- 1262 [~~(149)~~] (154) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L.
- 1263 No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152,
- 1264 and related federal regulations and guidance.
- 1265 [~~(150)~~] (155) "Preexisting condition," with respect to health care insurance:
- 1266 (a) means a condition that was present before the effective date of coverage, whether or
- 1267 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
- 1268 and
- 1269 (b) does not include a condition indicated by genetic information unless an actual
- 1270 diagnosis of the condition by a physician has been made.
- 1271 [~~(151)~~] (156) (a) "Premium" means the monetary consideration for an insurance policy.

- 1272 (b) "Premium" includes, however designated:
- 1273 (i) an assessment;
- 1274 (ii) a membership fee;
- 1275 (iii) a required contribution; or
- 1276 (iv) monetary consideration.
- 1277 (c) (i) "Premium" does not include consideration paid to a third party administrator for
- 1278 the third party administrator's services.
- 1279 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
- 1280 insurance on the risks administered by the third party administrator.
- 1281 [~~(152)~~] (157) "Principal officers" for a corporation means the officers designated under
- 1282 Subsection 31A-5-203(3).
- 1283 [~~(153)~~] (158) "Proceeding" includes an action or special statutory proceeding.
- 1284 [~~(154)~~] (159) "Professional liability insurance" means insurance against legal liability
- 1285 incident to the practice of a profession and provision of a professional service.
- 1286 [~~(155)~~] (160) (a) "Property insurance" means insurance against loss or damage to real
- 1287 or personal property of every kind and any interest in that property:
- 1288 (i) from all hazards or causes; and
- 1289 (ii) against loss consequential upon the loss or damage including vehicle
- 1290 comprehensive and vehicle physical damage coverages.
- 1291 (b) "Property insurance" does not include:
- 1292 (i) inland marine insurance; and
- 1293 (ii) ocean marine insurance.
- 1294 [~~(156)~~] (161) "Qualified long-term care insurance contract" or "federally tax qualified
- 1295 long-term care insurance contract" means:
- 1296 (a) an individual or group insurance contract that meets the requirements of Section
- 1297 7702B(b), Internal Revenue Code; or
- 1298 (b) the portion of a life insurance contract that provides long-term care insurance:
- 1299 (i) (A) by rider; or
- 1300 (B) as a part of the contract; and
- 1301 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
- 1302 Code.

- 1303            ~~[(157)]~~ (162) "Qualified United States financial institution" means an institution that:
- 1304            (a) is:
- 1305            (i) organized under the laws of the United States or any state; or
- 1306            (ii) in the case of a United States office of a foreign banking organization, licensed
- 1307 under the laws of the United States or any state;
- 1308            (b) is regulated, supervised, and examined by a United States federal or state authority
- 1309 having regulatory authority over a bank or trust company; and
- 1310            (c) meets the standards of financial condition and standing that are considered
- 1311 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
- 1312 will be acceptable to the commissioner as determined by:
- 1313            (i) the commissioner by rule; or
- 1314            (ii) the Securities Valuation Office of the National Association of Insurance
- 1315 Commissioners.
- 1316            ~~[(158)]~~ (163) (a) "Rate" means:
- 1317            (i) the cost of a given unit of insurance; or
- 1318            (ii) for property or casualty insurance, that cost of insurance per exposure unit either
- 1319 expressed as:
- 1320            (A) a single number; or
- 1321            (B) a pure premium rate, adjusted before the application of individual risk variations
- 1322 based on loss or expense considerations to account for the treatment of:
- 1323            (I) expenses;
- 1324            (II) profit; and
- 1325            (III) individual insurer variation in loss experience.
- 1326            (b) "Rate" does not include a minimum premium.
- 1327            ~~[(159)]~~ (164) (a) "Rate service organization" means a person who assists an insurer in
- 1328 rate making or filing by:
- 1329            (i) collecting, compiling, and furnishing loss or expense statistics;
- 1330            (ii) recommending, making, or filing rates or supplementary rate information; or
- 1331            (iii) advising about rate questions, except as an attorney giving legal advice.
- 1332            (b) "Rate service organization" does not include:
- 1333            (i) an employee of an insurer;

- 1334 (ii) a single insurer or group of insurers under common control;
- 1335 (iii) a joint underwriting group; or
- 1336 (iv) an individual serving as an actuarial or legal consultant.
- 1337 [~~(160)~~] (165) "Rating manual" means any of the following used to determine initial and  
1338 renewal policy premiums:
- 1339 (a) a manual of rates;
- 1340 (b) a classification;
- 1341 (c) a rate-related underwriting rule; and
- 1342 (d) a rating formula that describes steps, policies, and procedures for determining  
1343 initial and renewal policy premiums.
- 1344 [~~(161)~~] (166) (a) "Rebate" means a licensee paying, allowing, giving, or offering to  
1345 pay, allow, or give, directly or indirectly:
- 1346 (i) a refund of premium or portion of premium;
- 1347 (ii) a refund of commission or portion of commission;
- 1348 (iii) a refund of all or a portion of a consultant fee; or
- 1349 (iv) providing services or other benefits not specified in an insurance or annuity  
1350 contract.
- 1351 (b) "Rebate" does not include:
- 1352 (i) a refund due to termination or changes in coverage;
- 1353 (ii) a refund due to overcharges made in error by the licensee; or
- 1354 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 1355 [~~(162)~~] (167) "Received by the department" means:
- 1356 (a) the date delivered to and stamped received by the department, if delivered in  
1357 person;
- 1358 (b) the post mark date, if delivered by mail;
- 1359 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 1360 (d) the received date recorded on an item delivered, if delivered by:
- 1361 (i) facsimile;
- 1362 (ii) email; or
- 1363 (iii) another electronic method; or
- 1364 (e) a date specified in:

1365 (i) a statute;

1366 (ii) a rule; or

1367 (iii) an order.

1368 [~~(163)~~] (168) "Reciprocal" or "interinsurance exchange" means an unincorporated  
1369 association of persons:

1370 (a) operating through an attorney-in-fact common to all of the persons; and

1371 (b) exchanging insurance contracts with one another that provide insurance coverage  
1372 on each other.

1373 [~~(164)~~] (169) "Reinsurance" means an insurance transaction where an insurer, for  
1374 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to  
1375 reinsurance transactions, this title sometimes refers to:

1376 (a) the insurer transferring the risk as the "ceding insurer"; and

1377 (b) the insurer assuming the risk as the:

1378 (i) "assuming insurer"; or

1379 (ii) "assuming reinsurer."

1380 [~~(165)~~] (170) "Reinsurer" means a person licensed in this state as an insurer with the  
1381 authority to assume reinsurance.

1382 [~~(166)~~] (171) "Residential dwelling liability insurance" means insurance against  
1383 liability resulting from or incident to the ownership, maintenance, or use of a residential  
1384 dwelling that is a detached single family residence or multifamily residence up to four units.

1385 [~~(167)~~] (172) (a) "Retrocession" means reinsurance with another insurer of a liability  
1386 assumed under a reinsurance contract.

1387 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a  
1388 liability assumed under a reinsurance contract.

1389 [~~(168)~~] (173) "Rider" means an endorsement to:

1390 (a) an insurance policy; or

1391 (b) an insurance certificate.

1392 [~~(169)~~] (174) "Scope criteria" means the designated exposure bases and minimum  
1393 magnitudes for a specified data year that are used to establish a preliminary list of insurers  
1394 considered scoped into the NAIC liquidity stress test framework for that data year.

1395 [~~(170)~~] (175) "Secondary medical condition" means a complication related to an

- 1396 exclusion from coverage in accident and health insurance.
- 1397 [~~(171)~~] (176) (a) "Security" means a:
- 1398 (i) note;
- 1399 (ii) stock;
- 1400 (iii) bond;
- 1401 (iv) debenture;
- 1402 (v) evidence of indebtedness;
- 1403 (vi) certificate of interest or participation in a profit-sharing agreement;
- 1404 (vii) collateral-trust certificate;
- 1405 (viii) preorganization certificate or subscription;
- 1406 (ix) transferable share;
- 1407 (x) investment contract;
- 1408 (xi) voting trust certificate;
- 1409 (xii) certificate of deposit for a security;
- 1410 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1411 payments out of production under such a title or lease;
- 1412 (xiv) commodity contract or commodity option;
- 1413 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1414 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1415 in Subsections [~~(171)(a)(i)~~] (176)(a)(i) through (xiv); or
- 1416 (xvi) another interest or instrument commonly known as a security.
- 1417 (b) "Security" does not include:
- 1418 (i) any of the following under which an insurance company promises to pay money in a
- 1419 specific lump sum or periodically for life or some other specified period:
- 1420 (A) insurance;
- 1421 (B) an endowment policy; or
- 1422 (C) an annuity contract; or
- 1423 (ii) a burial certificate or burial contract.
- 1424 [~~(172)~~] (177) "Securityholder" means a specified person who owns a security of a
- 1425 person, including:
- 1426 (a) common stock;

- 1427 (b) preferred stock;
- 1428 (c) debt obligations; and
- 1429 (d) any other security convertible into or evidencing the right of any of the items listed
- 1430 in this Subsection [~~(172)~~] (177).
- 1431 [~~(173)~~] (178) (a) "Self-insurance" means an arrangement under which a person
- 1432 provides for spreading the person's own risks by a systematic plan.
- 1433 (b) "Self-insurance" includes:
- 1434 (i) an arrangement under which a governmental entity undertakes to indemnify an
- 1435 employee for liability arising out of the employee's employment; and
- 1436 (ii) an arrangement under which a person with a managed program of self-insurance
- 1437 and risk management undertakes to indemnify the person's affiliate, subsidiary, director,
- 1438 officer, or employee for liability or risk that arises out of the person's relationship with the
- 1439 affiliate, subsidiary, director, officer, or employee.
- 1440 (c) "Self-insurance" does not include:
- 1441 (i) an arrangement under which a number of persons spread their risks among
- 1442 themselves; or
- 1443 (ii) an arrangement with an independent contractor.
- 1444 [~~(174)~~] (179) "Sell" means to exchange a contract of insurance:
- 1445 (a) by any means;
- 1446 (b) for money or its equivalent; and
- 1447 (c) on behalf of an insurance company.
- 1448 [~~(175)~~] (180) "Short-term limited duration health insurance" means a health benefit
- 1449 product that:
- 1450 (a) after taking into account any renewals or extensions, has a total duration of no more
- 1451 than 36 months; and
- 1452 (b) has an expiration date specified in the contract that is less than 12 months after the
- 1453 original effective date of coverage under the health benefit product.
- 1454 [~~(176)~~] (181) "Significant break in coverage" means a period of 63 consecutive days
- 1455 during each of which an individual does not have creditable coverage.
- 1456 [~~(177)~~] (182) (a) "Small employer" means, in connection with a health benefit plan and
- 1457 with respect to a calendar year and to a plan year, an employer who:

1458 (i) (A) employed at least one but not more than 50 eligible employees on business days  
1459 during the preceding calendar year; or

1460 (B) if the employer did not exist for the entirety of the preceding calendar year,  
1461 reasonably expects to employ an average of at least one but not more than 50 eligible  
1462 employees on business days during the current calendar year;

1463 (ii) employs at least one employee on the first day of the plan year; and

1464 (iii) for an employer who has common ownership with one or more other employers, is  
1465 treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

1466 (b) "Small employer" does not include an owner or a sole proprietor that does not  
1467 employ at least one employee.

1468 ~~[(178)]~~ (183) "Special enrollment period," in connection with a health benefit plan, has  
1469 the same meaning as provided in federal regulations adopted pursuant to the Health Insurance  
1470 Portability and Accountability Act.

1471 ~~[(179)]~~ (184) (a) "Subsidiary" of a person means an affiliate controlled by that person  
1472 either directly or indirectly through one or more affiliates or intermediaries.

1473 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting  
1474 shares are owned by that person either alone or with its affiliates, except for the minimum  
1475 number of shares the law of the subsidiary's domicile requires to be owned by directors or  
1476 others.

1477 ~~[(180)]~~ (185) Subject to Subsection ~~[(92)(b);~~ (95)(b), "surety insurance" includes:

1478 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or  
1479 perform the principal's obligations to a creditor or other obligee;

1480 (b) bail bond insurance; and

1481 (c) fidelity insurance.

1482 ~~[(181)]~~ (186) (a) "Surplus" means the excess of assets over the sum of paid-in capital  
1483 and liabilities.

1484 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is  
1485 designated by the insurer or organization as permanent.

1486 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require  
1487 that insurers or organizations doing business in this state maintain specified minimum levels of  
1488 permanent surplus.



1489 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the  
1490 same as the minimum required capital requirement that applies to stock insurers.

1491 (c) "Excess surplus" means:

1492 (i) for a life insurer, accident and health insurer, health organization, or property and  
1493 casualty insurer as defined in Section 31A-17-601, the lesser of:

1494 (A) that amount of an insurer's or health organization's total adjusted capital that  
1495 exceeds the product of:

1496 (I) 2.5; and

1497 (II) the sum of the insurer's or health organization's minimum capital or permanent  
1498 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1499 (B) that amount of an insurer's or health organization's total adjusted capital that  
1500 exceeds the product of:

1501 (I) 3.0; and

1502 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1503 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer  
1504 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1505 (A) 1.5; and

1506 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1507 [~~182~~] (187) "Third party administrator" or "administrator" means a person who  
1508 collects charges or premiums from, or who, for consideration, adjusts or settles claims of  
1509 residents of the state in connection with insurance coverage, annuities, or service insurance  
1510 coverage, except:

1511 (a) a union on behalf of its members;

1512 (b) a person administering a:

1513 (i) pension plan subject to the federal Employee Retirement Income Security Act of  
1514 1974;

1515 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1516 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1517 (c) an employer on behalf of the employer's employees or the employees of one or  
1518 more of the subsidiary or affiliated corporations of the employer;

1519 (d) an insurer licensed under the following, but only for a line of insurance for which

1520 the insurer holds a license in this state:

1521 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1522 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

1523 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1524 (iv) Chapter 9, Insurance Fraternal; or

1525 (v) Chapter 14, Foreign Insurers;

1526 (e) a person:

1527 (i) licensed or exempt from licensing under:

1528 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

1529 Reinsurance Intermediaries; or

1530 (B) Chapter 26, Insurance Adjusters; and

1531 (ii) whose activities are limited to those authorized under the license the person holds

1532 or for which the person is exempt; or

1533 (f) an institution, bank, or financial institution:

1534 (i) that is:

1535 (A) an institution whose deposits and accounts are to any extent insured by a federal

1536 deposit insurance agency, including the Federal Deposit Insurance Corporation or National

1537 Credit Union Administration; or

1538 (B) a bank or other financial institution that is subject to supervision or examination by

1539 a federal or state banking authority; and

1540 (ii) that does not adjust claims without a third party administrator license.

1541 [~~(183)~~] (188) "Title insurance" means the insuring, guaranteeing, or indemnifying of an

1542 owner of real or personal property or the holder of liens or encumbrances on that property, or

1543 others interested in the property against loss or damage suffered by reason of liens or

1544 encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity

1545 or unenforceability of any liens or encumbrances on the property.

1546 [~~(184)~~] (189) "Total adjusted capital" means the sum of an insurer's or health

1547 organization's statutory capital and surplus as determined in accordance with:

1548 (a) the statutory accounting applicable to the annual financial statements required to be

1549 filed under Section 31A-4-113; and

1550 (b) another item provided by the RBC instructions, as RBC instructions is defined in

1551 Section 31A-17-601.

1552 ~~[(185)]~~ (190) (a) "Trustee" means "director" when referring to the board of directors of  
1553 a corporation.

1554 (b) "Trustee," when used in reference to an employee welfare fund, means an  
1555 individual, firm, association, organization, joint stock company, or corporation, whether acting  
1556 individually or jointly and whether designated by that name or any other, that is charged with  
1557 or has the overall management of an employee welfare fund.

1558 ~~[(186)]~~ (191) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted  
1559 insurer" means an insurer:

1560 (i) not holding a valid certificate of authority to do an insurance business in this state;

1561 or

1562 (ii) transacting business not authorized by a valid certificate.

1563 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1564 (i) holding a valid certificate of authority to do an insurance business in this state; and

1565 (ii) transacting business as authorized by a valid certificate.

1566 ~~[(187)]~~ (192) "Underwrite" means the authority to accept or reject risk on behalf of the  
1567 insurer.

1568 ~~[(188)]~~ (193) "Vehicle liability insurance" means insurance against liability resulting  
1569 from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a  
1570 vehicle comprehensive or vehicle physical damage coverage described in Subsection ~~[(155)-]~~  
1571 (160).

1572 ~~[(189)]~~ (194) "Voting security" means a security with voting rights, and includes a  
1573 security convertible into a security with a voting right associated with the security.

1574 ~~[(190)]~~ (195) "Waiting period" for a health benefit plan means the period that must  
1575 pass before coverage for an individual, who is otherwise eligible to enroll under the terms of  
1576 the health benefit plan, can become effective.

1577 ~~[(191)]~~ (196) "Workers' compensation insurance" means:

1578 (a) insurance for indemnification of an employer against liability for compensation  
1579 based on:

1580 (i) a compensable accidental injury; and

1581 (ii) occupational disease disability;

1582 (b) employer's liability insurance incidental to workers' compensation insurance and  
1583 written in connection with workers' compensation insurance; and

1584 (c) insurance assuring to a person entitled to workers' compensation benefits the  
1585 compensation provided by law.

1586 Section 3. Section **31A-2-201.2** is amended to read:

1587 **31A-2-201.2. Evaluation of health insurance market.**

1588 (1) (a) Each year the commissioner shall:

1589 ~~[(a)]~~ (i) conduct an evaluation of the state's health insurance market;

1590 ~~[(b)]~~ (ii) report the findings of the evaluation to the ~~[Health and Human Services~~  
1591 ~~Interim Committee]~~ Office of Legislative Research and General Counsel before ~~[December 1]~~  
1592 February 1 of each year; and

1593 (c) (iii) publish the findings of the evaluation on the department website.

1594 (b) After the president of the Senate and the speaker of the House of Representatives  
1595 appoint members to the Health and Human Services Interim Committee for the year in which  
1596 the Office of Legislative Research and General Counsel receives a report under this subsection,  
1597 the Office of Legislative Research and General Counsel shall provide a copy of the report to  
1598 each member of the committee.

1599 (2) The evaluation required by this section shall:

1600 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a  
1601 healthy, competitive health insurance market that meets the needs of the state, and includes an  
1602 analysis of:

1603 (i) the availability and marketing of individual and group products;

1604 (ii) rate changes;

1605 (iii) coverage and demographic changes;

1606 (iv) benefit trends;

1607 (v) market share changes; and

1608 (vi) accessibility;

1609 (b) assess complaint ratios and trends within the health insurance market, which  
1610 assessment shall include complaint data from the Office of Consumer Health Assistance within  
1611 the department;

1612 (c) contain recommendations for action to improve the overall effectiveness of the

1613 health insurance market, administrative rules, and statutes;

1614 (d) include claims loss ratio data for each health insurance company doing business in  
1615 the state;

1616 (e) include information about pharmacy benefit managers collected under Section  
1617 31A-46-301; and

1618 (f) include information, for each health insurance company doing business in the state,  
1619 regarding:

1620 (i) preauthorization determinations; and

1621 (ii) adverse benefit determinations.

1622 (3) When preparing the evaluation and report required by this section, the  
1623 commissioner may seek the input of insurers, employers, insured persons, providers, and others  
1624 with an interest in the health insurance market.

1625 (4) The commissioner may adopt administrative rules for the purpose of collecting the  
1626 data required by this section, taking into account the business confidentiality of the insurers.

1627 (5) Records submitted to the commissioner under this section shall be maintained by  
1628 the commissioner as protected records under Title 63G, Chapter 2, Government Records  
1629 Access and Management Act.

1630 Section 4. Section **31A-2-215** is amended to read:

1631 **31A-2-215. Consumer education.**

1632 (1) In furtherance of the purposes in Section 31A-1-102, the commissioner may  
1633 educate consumers about insurance and provide consumer assistance.

1634 (2) Consumer education may include:

1635 (a) outreach activities; and

1636 (b) the production or collection and dissemination of educational materials.

1637 (3) (a) Consumer assistance may include explaining:

1638 (a) explaining:

1639 (i) the terms of a policy;

1640 (ii) a policy's complaint, grievance, or adverse benefit determination procedure; and

1641 (iii) the fundamentals of self-advocacy.; and

1642 (b) informal efforts to negotiate a resolution of a dispute between a consumer and a  
1643 licensee.

1644 (4) (a) Notwithstanding Subsection (3)(a), (3) and Section 31A-2-216, consumer  
1645 assistance may not include:

1646 (i) commencing an administrative, judicial, or other proceeding against a licensee to  
1647 obtain specific relief from the licensee for a specific consumer; or

1648 (ii) testifying or representing a consumer in any grievance or adverse benefit  
1649 determination, arbitration, judicial, or related proceeding, unless the proceeding is in  
1650 connection with an enforcement action brought under Section 31A-2-308. otherwise  
1651 representing a consumer in any administrative, judicial, or other proceeding.

1652 (5) Nothing in this section prohibits the commissioner from taking enforcement action  
1653 for violations under Section 31A-2-308.

1654 (4) (6) The commissioner may adopt rules necessary to implement the requirements of  
1655 this section.

1656 Section 5. Section **31A-2-216** is amended to read:

1657 **31A-2-216. Office of Consumer Health Assistance.**

1658 (1) The commissioner shall establish:

1659 (a) an Office of Consumer Health Assistance before July 1, 1999.; and

1660 (b) a committee to advise the commissioner on consumer assistance rendered under  
1661 this section.

1662 (2) The office shall:

1663 (a) be a resource for health care insurance consumers concerning health care insurance  
1664 coverage or the need for such coverage;

1665 (b) help health care insurance consumers understand:

1666 (i) contractual rights and responsibilities;

1667 (ii) statutory protections; and

1668 (iii) available remedies, including adverse benefit determination processes;

1669 (c) educate health care insurance consumers:

1670 (i) by producing or collecting and disseminating educational materials to consumers,  
1671 and health insurers, and health benefit plans; and

1672 (ii) through outreach and other educational activities;

1673 (d) for health care insurance consumers that have difficulty in accessing their health  
1674 insurance policies because of language, disability, age, or ethnicity, provide information and

1675 services, directly or through referral, such as:;

1676 (i) information and referral; and

1677 (ii) adverse benefit determination process initiation;

1678 (e) analyze and monitor federal and state consumer health-related insurance statutes,  
1679 rules, and regulations; and

1680 (f) summarize information gathered under this section and make the summaries  
1681 available to the public, government agencies, and the Legislature.

1682 (3) The office may:

1683 (a) obtain data from health care insurance consumers as necessary to further the office's  
1684 duties under this section;

1685 (b) investigate complaints and attempt to resolve complaints at the lowest possible  
1686 level; and

1687 (c) assist, but not testify or represent, a consumer in an adverse benefit determination,  
1688 arbitration, judicial, or related proceeding, unless the proceeding is in connection with an  
1689 enforcement action brought under Section 31A-2-308.

1690 (4) The commissioner may adopt rules necessary to implement the requirements of this  
1691 section.

1692 Section 6. Section **31A-2-308** is amended to read:

1693 **31A-2-308. Enforcement penalties and procedures.**

1694 (1) (a) A person who violates any insurance statute or rule or any order issued under  
1695 Subsection 31A-2-201(4) shall forfeit to the state up to twice the amount of any profit gained  
1696 from the violation, in addition to any other forfeiture or penalty imposed.

1697 (b) (i) The commissioner may order an individual producer, surplus line producer,  
1698 limited line producer, managing general agent, reinsurance intermediary, adjuster, third party  
1699 administrator, navigator, or insurance consultant who violates an insurance statute or rule to  
1700 forfeit to the state not more than \$2,500 for each violation.

1701 (ii) The commissioner may order any other person who violates an insurance statute or  
1702 rule to forfeit to the state not more than \$5,000 for each violation.

1703 (c) (i) The commissioner may order an individual producer, surplus line producer,  
1704 limited line producer, managing general agent, reinsurance intermediary, adjuster, third party  
1705 administrator, navigator, or insurance consultant who violates an order issued under Subsection

1706 31A-2-201(4) to forfeit to the state not more than \$2,500 for each violation. Each day the  
1707 violation continues is a separate violation.

1708 (ii) The commissioner may order any other person who violates an order issued under  
1709 Subsection 31A-2-201(4) to forfeit to the state not more than \$5,000 for each violation. Each  
1710 day the violation continues is a separate violation.

1711 (d) The commissioner may accept or compromise any forfeiture under this Subsection  
1712 (1) until after a complaint is filed under Subsection (2). After the filing of the complaint, only  
1713 the attorney general may compromise the forfeiture.

1714 (2) When a person fails to comply with an order issued under Subsection  
1715 31A-2-201(4), including a forfeiture order, the commissioner may file an action in any court of  
1716 competent jurisdiction or obtain a court order or judgment:

1717 (a) enforcing the commissioner's order;

1718 (b) (i) directing compliance with the commissioner's order and restraining further  
1719 violation of the order; and

1720 (ii) subjecting the person ordered to the procedures and sanctions available to the court  
1721 for punishing contempt if the failure to comply continues; or

1722 (c) imposing a forfeiture in an amount the court considers just, up to \$10,000 for each  
1723 day the failure to comply continues after the filing of the complaint until judgment is rendered.

1724 (3) (a) The Utah Rules of Civil Procedure govern actions brought under Subsection (2),  
1725 except that the commissioner may file a complaint seeking a court-ordered forfeiture under  
1726 Subsection (2)(c) no sooner than two weeks after giving written notice of the commissioner's  
1727 intention to proceed under Subsection (2)(c).

1728 (b) The commissioner's order issued under Subsection 31A-2-201(4) may contain a  
1729 notice of intention to seek a court-ordered forfeiture if the commissioner's order is disobeyed.

1730 (4) If, after a court order is issued under Subsection (2), the person fails to comply with  
1731 the commissioner's order or judgment:

1732 (a) the commissioner may certify the fact of the failure to the court by affidavit; and

1733 (b) the court may, after a hearing following at least five days written notice to the  
1734 parties subject to the order or judgment, amend the order or judgment to add the forfeiture or  
1735 forfeitures, as prescribed in Subsection (2)(c), until the person complies.

1736 (5) (a) The proceeds of the forfeitures under this section, including collection expenses,



- 1737 shall be paid into the General Fund.
- 1738 (b) The expenses of collection shall be credited to the department's budget.
- 1739 (c) The attorney general's budget shall be credited to the extent the department
- 1740 reimburses the attorney general's office for its collection expenses under this section.
- 1741 (6) (a) Forfeitures and judgments under this section bear interest at the rate charged by
- 1742 the United States Internal Revenue Service for past due taxes on the:
- 1743 (i) date of entry of the commissioner's order under Subsection (1); or
- 1744 (ii) date of judgment under Subsection (2).
- 1745 (b) Interest accrues from the later of the dates described in Subsection (6)(a) until the
- 1746 forfeiture and accrued interest are fully paid.
- 1747 (7) A forfeiture may not be imposed under Subsection (2)(c) if:
- 1748 (a) at the time the forfeiture action is commenced, the person was in compliance with
- 1749 the commissioner's order; or
- 1750 (b) the violation of the order occurred during the order's suspension.
- 1751 (8) The commissioner may seek an injunction as an alternative to issuing an order
- 1752 under Subsection 31A-2-201(4).
- 1753 (9) (a) A person is guilty of a class B misdemeanor if that person:
- 1754 (i) intentionally violates:
- 1755 (A) an insurance statute of this state; or
- 1756 (B) an order issued under Subsection 31A-2-201(4);
- 1757 (ii) intentionally permits a person over whom that person has authority to violate:
- 1758 (A) an insurance statute of this state; or
- 1759 (B) an order issued under Subsection 31A-2-201(4); or
- 1760 (iii) intentionally aids any person in violating:
- 1761 (A) an insurance statute of this state; or
- 1762 (B) an order issued under Subsection 31A-2-201(4).
- 1763 (b) Unless a specific criminal penalty is provided elsewhere in this title, the person may
- 1764 be fined not more than:
- 1765 (i) \$10,000 if a corporation; or
- 1766 (ii) \$5,000 if a person other than a corporation.
- 1767 (c) If the person is an individual, the person may, in addition, be imprisoned for up to

1768 one year.

1769 (d) As used in this Subsection (9), "intentionally" has the same meaning as under  
1770 Subsection 76-2-103(1).

1771 (10) (a) A person who knowingly and intentionally violates Section 31A-4-102,  
1772 31A-8a-208, 31A-15-105, 31A-23a-116, or 31A-31-111 is guilty of a felony as provided in this  
1773 Subsection (10).

1774 (b) When the value of the property, money, or other things obtained or sought to be  
1775 obtained in violation of Subsection (10)(a):

1776 (i) is less than \$5,000, a person is guilty of a third degree felony; or

1777 (ii) is or exceeds \$5,000, a person is guilty of a second degree felony.

1778 (11) (a) After a hearing, the commissioner may, in whole or in part, revoke, suspend,  
1779 place on probation, limit, or refuse to renew the licensee's license or certificate of authority:

1780 (i) when a licensee of the department, other than a domestic insurer:

1781 (A) persistently or substantially violates the insurance law; or

1782 (B) violates an order of the commissioner under Subsection 31A-2-201(4);

1783 (ii) if there are grounds for delinquency proceedings against the licensee under Section  
1784 31A-27a-207; or

1785 (iii) if the licensee's methods and practices in the conduct of the licensee's business  
1786 endanger, or the licensee's financial resources are inadequate to safeguard, the legitimate  
1787 interests of the licensee's customers and the public.

1788 (b) Additional license termination or probation provisions for licensees other than  
1789 insurers are set forth in Sections 31A-19a-303, 31A-19a-304, 31A-23a-111, 31A-23a-112,  
1790 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214, 31A-35-501, and 31A-35-503.

1791 (12) The enforcement penalties and procedures set forth in this section are not  
1792 exclusive, but are cumulative of other rights and remedies the commissioner has pursuant to  
1793 applicable law.

1794 Section 7. Section **31A-4-113.5** is amended to read:

1795 **31A-4-113.5. Filing requirements -- National Association of Insurance**  
1796 **Commissioners.**

1797 (1) (a) Each domestic, foreign, and alien insurer who is authorized to transact insurance  
1798 business in this state shall annually file with the NAIC a copy of the insurer's:

- 1799 (i) annual statement convention blank on or before March 1;
- 1800 (ii) market conduct annual statements[?] on or before the applicable date determined by
- 1801 the NAIC; and
- 1802 [~~(A) on or before April 30, for all lines of business except health; and]~~
- 1803 [~~(B) on or before June 30, for the health line of business; and]~~
- 1804 (iii) any additional filings required by the commissioner for the preceding year.
- 1805 (b) (i) The information filed with the NAIC under Subsection (1)(a)(i) shall:
- 1806 (A) be prepared in accordance with the NAIC's:
- 1807 (I) annual statement instructions; and
- 1808 (II) Accounting Practices and Procedures Manual; and
- 1809 (B) include:
- 1810 (I) the signed jurat page; and
- 1811 (II) the actuarial certification.
- 1812 (ii) An insurer shall file with the NAIC amendments and addenda to information filed
- 1813 with the commissioner under Subsection (1)(a)(i).
- 1814 (c) The information filed with the NAIC under Subsection (1)(a)(ii) shall be prepared
- 1815 in accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.
- 1816 (d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay
- 1817 any filing fees assessed by the NAIC.
- 1818 (e) A foreign insurer that is domiciled in a state that has a law substantially similar to
- 1819 this section shall be considered to be in compliance with this section.
- 1820 (2) All financial analysis ratios and examination synopses concerning insurance
- 1821 companies that are submitted to the department by the Insurance Regulatory Information
- 1822 System are confidential and may not be disclosed by the department.
- 1823 (3) The commissioner may suspend, revoke, or refuse to renew the certificate of
- 1824 authority of any insurer failing to:
- 1825 (a) submit the filings under Subsection (1)(a) when due or within any extension of time
- 1826 granted for good cause by:
- 1827 (i) the commissioner; or
- 1828 (ii) the NAIC; or
- 1829 (b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay

1830 under this section to:

1831 (i) the commissioner; or

1832 (ii) the NAIC.

1833 Section 8. Section **31A-19a-203** is amended to read:

1834 **31A-19a-203. Rate filings.**

1835 (1) (a) Except as provided in Subsections (4) and (5), every authorized insurer and  
 1836 every rate service organization licensed under Section 31A-19a-301 that has been designated  
 1837 by any insurer for the filing of pure premium rates under Subsection 31A-19a-205(2) shall file  
 1838 with the commissioner the following for use in this state:

1839 (i) all rates;

1840 (ii) all supplementary information; and

1841 (iii) all changes and amendments to rates and supplementary information.

1842 (b) An insurer shall file its rates by filing:

1843 (i) its final rates; or

1844 (ii) either of the following to be applied to pure premium rates that have been filed by a  
 1845 rate service organization on behalf of the insurer as permitted by Section 31A-19a-205:

1846 (A) a multiplier; or

1847 (B) (I) a multiplier; and

1848 (II) an expense constant adjustment.

1849 (c) Every filing under this Subsection (1) shall state:

1850 (i) the effective date of the rates; and

1851 (ii) the character and extent of the coverage contemplated.

1852 (d) Except for workers' compensation rates filed under Sections 31A-19a-405 and  
 1853 31A-19a-406, each filing shall be within 30 days after the rates and supplementary information,  
 1854 changes, and amendments are effective.

1855 (e) A rate filing is considered filed when it has been received[:]

1856 [~~(i) with the applicable filing fee as prescribed under Section 31A-3-103; and]~~

1857 [~~(ii)~~] pursuant to procedures established by the commissioner.

1858 (f) The commissioner may by rule prescribe procedures for submitting rate filings by  
 1859 electronic means.

1860 (2) (a) To show compliance with Section 31A-19a-201, at the same time as the filing

1861 of the rate and supplementary rate information, an insurer shall file all supporting information  
1862 to be used in support of or in conjunction with a rate.

1863 (b) If the rate filing provides for a modification or revision of a previously filed rate,  
1864 the insurer is required to file only the supporting information that supports the modification or  
1865 revision.

1866 (c) If the commissioner determines that the insurer did not file sufficient supporting  
1867 information, the commissioner shall inform the insurer in writing of the lack of sufficient  
1868 supporting information.

1869 (d) If the insurer does not provide the necessary supporting information within 45  
1870 calendar days of the date on which the commissioner mailed notice under Subsection (2)(c), the  
1871 rate filing may be:

1872 (i) considered incomplete and unfiled; and

1873 (ii) returned to the insurer as:

1874 (A) not filed; and

1875 (B) not available for use.

1876 (e) Notwithstanding Subsection (2)(d), the commissioner may extend the time period  
1877 for filing supporting information.

1878 (f) If a rate filing is returned to an insurer as not filed and not available for use under  
1879 Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or  
1880 after 60 calendar days from the date the rate filing was returned.

1881 (3) At the request of the commissioner, an insurer using the services of a rate service  
1882 organization shall provide a description of the rationale for using the services of the rate service  
1883 organization, including the insurer's:

1884 (a) own information; and

1885 (b) method of use of the rate service organization's information.

1886 (4) (a) An insurer may not make or issue a contract or policy except in accordance with  
1887 the rate filings that are in effect for the insurer as provided in this chapter.

1888 (b) Subsection (4)(a) does not apply to contracts or policies for inland marine risks for  
1889 which filings are not required.

1890 (5) Subsection (1) does not apply to inland marine risks, which, by general custom, are  
1891 not written according to standardized manual rules or rating plans.

1892 (6) (a) The insurer may file a written application, stating the insurer's reasons for using  
1893 a higher rate than that otherwise applicable to a specific risk.

1894 (b) If the application described in Subsection (6)(a) is filed with and not disapproved  
1895 by the commissioner within 10 days after filing, the higher rate may be applied to the specific  
1896 risk.

1897 (c) The rate described in this Subsection (6) may be disapproved without a hearing.

1898 (d) If disapproved, the rate otherwise applicable applies from the effective date of the  
1899 policy, but the insurer may cancel the policy pro rata on 10 days' notice to the policyholder.

1900 (e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall  
1901 refund any excess premium from the effective date of the policy.

1902 (7) (a) Agreements may be made between insurers on the use of reasonable rate  
1903 modifications for insurance provided under Section 31A-22-310.

1904 (b) The rate modifications described in Subsection (7)(a) shall be filed immediately  
1905 upon agreement by the insurers.

1906 Section 9. Section **31A-19a-209** is amended to read:

1907 **31A-19a-209. Special provisions for title insurance.**

1908 (1) (a) (i) The Title and Escrow Commission may make rules, in accordance with Title  
1909 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Section 31A-2-404,  
1910 establishing rate standards and rating methods.

1911 (ii) The commissioner shall determine compliance with rate standards and rating  
1912 methods for title insurers, individual title insurance producers, and agency title insurance  
1913 producers.

1914 (b) In addition to the considerations in determining compliance with rate standards and  
1915 rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title  
1916 insurers, the commissioner and the Title and Escrow Commission shall consider the costs and  
1917 expenses incurred by title insurers, individual title insurance producers, and agency title  
1918 insurance producers pertaining to the business of title insurance including:

1919 (i) the maintenance of title plants; and

1920 (ii) the examining of public records to determine insurability of title to real property.

1921 (2) A title insurer[; individual title insurance producer, or agency title insurance  
1922 producer] may not use any rate or other charge relating to the business of title insurance[;

1923 including rates or charges for escrow] that would cause the title [~~insurance company, individual~~  
1924 ~~title insurance producer, or agency title insurance producer~~] insurer to[:]

1925 [~~(a) operate at less than the cost of doing]~~

1926 [~~the insurance business; or]~~

1927 [~~(b)] fail to adequately underwrite a title insurance policy.~~

1928 Section 10. Section **31A-21-402** is amended to read:

1929 **31A-21-402. Definitions.**

1930 As used in this part[:],

1931 [~~(1)(a) "Direct response solicitation" means any offer an insurer makes to persons in~~  
1932 ~~this state, either directly or through a third party, to effect life or accident and health insurance~~  
1933 ~~coverage which enables the individual to apply or enroll for the insurance on the basis of the~~  
1934 ~~offer.]~~

1935 [~~(b) "Direct response solicitation" does not include:]~~

1936 [~~(i) solicitations for insurance through an employee benefit plan exempt from state~~  
1937 ~~regulation under preemptive federal law; or]~~

1938 [~~(ii) solicitations through an individual's creditor with respect to credit life or credit~~  
1939 ~~accident and health insurance.]~~

1940 [(2) "Mass] "mass marketed life or accident and health insurance" means the insurance  
1941 under any individual, franchise, group, or blanket insurance policy offering life or accident and  
1942 health insurance:

1943 [(a)] (1) that is offered by means of direct response solicitation through:

1944 [(i)] (a) a sponsoring organization; or

1945 [(ii)] (b) the mails or other mass communications media; and

1946 [(b)] (2) under which the person insured pays all or substantially all of the cost of the  
1947 person's insurance.

1948 Section 11. Section **31A-22-303** is amended to read:

1949 **31A-22-303. Motor vehicle liability coverage.**

1950 (1) (a) In addition to complying with the requirements of Chapter 21, Insurance  
1951 Contracts in General, and Part 2, Liability Insurance in General, a policy of motor vehicle  
1952 liability coverage under Subsection 31A-22-302(1)(a) shall:

1953 (i) name the motor vehicle owner or operator in whose name the policy was purchased,

1954 state that named insured's address, the coverage afforded, the premium charged, the policy  
1955 period, and the limits of liability;

1956 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor  
1957 vehicles on which coverage is granted, insure the person named in the policy, insure any other  
1958 person using any named motor vehicle with the express or implied permission of the named  
1959 insured, and, except as provided in Section 31A-22-302.5, insure any person included in  
1960 Subsection (1)(a)(iii) against loss from the liability imposed by law for damages arising out of  
1961 the ownership, maintenance, or use of these motor vehicles within the United States and  
1962 Canada, subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not  
1963 less than the minimum limits specified under Section 31A-22-304; or

1964 (B) if it is an operator's policy, insure the person named as insured against loss from  
1965 the liability imposed upon him by law for damages arising out of the insured's use of any motor  
1966 vehicle not owned by him, within the same territorial limits and with the same limits of liability  
1967 as in an owner's policy under Subsection (1)(a)(ii)(A);

1968 (iii) except as provided in Section 31A-22-302.5, insure persons related to the named  
1969 insured by blood, marriage, adoption, or guardianship who are residents of the named insured's  
1970 household, including those who usually make their home in the same household but  
1971 temporarily live elsewhere, to the same extent as the named insured;

1972 (iv) where a claim is brought by the named insured or a person described in Subsection  
1973 (1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:

1974 (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;  
1975 or

1976 (B) the named insured or any of the persons described in Subsection (1)(a)(iii) driving  
1977 a covered motor vehicle is at fault in causing an accident; ~~and~~

1978 (v) cover damages or injury resulting from a covered driver of a motor vehicle who is  
1979 stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not  
1980 reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the  
1981 extent that a person of ordinary prudence would not attempt to continue driving[-]; and

1982 (vi) cover substitute transportation as defined in Section 31A-22-323.

1983 (b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance  
1984 coverage.



1985 (c) (i) "Guardianship" under Subsection (1)(a)(iii) includes the relationship between a  
1986 foster parent and a minor who is in the legal custody of the Division of Child and Family  
1987 Services if:

1988 (A) the minor resides in a foster home, as defined in Section 62A-2-101, with a foster  
1989 parent who is the named insured; and

1990 (B) the foster parent has signed to be jointly and severally liable for compensatory  
1991 damages caused by the minor's operation of a motor vehicle in accordance with Section  
1992 53-3-211.

1993 (ii) "Guardianship" as defined under this Subsection (1)(c) ceases to exist when a  
1994 minor described in Subsection (1)(c)(i)(A) is no longer a resident of the named insured's  
1995 household.

1996 (2) (a) A policy containing motor vehicle liability coverage under Subsection  
1997 31A-22-302(1)(a) may:

1998 (i) provide for the prorating of the insurance under that policy with other valid and  
1999 collectible insurance;

2000 (ii) grant any lawful coverage in addition to the required motor vehicle liability  
2001 coverage;

2002 (iii) if the policy is issued to a person other than a motor vehicle business, limit the  
2003 coverage afforded to a motor vehicle business or its officers, agents, or employees to the  
2004 minimum limits under Section 31A-22-304, and to those instances when there is no other valid  
2005 and collectible insurance with at least those limits, whether the other insurance is primary,  
2006 excess, or contingent; and

2007 (iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other  
2008 than the motor vehicle business or its officers, agents, or employees to the minimum limits  
2009 under Section 31A-22-304, and to those instances when there is no other valid and collectible  
2010 insurance with at least those limits, whether the other insurance is primary, excess, or  
2011 contingent.

2012 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned  
2013 by a motor vehicle business shall be primary coverage.

2014 (ii) The liability insurance coverage of a motor vehicle business shall be secondary to  
2015 the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).

- 2016 (3) Motor vehicle liability coverage need not insure any liability:  
2017 (a) under any workers' compensation law under Title 34A, Utah Labor Code;  
2018 (b) resulting from bodily injury to or death of an employee of the named insured, other  
2019 than a domestic employee, while engaged in the employment of the insured, or while engaged  
2020 in the operation, maintenance, or repair of a designated vehicle; or  
2021 (c) resulting from damage to property owned by, rented to, bailed to, or transported by  
2022 the insured.
- 2023 (4) An insurance carrier providing motor vehicle liability coverage has the right to  
2024 settle any claim covered by the policy, and if the settlement is made in good faith, the amount  
2025 of the settlement is deductible from the limits of liability specified under Section 31A-22-304.
- 2026 (5) A policy containing motor vehicle liability coverage imposes on the insurer the  
2027 duty to defend, in good faith, any person insured under the policy against any claim or suit  
2028 seeking damages which would be payable under the policy.
- 2029 (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with  
2030 the defense of lack of cooperation on the part of the insured, that defense is not effective  
2031 against a third person making a claim against the insurer, unless there was collusion between  
2032 the third person and the insured.
- 2033 (b) If the defense of lack of cooperation is not effective against the claimant, after  
2034 payment, the insurer is subrogated to the injured person's claim against the insured to the extent  
2035 of the payment and is entitled to reimbursement by the insured after the injured third person has  
2036 been made whole with respect to the claim against the insured.
- 2037 (7) (a) A policy of motor vehicle coverage may limit coverage to the policy minimum  
2038 limits under Section 31A-22-304 if the policy or a specifically reduced premium was extended  
2039 to the insured upon express written declaration executed by the insured that the insured motor  
2040 vehicle would not be operated by a person described in Subsection (7)(c) operating in a manner  
2041 described in Subsection (7)(b)(i).
- 2042 (b) (i) A policy of motor vehicle liability coverage may limit coverage as described in  
2043 Subsection (7)(a) if the insured motor vehicle is operated by an individual described in  
2044 Subsection (7)(c) if the individual described in Subsection (7)(c) is guilty of:
- 2045 (A) driving under the influence as described in Section 41-6a-502;  
2046 (B) impaired driving as described in Section 41-6a-502.5; or

2047 (C) operating a vehicle with a measurable controlled substance in the individual's body  
2048 as described in Section 41-6a-517.

2049 (ii) An individual's refusal to submit to a chemical test as described in Sections  
2050 41-6a-520 and 41-6a-520.1 is admissible evidence, but not conclusive, that the individual is  
2051 guilty of an offense described in Subsection (7)(b)(i).

2052 (c) A reduction in coverage as described in Subsection (7)(a) applies to the following  
2053 individuals:

2054 (i) the insured;

2055 (ii) the spouse of the insured; or

2056 (iii) if the individual has a separate policy as a secondary source of coverage, and:

2057 (A) the individual is over the age of 21 and resides in the household of the insured; or

2058 (B) the individual is a permissible user of the motor vehicle.

2059 (d) A reduction in coverage as described in Subsection (7)(a) does not apply to an  
2060 individual under the age of 21 who is a relative of the insured and a resident of the insured's  
2061 household.

2062 (8) (a) When a claim is brought exclusively by a named insured or a person described  
2063 in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual  
2064 described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:

2065 (i) by submitting the claim to binding arbitration; or

2066 (ii) through litigation.

2067 (b) Once the claimant has elected to commence litigation under Subsection (8)(a)(ii),  
2068 the claimant may not elect to resolve the claim through binding arbitration under this section  
2069 without the written consent of both parties and the defendant's liability insurer.

2070 (c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to  
2071 binding arbitration under Subsection (8)(a)(i) shall be resolved by a panel of three arbitrators.

2072 (ii) Unless otherwise agreed on in writing by the parties, each party shall select an  
2073 arbitrator. The arbitrators selected by the parties shall select a third arbitrator.

2074 (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees  
2075 and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs  
2076 of the third arbitrator.

2077 (e) Except as otherwise provided in this section, an arbitration procedure conducted

2078 under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act,  
2079 unless otherwise agreed on in writing by the parties.

2080 (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah  
2081 Rules of Civil Procedure.

2082 (ii) All issues of discovery shall be resolved by the arbitration panel.

2083 (g) A written decision of two of the three arbitrators shall constitute a final decision of  
2084 the arbitration panel.

2085 (h) Prior to the rendering of the arbitration award:

2086 (i) the existence of a liability insurance policy may be disclosed to the arbitration  
2087 panel; and

2088 (ii) the amount of all applicable liability insurance policy limits may not be disclosed to  
2089 the arbitration panel.

2090 (i) The amount of the arbitration award may not exceed the liability limits of all the  
2091 defendant's applicable liability insurance policies, including applicable liability umbrella  
2092 policies. If the initial arbitration award exceeds the liability limits of all applicable liability  
2093 insurance policies, the arbitration award shall be reduced to an amount equal to the liability  
2094 limits of all applicable liability insurance policies.

2095 (j) The arbitration award is the final resolution of all claims between the parties unless  
2096 the award was procured by corruption, fraud, or other undue means.

2097 (k) If the arbitration panel finds that the action was not brought, pursued, or defended  
2098 in good faith, the arbitration panel may award reasonable fees and costs against the party that  
2099 failed to bring, pursue, or defend the claim in good faith.

2100 (l) Nothing in this section is intended to limit any claim under any other portion of an  
2101 applicable insurance policy.

2102 (9) An at-fault driver or an insurer issuing a policy of insurance under this part that is  
2103 covering an at-fault driver may not reduce compensation to an injured party based on the  
2104 injured party not being covered by a policy of insurance that provides personal injury  
2105 protection coverage under Sections 31A-22-306 through 31A-22-309.

2106 Section 12. Section **31A-22-323** is enacted to read:

2107 **31A-22-323. Special provisions applicable to third-party claims for substitute**  
2108 **transportation.**

- 2109           (1) As used in this section:
- 2110           (a) "Substitute transportation" means transportation that:
- 2111           (i) a third-party claimant uses while the third-party claimant's motor vehicle is
- 2112 inoperable or unavailable as described in Subsection (1)(b)(ii); and
- 2113           (ii) subject to market availability, is comparable to the third-party claimant's damaged
- 2114 motor vehicle provided by an insurer to an injured individual, including a third-party claimant;
- 2115 and
- 2116           (b) "Third-party claimant" means an individual:
- 2117           (i) who is involved in a motor vehicle accident for which another individual is solely at
- 2118 fault; and
- 2119           (ii) whose motor vehicle is:
- 2120           (A) damaged in the motor vehicle accident; and
- 2121           (B) inoperable or unavailable for a period of time after the motor vehicle accident and
- 2122 before the motor vehicle is repaired or replaced.
- 2123           (2) In providing substitute transportation as required under Section 31A-22-303, an
- 2124 insurer may not require that the third-party claimant rent a motor vehicle at the third-party
- 2125 claimant's expense and later seek reimbursement for the rental from the insurer.
- 2126           (3) An insurer that violates this section is subject to:
- 2127           (a) a forfeiture under Section 31A-2-308; and
- 2128           (b) a financial penalty equal to two times the cost of substitute transportation due to the
- 2129 third-party claimant.
- 2130           (4) The commissioner shall waive the financial penalty if the insurer pays to the
- 2131 third-party claimant 150% of the financial penalty described in Subsection (3)(b).
- 2132           Section 13. Section **31A-22-432** is enacted to read:
- 2133           **31A-22-432. Renewal, cancellation, and modification.**
- 2134           (1) Except as provided in this section, a life insurance policy is renewable and
- 2135 continues in force at the option of the policyholder.
- 2136           (2) An insurer may:
- 2137           (a) decline to renew the policy on the date the policy term expires for a reason stated in
- 2138 the policy; or
- 2139           (b) cancel the policy at any time for:

2140 (i) nonpayment of a premium when due; or  
2141 (ii) intentional misrepresentation of a material fact in connection with the coverage.  
2142 (3) (a) Except for a modification required by law, an insurer may only modify a policy  
2143 at renewal.

2144 (b) This subsection does not apply to an endorsement by which the insurer:

2145 (i) effectuates a request the policyholder made in writing; or

2146 (ii) exercises a specifically reserved right under the policy.

2147 Section 14. Section **31A-22-523** is enacted to read:

2148 **31A-22-523. Renewal, cancellation, and modification.**

2149 (1) Except as provided in this section, a life insurance policy is renewable and  
2150 continues in force at the option of the policyholder.

2151 (2) An insurer may:

2152 (a) decline to renew the policy on the date the policy term expires for a reason stated in  
2153 the policy; or

2154 (b) cancel the policy at any time for:

2155 (i) nonpayment of a premium when due;

2156 (ii) intentional misrepresentation of a material fact in connection with the coverage; or

2157 (iii) noncompliance with an employer eligibility provision.

2158 (3) (a) Except for a modification required by law, an insurer may only modify a policy  
2159 at renewal.

2160 (b) This subsection does not apply to an endorsement by which the insurer:

2161 (i) effectuates a request the policyholder made in writing; or

2162 (ii) exercises a specifically reserved right under the policy.

2163 Section 15. Section **31A-22-605** is amended to read:

2164 **31A-22-605. Accident and health insurance standards.**

2165 (1) The purposes of this section include:

2166 (a) reasonable standardization and simplification of terms and coverages of individual  
2167 and franchise accident and health insurance policies, including accident and health insurance  
2168 contracts of insurers licensed under Chapter 7, Nonprofit Health Service Insurance  
2169 Corporations, and Chapter 8, Health Maintenance Organizations and Limited Health Plans, to  
2170 facilitate public understanding and comparison in purchasing;

2171 (b) elimination of provisions contained in individual and franchise accident and health  
2172 insurance contracts that may be misleading or confusing in connection with either the purchase  
2173 of those types of coverages or the settlement of claims; and

2174 (c) full disclosure in the sale of individual and franchise accident and health insurance  
2175 contracts.

2176 [~~(2) As used in this section:~~]

2177 [~~(a) "Direct response insurance policy" means an individual insurance policy solicited  
2178 and sold without the policyholder having direct contact with a natural person intermediary.]~~]

2179 [~~(b) "Medicare" means the same as that term is defined in Subsection  
2180 31A-22-620(1)(e).]~~]

2181 [~~(c) "Medicare supplement policy" means the same as that term is defined in  
2182 Subsection 31A-22-620(1)(f).]~~]

2183 [~~(3)~~] (2) This section applies to all individual and franchise accident and health  
2184 policies.

2185 [~~(4)~~] (3) The commissioner shall adopt rules, made in accordance with Title 63G,  
2186 Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:

2187 (a) standards for the manner and content of policy provisions, and disclosures to be  
2188 made in connection with the sale of policies covered by this section, dealing with at least the  
2189 following matters:

2190 (i) terms of renewability;

2191 (ii) initial and subsequent conditions of eligibility;

2192 (iii) nonduplication of coverage provisions;

2193 (iv) coverage of dependents;

2194 (v) preexisting conditions;

2195 (vi) termination of insurance;

2196 (vii) probationary periods;

2197 (viii) limitations;

2198 (ix) exceptions;

2199 (x) reductions;

2200 (xi) elimination periods;

2201 (xii) requirements for replacement;

- 2202 (xiii) recurrent conditions;
- 2203 (xiv) coverage of persons eligible for Medicare; and
- 2204 (xv) definition of terms;
- 2205 (b) minimum standards for benefits under each of the following categories of coverage
- 2206 in policies covered in this section:
- 2207 (i) basic hospital expense coverage;
- 2208 (ii) basic medical-surgical expense coverage;
- 2209 (iii) hospital confinement indemnity coverage;
- 2210 (iv) major medical expense coverage;
- 2211 (v) income replacement coverage;
- 2212 (vi) accident only coverage;
- 2213 (vii) specified disease or specified accident coverage;
- 2214 (viii) limited benefit health coverage; and
- 2215 (ix) nursing home and long-term care coverage;
- 2216 (c) the content and format of the outline of coverage, in addition to that required under
- 2217 Subsection [~~(6)~~] (5);
- 2218 (d) the method of identification of policies and contracts based upon coverages
- 2219 provided; and
- 2220 (e) rating practices.
- 2221 [~~(5)~~] (4) Nothing in Subsection [~~(4)(b)~~] (3)(b) precludes the issuance of policies that
- 2222 combine categories of coverage in Subsection [~~(4)(b)~~] (3)(b) provided that any combination of
- 2223 categories meets the standards of a component category of coverage.
- 2224 [~~(6)~~] (5) The commissioner may adopt rules, made in accordance with Title 63G,
- 2225 Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:
- 2226 (a) establishing disclosure requirements for insurance policies covered in this section,
- 2227 designed to adequately inform the prospective insured of the need for and extent of the
- 2228 coverage offered, and requiring that this disclosure be furnished to the prospective insured with
- 2229 the application form, unless it is a direct response insurance policy;
- 2230 (b) (i) prescribing caption or notice requirements designed to inform prospective
- 2231 insureds that particular insurance coverages are not [~~Medicare Supplement coverages~~]
- 2232 Medicare supplement insurance; and



2233 (ii) applying the requirements of Subsection [~~(6)(b)(i) apply~~] (5)(b)(i) to all insurance  
2234 policies and certificates sold to persons eligible for Medicare; and

2235 (c) requiring the disclosures or information brochures to be furnished to the  
2236 prospective insured on direct response insurance policies, upon his request or, in any event, no  
2237 later than the time of the policy delivery.

2238 [~~(7)~~] (6) A policy covered by this section may be issued only if it meets the minimum  
2239 standards established by the commissioner under Subsection [~~(4);~~] (3), an outline of coverage  
2240 accompanies the policy or is delivered to the applicant at the time of the application, and,  
2241 except with respect to direct response insurance policies, an acknowledged receipt is provided  
2242 to the insurer. The outline of coverage shall include:

2243 (a) a statement identifying the applicable categories of coverage provided by the policy  
2244 as prescribed under Subsection [~~(4);~~] (3);

2245 (b) a description of the principal benefits and coverage;

2246 (c) a statement of the exceptions, reductions, and limitations contained in the policy;

2247 (d) a statement of the renewal provisions, including any reservation by the insurer of a  
2248 right to change premiums;

2249 (e) a statement that the outline is a summary of the policy issued or applied for and that  
2250 the policy should be consulted to determine governing contractual provisions; and

2251 (f) any other contents the commissioner prescribes.

2252 [~~(8)~~] (7) If a policy is issued on a basis other than that applied for, the outline of  
2253 coverage shall accompany the policy when it is delivered and it shall clearly state that it is not  
2254 the policy for which application was made.

2255 [~~(9)~~] (8) (a) Notwithstanding Subsection 31A-22-606(1), limited accident and health  
2256 policies or certificates issued to persons eligible for Medicare shall contain a notice  
2257 prominently printed on or attached to the cover or front page which states that the policyholder  
2258 or certificate holder has the right to return the policy for any reason within 30 days after its  
2259 delivery and to have the premium refunded.

2260 (b) This Subsection [~~(9)~~] (8) does not apply to a policy issued to an employer group.  
2261 Section 16. Section **31A-22-620** is amended to read:

2262 **31A-22-620. Medicare Supplement Insurance Minimum Standards Act.**

2263 (1) As used in this section:

2264 (a) "Applicant" means:

2265 (i) in the case of ~~[an]~~ individual ~~[Medicare supplement policy]~~ Medicare supplement  
 2266 insurance, the person who seeks to contract for insurance benefits; and

2267 (ii) in the case of ~~[a]~~ group ~~[Medicare supplement policy]~~ Medicare supplement  
 2268 insurance, the proposed certificate holder.

2269 (b) "Certificate" means any certificate delivered or issued for delivery in this state  
 2270 under ~~[a]~~ group ~~[Medicare supplement policy]~~ Medicare supplement insurance.

2271 (c) "Certificate form" means the form on which the certificate is delivered or issued for  
 2272 delivery by the issuer.

2273 (d) "Issuer" includes insurance companies, fraternal benefit societies, health care  
 2274 service plans, health maintenance organizations, and any other entity delivering, or issuing for  
 2275 delivery in this state, ~~[Medicare supplement policies]~~ Medicare supplement insurance or  
 2276 certificates.

2277 ~~[(e) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the~~  
 2278 ~~Social Security Amendments of 1965, as then constituted or later amended.]~~

2279 ~~[(f) "Medicare Supplement Policy":]~~

2280 ~~[(i) means a group or individual policy of health insurance, other than a policy issued~~  
 2281 ~~pursuant to a contract under Section 1876 of the federal Social Security Act, 42 U.S.C. Sec.~~  
 2282 ~~1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C. Sec.~~  
 2283 ~~1395ss(g)(1), that is advertised, marketed, or designed primarily as a supplement to~~  
 2284 ~~reimbursements under Medicare for the hospital, medical, or surgical expenses of persons~~  
 2285 ~~eligible for Medicare; and]~~

2286 ~~[(ii) does not include Medicare Advantage plans established under Medicare Part C,~~  
 2287 ~~outpatient prescription drug plans established under Medicare Part D, or any health care~~  
 2288 ~~prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A)~~  
 2289 ~~of the Social Security Act.]~~

2290 ~~[(g)]~~ (e) "Policy form" means the form on which the policy is delivered or issued for  
 2291 delivery by the issuer.

2292 (2) (a) Except as otherwise specifically provided, this section applies to:

2293 (i) all ~~[Medicare supplement policies]~~ Medicare supplement insurance delivered or  
 2294 issued for delivery in this state on or after the effective date of this section;

2295 (ii) all certificates issued under group [~~Medicare supplement policies~~] Medicare  
2296 supplement insurance, that have been delivered or issued for delivery in this state on or after  
2297 the effective date of this section; and

2298 (iii) policies or certificates that were in force prior to the effective date of this section,  
2299 with respect to requirements for benefits, claims payment, and policy reporting practice under  
2300 Subsection (3)(d), and loss ratios under Subsection (4).

2301 (b) This section does not apply to a policy of one or more employers or labor  
2302 organizations, or of the trustees of a fund established by one or more employers or labor  
2303 organizations, or a combination of employers and labor unions, for employees or former  
2304 employees or a combination of employees and former employees, or for members or former  
2305 members of the labor organizations, or a combination of members and former members of  
2306 labor organizations.

2307 (c) This section does not prohibit, nor does it apply to insurance policies or health care  
2308 benefit plans, including group conversion policies, provided to Medicare eligible persons that  
2309 are not marketed or held out to be [~~Medicare supplement policies~~] Medicare supplement  
2310 insurance or benefit plans.

2311 (3) (a) [~~A Medicare supplement policy~~] Medicare supplement insurance or a certificate  
2312 in force in the state may not contain benefits that duplicate benefits provided by Medicare.

2313 (b) Notwithstanding any other provision of law of this state, [~~a Medicare supplement~~  
2314 ~~policy~~] Medicare supplement insurance or a certificate may not exclude or limit benefits for  
2315 loss incurred more than six months from the effective date of coverage because it involved a  
2316 preexisting condition. The policy or certificate may not define a preexisting condition more  
2317 restrictively than: "A condition for which medical advice was given or treatment was  
2318 recommended by or received from a physician within six months before the effective date of  
2319 coverage."

2320 (c) The commissioner shall adopt rules to establish specific standards for policy  
2321 provisions of [~~Medicare supplement policies~~] Medicare supplement insurance and certificates.  
2322 The standards adopted shall be in addition to and in accordance with applicable laws of this  
2323 state. A requirement of this title relating to minimum required policy benefits, other than the  
2324 minimum standards contained in this section, may not apply to [~~Medicare supplement policies~~]  
2325 Medicare supplement insurance and certificates. The standards may include:

- 2326 (i) terms of renewability;
- 2327 (ii) initial and subsequent conditions of eligibility;
- 2328 (iii) nonduplication of coverage;
- 2329 (iv) probationary periods;
- 2330 (v) benefit limitations, exceptions, and reductions;
- 2331 (vi) elimination periods;
- 2332 (vii) requirements for replacement;
- 2333 (viii) recurrent conditions; and
- 2334 (ix) definitions of terms.
- 2335 (d) The commissioner shall adopt rules establishing minimum standards for benefits,
- 2336 claims payment, marketing practices, compensation arrangements, and reporting practices for
- 2337 ~~[Medicare supplement policies]~~ Medicare supplement insurance and certificates.
- 2338 (e) The commissioner may adopt rules to conform ~~[Medicare supplement policies]~~
- 2339 Medicare supplement insurance and certificates to the requirements of federal law and
- 2340 regulations, including:
- 2341 (i) requiring refunds or credits if the policies do not meet loss ratio requirements;
- 2342 (ii) establishing a uniform methodology for calculating and reporting loss ratios;
- 2343 (iii) assuring public access to policies, premiums, and loss ratio information of issuers
- 2344 of Medicare supplement insurance;
- 2345 (iv) establishing a process for approving or disapproving policy forms and certificate
- 2346 forms and proposed premium increases;
- 2347 (v) establishing a policy for holding public hearings prior to approval of premium
- 2348 increases;
- 2349 (vi) establishing standards for Medicare select policies and certificates; and
- 2350 (vii) nondiscrimination for genetic testing or genetic information.
- 2351 (f) The commissioner may adopt rules that prohibit policy provisions not otherwise
- 2352 specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or
- 2353 unfairly discriminatory to any person insured or proposed to be insured under ~~[a Medicare~~
- 2354 ~~supplement policy]~~ Medicare supplement insurance or a certificate.
- 2355 (4) ~~[Medicare supplement policies]~~ Medicare supplement insurance shall return to
- 2356 policyholders benefits that are reasonable in relation to the premium charged. The

2357 commissioner shall make rules to establish minimum standards for loss ratios of [~~Medicare~~  
2358 ~~supplement policies~~] Medicare supplement insurance on the basis of incurred claims  
2359 experience, or incurred health care expenses where coverage is provided by a health  
2360 maintenance organization on a service basis rather than on a reimbursement basis, and earned  
2361 premiums in accordance with accepted actuarial principles and practices.

2362 (5) (a) To provide for full and fair disclosure in the sale of [~~Medicare supplement~~  
2363 ~~policies~~] Medicare supplement insurance, [~~a Medicare supplement policy~~] Medicare  
2364 supplement insurance or a certificate may not be delivered in this state unless an outline of  
2365 coverage is delivered to the applicant at the time application is made.

2366 (b) The commissioner shall prescribe the format and content of the outline of coverage  
2367 required by Subsection (5)(a).

2368 (c) For purposes of this section, "format" means style arrangements and overall  
2369 appearance, including such items as the size, color, and prominence of type and arrangement of  
2370 text and captions. The outline of coverage shall include:

2371 (i) a description of the principal benefits and coverage provided in the policy;

2372 (ii) a statement of the renewal provisions, including any reservation by the issuer of a  
2373 right to change premiums; and disclosure of the existence of any automatic renewal premium  
2374 increases based on the policyholder's age; and

2375 (iii) a statement that the outline of coverage is a summary of the policy issued or  
2376 applied for and that the policy should be consulted to determine governing contractual  
2377 provisions.

2378 (d) The commissioner may make rules for captions or notice if the commissioner finds  
2379 that the rules are:

2380 (i) in the public interest; and

2381 (ii) designed to inform prospective insureds that particular insurance coverages are not  
2382 Medicare supplement coverages, for all accident and health insurance policies sold to persons  
2383 eligible for Medicare, other than:

2384 (A) [~~a medicare supplement policy~~] Medicare supplement insurance; or

2385 (B) a disability income policy.

2386 (e) The commissioner may prescribe by rule a standard form and the contents of an  
2387 informational brochure for persons eligible for Medicare, that is intended to improve the

2388 buyer's ability to select the most appropriate coverage and improve the buyer's understanding of  
2389 Medicare. Except in the case of direct response insurance policies, the commissioner may  
2390 require by rule that the informational brochure be provided concurrently with delivery of the  
2391 outline of coverage to any prospective insureds eligible for Medicare. With respect to direct  
2392 response insurance policies, the commissioner may require by rule that the prescribed brochure  
2393 be provided upon request to any prospective insureds eligible for Medicare, but in no event  
2394 later than the time of policy delivery.

2395 (f) The commissioner may adopt reasonable rules to govern the full and fair disclosure  
2396 of the information in connection with the replacement of accident and health policies,  
2397 subscriber contracts, or certificates by persons eligible for Medicare.

2398 (6) Notwithstanding Subsection (1), [~~Medicare supplement policies~~] Medicare  
2399 supplement insurance and certificates shall have a notice prominently printed on the first page  
2400 of the policy or certificate, or attached to the front page, stating in substance that the applicant  
2401 has the right to return the policy or certificate within 30 days of its delivery and to have the  
2402 premium refunded if, after examination of the policy or certificate, the applicant is not satisfied  
2403 for any reason. Any refund made pursuant to this section shall be paid directly to the applicant  
2404 by the issuer in a timely manner.

2405 (7) Every issuer of Medicare supplement insurance policies or certificates in this state  
2406 shall provide a copy of any Medicare supplement advertisement intended for use in this state,  
2407 whether through written or broadcast medium, to the commissioner for review.

2408 (8) The commissioner may adopt rules to conform Medicare and [~~Medicare~~  
2409 ~~supplement policies~~] Medicare supplement insurance and certificates to the marketing  
2410 requirements of federal law and regulation.

2411 Section 17. Section **31A-22-802** is amended to read:

2412 **31A-22-802. Definitions.**

2413 As used in this part:

2414 [~~(1) "Credit accident and health insurance" means insurance on a debtor to provide~~  
2415 ~~indemnity for payments coming due on a specific loan or other credit transaction while the~~  
2416 ~~debtor has a disability.]~~

2417 [~~(2) "Credit life insurance" means life insurance on the life of a debtor in connection~~  
2418 ~~with a specific loan or credit transaction.]~~

2419           ~~[(3)]~~ (1) "Credit transaction" means any transaction under which the payment for  
2420 money loaned or for goods, services, or properties sold or leased is to be made on future dates.

2421           ~~[(4)]~~ (2) "Creditor" means the lender of money or the vendor or lessor of goods,  
2422 services, or property, for which payment is arranged through a credit transaction, or any  
2423 successor to the right, title, or interest of any lender or vendor.

2424           ~~[(5)]~~ (3) "Debtor" means a borrower of money or a purchaser, including a lessee under  
2425 a lease intended as security, of goods, services, or property, for which payment is arranged  
2426 through a credit transaction.

2427           ~~[(6)]~~ (4) "Indebtedness" means the total amount payable by a debtor to a creditor in  
2428 connection with a credit transaction, including principal finance charges and interest.

2429           ~~[(7)]~~ (5) "Net indebtedness" means the total amount required to liquidate the  
2430 indebtedness, exclusive of any unearned interest, any insurance on the monthly outstanding  
2431 balance coverage, or any finance charge.

2432           ~~[(8)]~~ (6) "Net written premiums" means gross written premiums minus refunds on  
2433 termination.

2434           Section 18. Section **31A-22-2002** is amended to read:

2435           **31A-22-2002. Definitions.**

2436           As used in this part:

2437           (1) "Applicant" means:

2438           (a) when referring to an individual limited long-term care insurance policy, the person  
2439 who seeks to contract for benefits; and

2440           (b) when referring to a group limited long-term care insurance policy, the proposed  
2441 certificate holder.

2442           (2) "Elimination period" means the length of time between meeting the eligibility for  
2443 benefit payment and receiving benefit payments from an insurer.

2444           (3) "Group limited long-term care insurance" means a limited long-term care insurance  
2445 policy that is delivered or issued for delivery:

2446           (a) in this state; and

2447           (b) to an eligible group, as described under Subsection ~~[31A-22-701(2)]~~

2448           31A-22-701(1).

2449           (4) (a) "Limited long-term care insurance" means an insurance policy, endorsement, or

2450 rider that is advertised, marketed, offered, or designed to provide coverage:

2451 (i) for less than 12 consecutive months for each covered person;

2452 (ii) on an expense-incurred, indemnity, prepaid or other basis; and

2453 (iii) for one or more necessary or medically necessary diagnostic, preventative,

2454 therapeutic, rehabilitative, maintenance, or personal care services that is provided in a setting

2455 other than an acute care unit of a hospital.

2456 (b) "Limited long-term care insurance" includes a policy or rider described in

2457 Subsection (4)(a) that provides for payment of benefits based on cognitive impairment or the

2458 loss of functional capacity.

2459 (c) "Limited long-term care insurance" does not include an insurance policy that is

2460 offered primarily to provide:

2461 (i) basic Medicare supplement [~~coverage~~] insurance;

2462 (ii) basic hospital expense coverage;

2463 (iii) basic medical-surgical expense coverage;

2464 (iv) hospital confinement indemnity coverage;

2465 (v) major medical expense coverage;

2466 (vi) disability income or related asset-protection coverage;

2467 (vii) accidental only coverage;

2468 (viii) specified disease or specified accident coverage; or

2469 (ix) limited benefit health coverage.

2470 (5) "Preexisting condition" means a condition for which medical advice or treatment is

2471 recommended:

2472 (a) by, or received from, a provider of health care services; and

2473 (b) within six months before the day on which the coverage of an insured person

2474 becomes effective.

2475 (6) "Waiting period" means the time an insured waits before some or all of the

2476 insured's coverage becomes effective.

2477 Section 19. Section **31A-23a-105** is amended to read:

2478 **31A-23a-105. General requirements for individual and agency license issuance**

2479 **and renewal.**

2480 (1) (a) The commissioner shall issue or renew a license to a person described in



- 2481 Subsection (1)(b) to act as:
- 2482 (i) a producer;
- 2483 (ii) a surplus lines producer;
- 2484 (iii) a limited line producer;
- 2485 (iv) a consultant;
- 2486 (v) a managing general agent; or
- 2487 (vi) a reinsurance intermediary.
- 2488 (b) The commissioner shall issue or renew a license under Subsection (1)(a) to a
- 2489 person who, as to the license type and line of authority classification applied for under Section
- 2490 31A-23a-106:
- 2491 (i) satisfies the application requirements under Section 31A-23a-104;
- 2492 (ii) satisfies the character requirements under Section 31A-23a-107;
- 2493 (iii) satisfies applicable continuing education requirements under Section
- 2494 31A-23a-202;
- 2495 (iv) satisfies applicable examination requirements under Section 31A-23a-108;
- 2496 (v) satisfies applicable training period requirements under Section 31A-23a-203;
- 2497 (vi) if an applicant for a resident individual producer license, certifies that, to the extent
- 2498 applicable, the applicant:
- 2499 (A) is in compliance with Section 31A-23a-203.5; and
- 2500 (B) will maintain compliance with Section 31A-23a-203.5 during the period for which
- 2501 the license is issued or renewed;
- 2502 (vii) has not committed an act that is a ground for denial, suspension, or revocation as
- 2503 provided in Section 31A-23a-111;
- 2504 (viii) if a nonresident:
- 2505 (A) complies with Section 31A-23a-109; and
- 2506 (B) holds an active similar license in that person's home state;
- 2507 (ix) if an applicant for an individual title insurance producer or agency title insurance
- 2508 producer license, satisfies the requirements of Section 31A-23a-204;
- 2509 (x) if an applicant for a license to act as a life settlement provider or life settlement
- 2510 producer, satisfies the requirements of Section 31A-23a-117; and
- 2511 (xi) pays the applicable fees under Section 31A-3-103.

- 2512 (2) (a) This Subsection (2) applies to the following persons:
- 2513 (i) an applicant for a pending:
- 2514 (A) individual or agency producer license;
- 2515 (B) surplus lines producer license;
- 2516 (C) limited line producer license;
- 2517 (D) consultant license;
- 2518 (E) managing general agent license; or
- 2519 (F) reinsurance intermediary license; or
- 2520 (ii) a licensed:
- 2521 (A) individual or agency producer;
- 2522 (B) surplus lines producer;
- 2523 (C) limited line producer;
- 2524 (D) consultant;
- 2525 (E) managing general agent; or
- 2526 (F) reinsurance intermediary.
- 2527 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 2528 (i) an administrative action taken against the person, including a denial of a new or
- 2529 renewal license application:
- 2530 (A) in another jurisdiction; or
- 2531 (B) by another regulatory agency in this state; ~~and~~
- 2532 (ii) a criminal prosecution taken against the person in any jurisdiction[-]; and
- 2533 (iii) a civil action filed against the person in any jurisdiction if the action involves
- 2534 conduct related to a professional or occupational license, certification, authorization, or
- 2535 registration, regardless of whether the person held the license, certification, authorization, or
- 2536 registration.
- 2537 (c) The report required by Subsection (2)(b) shall:
- 2538 (i) be filed:
- 2539 (A) at the time the person files the application for an individual or agency license; and
- 2540 (B) for an action or prosecution that occurs on or after the day on which the person
- 2541 files the application:
- 2542 (I) for an administrative action, within 30 days of the final disposition of the

2543 administrative action; or  
2544 (II) for a criminal prosecution or civil action, within 30 days of the initial appearance  
2545 before a court; and  
2546 (ii) include a copy of the complaint or other relevant legal documents related to the  
2547 action or prosecution described in Subsection (2)(b).  
2548 (3) (a) The department may require a person applying for a license or for consent to  
2549 engage in the business of insurance to submit to a criminal background check as a condition of  
2550 receiving a license or consent.  
2551 (b) A person, if required to submit to a criminal background check under Subsection  
2552 (3)(a), shall:  
2553 (i) submit a fingerprint card in a form acceptable to the department; and  
2554 (ii) consent to a fingerprint background check by:  
2555 (A) the Utah Bureau of Criminal Identification; and  
2556 (B) the Federal Bureau of Investigation.  
2557 (c) For a person who submits a fingerprint card and consents to a fingerprint  
2558 background check under Subsection (3)(b), the department may request:  
2559 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
2560 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and  
2561 (ii) complete Federal Bureau of Investigation criminal background checks through the  
2562 national criminal history system.  
2563 (d) Information obtained by the department from the review of criminal history records  
2564 received under this Subsection (3) shall be used by the department for the purposes of:  
2565 (i) determining if a person satisfies the character requirements under Section  
2566 31A-23a-107 for issuance or renewal of a license;  
2567 (ii) determining if a person has failed to maintain the character requirements under  
2568 Section 31A-23a-107; and  
2569 (iii) preventing a person who violates the federal Violent Crime Control and Law  
2570 Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in  
2571 the state.  
2572 (e) If the department requests the criminal background information, the department  
2573 shall:

- 2574 (i) pay to the Department of Public Safety the costs incurred by the Department of  
2575 Public Safety in providing the department criminal background information under Subsection  
2576 (3)(c)(i);
- 2577 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
2578 of Investigation in providing the department criminal background information under  
2579 Subsection (3)(c)(ii); and
- 2580 (iii) charge the person applying for a license or for consent to engage in the business of  
2581 insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).
- 2582 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this  
2583 section, a person licensed as one of the following in another state who moves to this state shall  
2584 apply within 90 days of establishing legal residence in this state:
- 2585 (a) insurance producer;
- 2586 (b) surplus lines producer;
- 2587 (c) limited line producer;
- 2588 (d) consultant;
- 2589 (e) managing general agent; or
- 2590 (f) reinsurance intermediary.
- 2591 (5) (a) The commissioner may deny a license application for a license listed in  
2592 Subsection (5)(b) if the person applying for the license, as to the license type and line of  
2593 authority classification applied for under Section 31A-23a-106:
- 2594 (i) fails to satisfy the requirements as set forth in this section; or
- 2595 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in  
2596 Section 31A-23a-111.
- 2597 (b) This Subsection (5) applies to the following licenses:
- 2598 (i) producer;
- 2599 (ii) surplus lines producer;
- 2600 (iii) limited line producer;
- 2601 (iv) consultant;
- 2602 (v) managing general agent; or
- 2603 (vi) reinsurance intermediary.
- 2604 (6) Notwithstanding the other provisions of this section, the commissioner may:

2605 (a) issue a license to an applicant for a license for a title insurance line of authority only  
2606 with the concurrence of the Title and Escrow Commission; and

2607 (b) renew a license for a title insurance line of authority only with the concurrence of  
2608 the Title and Escrow Commission.

2609 Section 20. Section **31A-23a-119** is enacted to read:

2610 **31A-23a-119. Special requirements for agency title insurance producers.**

2611 (1) As used in this section:

2612 (a) "Applicable percentage" means:

2613 (i) on February 1, 2024, through January 31, 2025, 2.5%;

2614 (ii) on February 1, 2025, through January 31, 2026, 3%;

2615 (iii) on February 1, 2026, through January 31, 2027, 3.5%;

2616 (iv) on February 1, 2027, through January 31, 2028, 4%; and

2617 (v) on February 1, 2028, through January 31, 2029, 4.5%.

2618 (b) "Sufficient capital and net worth" means:

2619 (i) for a new title entity:

2620 (A) \$100,000 for the first five years after becoming a new agency title insurance  
2621 producer; or

2622 (B) after the first five years after becoming a new agency title insurance producer, the  
2623 greater of \$50,000, or on February 1 of each year, an amount equal to 5% of the title entity's  
2624 average annual gross revenue over the preceding two calendar years, up to \$150,000; or

2625 (ii) for a title entity licensed before May 14, 2019:

2626 (A) for the time period beginning on February 1, 2020, and ending on January 31,  
2627 2029, the lesser of an amount equal to the applicable percentage of the title entity's average  
2628 annual gross revenue over the two calendar years immediately preceding the February 1 on  
2629 which the applicable percentage applies or \$150,000; and

2630 (B) beginning on February 1, 2029, the greater of \$50,000 or an amount equal to 5% of  
2631 the title entity's average annual gross revenue over the preceding two calendar years, up to  
2632 \$150,000.

2633 (2) Before May 1 of each year, each agency title insurance producer shall submit a  
2634 report to the commissioner containing proof satisfactory to the commissioner that the agency  
2635 title insurance producer had sufficient capital and net worth for the preceding calendar year.

2636 Section 21. Section **31A-23a-406** is amended to read:

2637 **31A-23a-406. Title insurance producer's business.**

2638 (1) As used in this section:

2639 (a) "Automated clearing house network" or "ACH network" means a national  
2640 electronic funds transfer system regulated by the Federal Reserve and the Office of the  
2641 Comptroller of the Currency.

2642 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.

2643 (c) "Funds transfer system" means the same as that term is defined in Section  
2644 [~~7-1-103~~] 70A-4a-105.

2645 (2) An individual title insurance producer or agency title insurance producer may do  
2646 escrow involving real property transactions if all of the following exist:

2647 (a) the individual title insurance producer or agency title insurance producer is licensed  
2648 with:

2649 (i) the title line of authority; and

2650 (ii) the escrow subline of authority;

2651 (b) the individual title insurance producer or agency title insurance producer is  
2652 appointed by a title insurer authorized to do business in the state;

2653 (c) except as provided in Subsection (4), the individual title insurance producer or  
2654 agency title insurance producer issues one or more of the following as part of the transaction:

2655 (i) an owner's policy offering title insurance;

2656 (ii) a lender's policy offering title insurance; or

2657 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an  
2658 owner's or a lender's policy offering title insurance;

2659 (d) money deposited with the individual title insurance producer or agency title  
2660 insurance producer in connection with any escrow is deposited:

2661 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:

2662 (A) has a branch in this state, if the individual title insurance producer or agency title  
2663 insurance producer depositing the money is a resident licensee; and

2664 (B) is authorized by the depository institution's primary regulator to engage in trust  
2665 business, as defined in Section 7-5-1, in this state; and

2666 (ii) in a trust account that is separate from all other trust account money that is not

2667 related to real estate transactions;

2668 (e) money deposited with the individual title insurance producer or agency title  
2669 insurance producer in connection with any escrow is the property of the one or more persons  
2670 entitled to the money under the provisions of the escrow;

2671 (f) money deposited with the individual title insurance producer or agency title  
2672 insurance producer in connection with an escrow is segregated escrow by escrow in the records  
2673 of the individual title insurance producer or agency title insurance producer;

2674 (g) earnings on money held in escrow may be paid out of the [escrow] trust account to  
2675 any person in accordance with the conditions of the escrow;

2676 (h) the escrow does not require the individual title insurance producer or agency title  
2677 insurance producer to hold:

2678 (i) construction money; or

2679 (ii) money held for exchange under Section 1031, Internal Revenue Code; and

2680 (i) the individual title insurance producer or agency title insurance producer shall  
2681 maintain a physical office in Utah staffed by a person with an escrow subline of authority who  
2682 processes the escrow.

2683 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency  
2684 title insurance producer may engage in the escrow business if:

2685 (a) the escrow involves:

2686 (i) a mobile home;

2687 (ii) a grazing right;

2688 (iii) a water right; or

2689 (iv) other personal property authorized by the commissioner; and

2690 (b) the individual title insurance producer or agency title insurance producer complies  
2691 with this section except for Subsection (2)(c).

2692 (4) (a) Subsection (2)(c) does not apply if the transaction is for the transfer of real  
2693 property from the School and Institutional Trust Lands Administration.

2694 (b) This subsection does not prohibit an individual title insurance producer or agency  
2695 title insurance producer from issuing a policy described in Subsection (2)(c) as part of a  
2696 transaction described in Subsection (4)(a).

2697 (5) Money held in escrow:

2698 (a) is not subject to any debts of the individual title insurance producer or agency title  
2699 insurance producer;

2700 (b) may only be used to fulfill the terms of the individual escrow under which the  
2701 money is accepted; and

2702 (c) may not be used until the conditions of the escrow are met.

2703 (6) Assets or property other than escrow money received by an individual title  
2704 insurance producer or agency title insurance producer in accordance with an escrow shall be  
2705 maintained in a manner that will:

2706 (a) reasonably preserve and protect the asset or property from loss, theft, or damages;  
2707 and

2708 (b) otherwise comply with the general duties and responsibilities of a fiduciary or  
2709 bailee.

2710 (7) (a) A check from the trust account described in Subsection (2)(d) may not be  
2711 drawn, executed, or dated, or money otherwise disbursed unless the segregated [~~escrow~~] trust  
2712 account from which money is to be disbursed contains a sufficient credit balance consisting of  
2713 collected and cleared money at the time the check is drawn, executed, or dated, or money is  
2714 otherwise disbursed.

2715 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"  
2716 and may be disbursed as follows:

2717 (i) cash may be disbursed on the same day the cash is deposited;

2718 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

2719 (iii) the proceeds of one or more of the following financial instruments may be

2720 disbursed on the same day the financial instruments are deposited if received from a single

2721 party to the real estate transaction and if the aggregate of the financial instruments for the real  
2722 estate transaction is less than \$10,000:

2723 (A) a cashier's check, certified check, or official check that is drawn on an existing  
2724 account at a federally insured financial institution;

2725 (B) a check drawn on the trust account of a principal broker or associate broker  
2726 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual  
2727 title insurance producer or agency title insurance producer has reasonable and prudent grounds  
2728 to believe sufficient money will be available from the trust account on which the check is



2729 drawn at the time of disbursement of proceeds from the individual title insurance producer or  
2730 agency title insurance producer's [escrow] trust account;

2731 (C) a personal check not to exceed \$500 per closing; or

2732 (D) a check drawn on the [escrow] trust account of another individual title insurance  
2733 producer or agency title insurance producer, if the individual title insurance producer or agency  
2734 title insurance producer in the escrow transaction has reasonable and prudent grounds to  
2735 believe that sufficient money will be available for withdrawal from the account upon which the  
2736 check is drawn at the time of disbursement of money from the [escrow] trust account of the  
2737 individual title insurance producer or agency title insurance producer in the escrow transaction;

2738 (iv) deposits made through the ACH network may be disbursed on the same day the  
2739 deposit is made if:

2740 (A) the transferred funds remain uniquely designated and traceable throughout the  
2741 entire ACH network transfer process;

2742 (B) except as a function of the ACH network process, the transferred funds are not  
2743 subject to comingling or third party access during the transfer process;

2744 (C) the transferred funds are deposited into the title insurance producer's [escrow] trust  
2745 account and are available for disbursement; and

2746 (D) either the ACH network payment type or the title insurance producer's systems  
2747 prevent the transaction from being unilaterally canceled or reversed by the consumer once the  
2748 transferred funds are deposited to the individual title insurance producer or agency title  
2749 producer; or

2750 (v) deposits may be disbursed on the same day the deposit is made if the deposit is  
2751 made via:

2752 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer  
2753 system; or

2754 (B) a funds transfer system provided by an association of [banks] federally insured  
2755 depository institutions.

2756 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:

2757 (i) within the time limits provided under the Expedited Funds Availability Act, 12  
2758 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or  
2759 (ii) upon notification from the financial institution to which the money has been

2760 deposited that final settlement has occurred on the deposited financial instrument.

2761 (8) An individual title insurance producer or agency title insurance producer shall  
2762 maintain a record of a receipt or disbursement of escrow money.

2763 (9) An individual title insurance producer or agency title insurance producer shall  
2764 comply with:

2765 (a) Section 31A-23a-409;

2766 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

2767 (c) any rules adopted by the Title and Escrow Commission, subject to Section  
2768 31A-2-404, that govern escrows.

2769 (10) If an individual title insurance producer or agency title insurance producer  
2770 conducts a search for real estate located in the state, the individual title insurance producer or  
2771 agency title insurance producer shall conduct a reasonable search of the public records.

2772 Section 22. Section **31A-23a-413** is amended to read:

2773 **31A-23a-413. Title insurance producer's annual report.**

2774 An agency title insurance producer [~~and an individual title insurance producer who is~~  
2775 ~~not an employee of a title insurer or who has not been designated by an agency title insurance~~  
2776 ~~producer~~] shall annually file with the commissioner, by a date and in a form the commissioner  
2777 specifies by rule, a verified statement of the agency title insurance producer's [~~or individual~~  
2778 ~~title insurance producer's~~] financial condition, transactions, and affairs as of the end of the  
2779 preceding calendar year.

2780 Section 23. Section **31A-27a-108.1** is enacted to read:

2781 **31A-27a-108.1. Injunctions and orders applicable to a federal home loan bank.**

2782 (1) As used in this section:

2783 (a) "Federal home loan bank" means the same as that term is defined in 12 U.S.C. Sec.  
2784 1422.

2785 (b) "Insurer-member" means an insurer that is a member as defined in 12 U.S.C. Sec.  
2786 1422.

2787 (2) (a) Notwithstanding any other provision of this chapter, after the seventh day  
2788 following the filing of a delinquency proceeding, a state court may not stay or prohibit a federal  
2789 home loan bank from exercising its rights regarding collateral pledged by an insurer-member.

2790 (b) A federal home loan bank may repurchase any outstanding capital stock that is in

2791 excess of the amount of federal home loan bank stock that the federal loan bank requires the  
2792 insurer-member to hold as a minimum investment if:

2793 (i) the insurer-member is subject to a delinquency proceeding;  
2794 (ii) the federal home loan bank exercises the federal home loan bank's rights regarding  
2795 collateral pledged by the insurer-member;  
2796 (iii) the federal home loan bank, in good faith, determines the repurchase is permissible  
2797 under applicable laws, regulations, regulatory obligations, and the federal home loan bank's  
2798 capital plan; and  
2799 (iv) the repurchase is consistent with the federal home loan bank's current capital stock  
2800 practices that apply to the federal home loan bank's entire membership.

2801 (c) Subject to Subsection (2)(c)(ii), after a court appoints a receiver for an  
2802 insurer-member, a federal home loan bank shall provide the receiver a process, and establish a  
2803 timeline, for the following:

2804 (i) the release of collateral that exceeds the amount required to support secured  
2805 obligations remaining after any repayment of loans as determined in accordance with the  
2806 applicable agreements between the federal home loan bank and the insurer-member;  
2807 (ii) the release of any of the insurer-member's collateral remaining in the federal home  
2808 loan bank's possession following full repayment of all outstanding secured obligations of the  
2809 insurer-member;  
2810 (iii) the payment of fees owed by the insurer-member and the operation of deposits and  
2811 other accounts of the insurer-member with the federal home loan bank; and  
2812 (iv) the possible redemption or repurchase of federal home loan bank stock or excess  
2813 stock of any class that an insurer-member is required to own.

2814 (d) An insurer-member shall provide the information described in Subsection (2)(c)(i)  
2815 within 10 business days after the day on which the receiver requests the information.

2816 (e) Upon request from a receiver, a federal home loan bank shall provide any available  
2817 options for an insurer-member subject to a delinquency proceeding to renew or restructure a  
2818 loan to defer associated prepayment fees, subject to:

2819 (i) market conditions;  
2820 (ii) the terms of any loan outstanding to the insurer-member;  
2821 (iii) the applicable policies of the federal home loan bank; and

2822 (iv) the federal home loan bank's compliance with federal laws and regulations.

2823 (3) (a) Notwithstanding any other provision of this chapter, the receiver for an  
2824 insurer-member may not void any transfer of, or any obligation to transfer, money or any other  
2825 property arising under or in connection with:

2826 (i) any federal home loan bank security agreement;

2827 (ii) any pledge, security, collateral, or guarantee agreement; or

2828 (iii) any other similar arrangement or credit enhancement relating to a federal home  
2829 loan bank security agreement made in the ordinary course of business and in compliance with  
2830 the applicable federal home loan bank agreement.

2831 (b) Notwithstanding Subsection (3)(a), an insurer-member may avoid a transfer if a  
2832 party to the transfer made the transfer with intent to hinder, delay, or defraud the  
2833 insurer-member, the receiver for the insurer-member, or an existing or future creditor.

2834 (c) This subsection shall not affect a receiver's rights regarding advances to an  
2835 insurer-member in a delinquency proceeding pursuant to 12 C.F.R. Sec. 1266.4.

2836 Section 24. Section **31A-28-113** is amended to read:

2837 **31A-28-113. Credit for assessments paid.**

2838 (1) (a) A member insurer may offset against its premium tax, income tax, or franchise  
2839 tax liability to this state an assessment described in Subsection 31A-28-109(2)(b) to the extent  
2840 of 20% of the amount of the assessment for each of the five calendar years following the year  
2841 in which the assessment was paid.

2842 (b) To the extent that the offsets described in Subsection (1)(a) exceed [premium] tax  
2843 liability, the offsets may be carried forward and used to offset [premium] tax liability in future  
2844 years.

2845 (c) If a member insurer ceases doing business, all uncredited assessments may be  
2846 credited against its [premium] tax liability for the year it ceases doing business.

2847 (2) (a) A member insurer that is exempt from taxes described in Subsection (1) may  
2848 recoup the member insurer's assessment by a surcharge on premiums in a sum reasonably  
2849 calculated to recoup the assessments over a reasonable period of time, as approved by the  
2850 commissioner.

2851 (b) Amounts recouped shall not be considered premiums for any other purpose,  
2852 including the computation of gross premium tax, income tax, franchise tax, producer

2853 commission, or, to the extent allowed under federal law, medical loss ratio.

2854 (c) If a member insurer collects excess surcharges, the member insurer shall remit the  
2855 excess amount to the association, and the excess amount shall be applied to reduce future  
2856 assessments in the appropriate account.

2857 (3) (a) Money shall be paid by the member insurers to the state in a manner required by  
2858 the State Tax Commission if the money:

2859 (i) is acquired by refund in accordance with Subsection 31A-28-109(6) from the  
2860 association by member insurers; and

2861 (ii) has been offset against [~~premium~~] taxes as provided in Subsection (1).

2862 (b) The association shall notify the commissioner that the refunds described in  
2863 Subsection (3)(a) have been made.

2864 Section 25. Section **31A-31-108** is amended to read:

2865 **31A-31-108. Assessment of insurers.**

2866 (1) For purposes of this section:

2867 (a) The commissioner shall by rule made in accordance with Title 63G, Chapter 3,  
2868 Utah Administrative Rulemaking Act, define:

2869 (i) "annuity consideration";

2870 (ii) "membership fees";

2871 (iii) "other fees";

2872 (iv) "deposit-type contract funds"; and

2873 (v) "other considerations in Utah."

2874 (b) "Insurance fraud provisions" means:

2875 (i) this chapter;

2876 (ii) Section 34A-2-110; and

2877 (iii) Section 76-6-521.

2878 (c) "Utah consideration" means:

2879 (i) the total premiums written for Utah risks;

2880 (ii) annuity consideration;

2881 (iii) membership fees collected by the insurer;

2882 (iv) other fees collected by the insurer;

2883 (v) deposit-type contract funds; and

2884 (vi) other considerations in Utah.

2885 (d) "Utah risks" means insurance coverage on the lives, health, or against the liability  
2886 of persons residing in Utah, or on property located in Utah, other than property temporarily in  
2887 transit through Utah.

2888 (2) To implement insurance fraud provisions, the commissioner may assess an  
2889 admitted insurer and a nonadmitted insurer transacting insurance under Chapter 15, Part 1,  
2890 Unauthorized Insurers and Surplus Lines, and Chapter 15, Part 2, Risk Retention Groups Act,  
2891 an annual fee as follows:

2892 (a) [~~\$200~~] \$225 for an insurer for which the sum of the Utah consideration is less than  
2893 or equal to \$1,000,000;

2894 (b) [~~\$450~~] \$525 for an insurer for which the sum of the Utah consideration is greater  
2895 than \$1,000,000 but is less than or equal to \$2,500,000;

2896 (c) [~~\$800~~] \$925 for an insurer for which the sum of the Utah consideration is greater  
2897 than \$2,500,000 but is less than or equal to \$5,000,000;

2898 (d) [~~\$1,600~~] \$1,850 for an insurer for which the sum of the Utah consideration is  
2899 greater than \$5,000,000 but less than or equal to \$10,000,000;

2900 (e) [~~\$6,100~~] \$7,000 for an insurer for which the sum of the Utah consideration is  
2901 greater than \$10,000,000 but less than \$50,000,000; and

2902 (f) [~~\$15,000~~] \$17,250 for an insurer for which the sum of the Utah consideration equals  
2903 or exceeds \$50,000,000.

2904 (3) Money received by the state under this section shall be deposited into the Insurance  
2905 Fraud Investigation Restricted Account created in Subsection (4).

2906 (4) (a) There is created in the General Fund a restricted account known as the  
2907 "Insurance Fraud Investigation Restricted Account."

2908 (b) The Insurance Fraud Investigation Restricted Account shall consist of the money  
2909 received by the commissioner under this section and Subsections 31A-31-109(1)(a)(ii), (1)(b),  
2910 (2)(b)(i), (2)(c), and (3)(a). Money ordered paid under Subsections 31A-31-109(1)(a)(i) and  
2911 (2)(a) shall be deposited in the Insurance Fraud Victim Restitution Fund pursuant to Section  
2912 31A-31-108.5.

2913 (c) The commissioner shall administer the Insurance Fraud Investigation Restricted  
2914 Account. Subject to appropriations by the Legislature, the commissioner shall use the money

2915 deposited into the Insurance Fraud Investigation Restricted Account to pay for a cost or  
2916 expense incurred by the commissioner in the administration, investigation, and enforcement of  
2917 insurance fraud provisions.

2918 Section 26. Section **31A-35-202** is amended to read:

2919 **31A-35-202. Board responsibilities.**

2920 (1) The board shall:

2921 (a) meet:

2922 (i) at least quarterly; and

2923 (ii) at the call of the chair;

2924 (b) make written recommendations to the commissioner for rules governing the

2925 following aspects of the bail bond insurance business:

2926 (i) qualifications, applications, and fees for obtaining:

2927 (A) a license required by this Section 31A-35-401; or

2928 (B) a certificate;

2929 (ii) limits on the aggregate amounts of bail bonds;

2930 (iii) unprofessional conduct;

2931 (iv) procedures for hearing and resolving allegations of unprofessional conduct; and

2932 (v) sanctions for unprofessional conduct;

2933 (c) screen:

2934 (i) bail bond agency license applications; and

2935 (ii) persons applying for a bail bond agency license; and

2936 (d) recommend to the commissioner action regarding the granting, [~~renewing,~~]

2937 suspending, revoking, and reinstating of bail bond agency license.

2938 (2) Nothing in Subsection (1)(d) precludes the commissioner from suspending a license  
2939 under Section 31A-35-504.

2940 [~~(2)~~] (3) The board may:

2941 (a) conduct investigations of allegations of unprofessional conduct on the part of  
2942 persons or bail bond agencies involved in the business of bail bond insurance; and

2943 (b) provide the results of the investigations described in Subsection [~~(2)(a)~~] (3)(a) to

2944 the commissioner with recommendations for:

2945 (i) action; and

2946 (ii) any appropriate sanctions.

2947 Section 27. Section **31A-35-406** is amended to read:

2948 **31A-35-406. Initial licensing, license renewal, and license reinstatement.**

2949 (1) An applicant for an initial bail bond agency license shall:

2950 (a) complete and submit to the department an application;

2951 (b) submit to the department, as applicable, a copy of the applicant's:

2952 (i) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

2953 (ii) verified financial statement, as required under Subsection 31A-35-404(2); or

2954 (iii) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

2955 (c) pay the department the applicable renewal fee established in accordance with

2956 Section 31A-3-103.

2957 (2) (a) A license under this chapter expires annually effective at midnight on August

2958 [~~14~~] 31.

2959 (b) To renew a bail bond agency license issued under this chapter, on or before [~~July~~

2960 ~~15~~] August 31, the bail bond agency shall:

2961 (i) complete and submit to the department a renewal application that includes  
2962 certification that:

2963 (A) a principal of the agency attended or participated by telephone in at least one entire  
2964 board meeting during the 12-month period before [~~July 15~~] August 31; and

2965 (B) as of May 1, the agency complies with aggregate bond limits established by rule  
2966 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2967 (ii) submit to the department, as applicable, a copy of the applicant's:

2968 (A) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

2969 (B) verified financial statement, as required under Subsection 31A-35-404(2); or

2970 (C) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

2971 (iii) pay the department the applicable renewal fee established in accordance with

2972 Section 31A-3-103.

2973 (c) A bail bond agency shall renew the bail bond agency's license under this chapter  
2974 annually as established by department rule, regardless of when the license is issued.

2975 (3) (a) A bail bond agency may apply for reinstatement of an expired bail bond agency

2976 license within one year after the day on which the license expires by complying with the



2977 renewal requirements described in Subsection (2).

2978 (b) If a bail bond agency license has been expired for more than one year, the person  
2979 applying for reinstatement of the bail bond agency license shall comply with the initial  
2980 licensing requirements described in Subsection (1).

2981 (4) If a bail bond agency license is suspended, the applicant may not submit an  
2982 application for a bail bond agency license until after the day on which the period of suspension  
2983 ends.

2984 (5) The department shall deposit a fee collected under this section in the restricted  
2985 account created in Section 31A-35-407.

2986 Section 28. Section **31A-37-202** is amended to read:

2987 **31A-37-202. Permissive areas of insurance.**

2988 (1) Except as provided in Subsections (2) and (3), a captive insurance company may  
2989 not directly insure a risk other than the risk of the captive insurance company's parent or  
2990 affiliated company.

2991 (2) In addition to the risks described in Subsection (1), an association captive insurance  
2992 company may insure the risk of:

2993 (a) a member organization of the association captive insurance company's association;  
2994 or

2995 (b) an affiliate of a member organization of the association captive insurance  
2996 company's association.

2997 (3) The following may insure a risk of a controlled unaffiliated business:

2998 (a) an industrial insured captive insurance company;

2999 (b) a protected cell;

3000 (c) a pure captive insurance company; or

3001 (d) a sponsored captive insurance company.

3002 (4) To the extent allowed by a captive insurance company's organizational charter, a  
3003 captive insurance company may provide any type of insurance described in this title, except:

3004 (a) workers' compensation insurance;

3005 (b) personal motor vehicle insurance;

3006 (c) homeowners' insurance; and

3007 (d) any component of the types of insurance described in Subsections (4)(a) through

3008 (c).

3009 (5) A captive insurance company may not provide coverage for:

3010 (a) a wager or gaming risk;

3011 (b) loss of an election; or

3012 (c) the penal consequences of a crime.

3013 (6) Unless the punitive damages award arises out of a criminal act of an insured, a  
3014 captive insurance company may provide coverage for punitive damages awarded, including  
3015 through adjudication or compromise, against the captive insurance company's:

3016 (a) parent; or

3017 (b) affiliated company.

3018 (7) Notwithstanding Subsection (4), if approved by the commissioner[-];

3019 (a) a captive insurance company may insure as a reimbursement a limited layer or  
3020 deductible of workers' compensation coverage[-]; and

3021 (b) an association captive insurance company that satisfies the requirements of this  
3022 chapter may provide homeowners' insurance.

3023 Section 29. **Effective date.**

3024 This bill takes effect on May 1, 2024.