

Insurance Investment Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

LONG TITLE**General Description:**

This bill repeals and reenacts provisions relating to insurance investments.

Highlighted Provisions:

This bill:

- ▶ repeals the existing chapter dealing with insurance investments;
- ▶ defines terms;
- ▶ establishes a minimum financial security benchmark for insurers;
- ▶ describes the authorized investments an insurer may make;
- ▶ establishes prudence evaluation criteria;
- ▶ requires that an insurer establish and follow a written investment policy;
- ▶ describes the authorized classes of investments an insurer may make;
- ▶ establishes the limitation of classes of investments;
- ▶ requires that an insurer doing business in different currencies have securities in each
currency that meet the requirements of this chapter;
- ▶ prohibits an insurer from making certain types of investments;
- ▶ establishes the effect of investment restrictions on insurers;
- ▶ provides insurers guidelines for the required reports and replies under this chapter;
- ▶ authorizes the commissioner to retain experts when analyzing an insurer's investments;
- ▶ authorizes the commissioner to issue orders regarding an insurer's investment practices;
- ▶ describes how a commissioner should conduct an administrative hearing under this
chapter;
- ▶ exempts the investment policy subject to this chapter from the definition of "record"
under the Government Records Access and Management Act;
- ▶ provides the circumstances under which this chapter prevails over any conflicting statute
that relates to insurance investments; and
- ▶ grants the commissioner rulemaking authority regarding insurance investments.

Money Appropriated in this Bill:

None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **63G-2-103**, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522

37 ENACTS:

38 **31A-18-109**, Utah Code Annotated 195339 **31A-18-111**, Utah Code Annotated 195340 **31A-18-112**, Utah Code Annotated 195341 **31A-18-113**, Utah Code Annotated 195342 **31A-18-114**, Utah Code Annotated 195343 **31A-18-115**, Utah Code Annotated 195344 **31A-18-116**, Utah Code Annotated 195345 **31A-18-117**, Utah Code Annotated 195346 **31A-18-118**, Utah Code Annotated 1953

47 REPEALS AND REENACTS:

48 **31A-18-101**, as last amended by Laws of Utah 2008, Chapter 25749 **31A-18-102**, as enacted by Laws of Utah 1985, Chapter 24250 **31A-18-103**, as enacted by Laws of Utah 1985, Chapter 24251 **31A-18-105**, as last amended by Laws of Utah 2008, Chapter 25752 **31A-18-106**, as last amended by Laws of Utah 2011, Chapter 29753 **31A-18-107**, as enacted by Laws of Utah 1985, Chapter 24254 **31A-18-108**, as last amended by Laws of Utah 1999, Chapter 13155 **31A-18-110**, as enacted by Laws of Utah 1985, Chapter 242

56

57 *Be it enacted by the Legislature of the state of Utah:*58 Section 1. Section **31A-18-101** is repealed and reenacted to read:

59

Part 1. Investments60 **31A-18-101 . Definitions.**61 As used in this chapter:

62 (1) "Derivative instrument" means an asset appropriately reported in Schedule DB or a
 63 Schedule DC of an insurer's statutory financial statement or successor schedules, in
 64 accordance with applicable annual statement instructions or statutory accounting

- 65 guidelines.
- 66 (2) "Derivative transaction" means a transaction involving the use of one or more derivative
67 instruments.
- 68 (3) "Income generation" means a derivative transaction involving the writing of covered
69 options, caps, or floors that is intended to generate income or enhance return.
- 70 (4) "Lower grade investment" means a rated credit instrument or debt-like preferred stock
71 rated 4, 5, or 6 by the Securities Valuation Office of the NAIC or any successor office.
- 72 (5) "Medium grade investment" means a rated credit instrument or debt-like preferred stock
73 rated 3 by the Securities Valuation Office of the NAIC or any successor office.
- 74 (6) "Minimum asset requirement" means the sum of an insurer's liabilities and the insurer's
75 minimum financial security benchmark.
- 76 (7) "Minimum financial security benchmark" means the amount of financial security an
77 insurer is required to have under Section 31A-18-102.
- 78 (8) "Modern Portfolio Theory" means a mathematical framework for assembling a portfolio
79 of assets to maximize the expected return for a given level of risk, taking into
80 consideration a portfolio's overall risk and return.
- 81 (9) "NAIC" means the National Association of Insurance Commissioners.
- 82 (10) "Replication" means a derivative transaction in which at least one derivative
83 instrument is used to modify the cash flow characteristics of one or more investments
84 held by an insurer so that the aggregate cash flow of the derivative instruments and
85 investments reproduce the cash flow of another investment that has a higher risk-based
86 capital charge than the risk-based capital charge of the original investment or
87 investments.
- 88 (11) "Securities valuation office listed mutual fund" means a money market mutual fund or
89 short-term bond fund that:
- 90 (a) is registered with the United States Securities and Exchange Commission under the
91 Investment Company Act of 1940; and
- 92 (b) the NAIC's Securities Valuation Office deems eligible for special reserve and
93 reporting treatment other than as common stock.
- 94 Section 2. Section **31A-18-102** is repealed and reenacted to read:
- 95 **31A-18-102 . Minimum financial security benchmark.**
- 96 (1) Except as provided in Subsections (2) and (3), the commissioner shall set a minimum
97 financial security benchmark for an insurer that is the greater of:
- 98 (a) the authorized control level risk-based capital applicable to the insurer as set forth in

- 99 Sections 31A-17-601 through 31A-17-613; or
- 100 (b) the minimum capital or minimum surplus required by statute or regulation for
- 101 maintenance of an insurer's certificate of authority.
- 102 (2) If an insurer falls below three and one-half times the authorized control level risk capital
- 103 applicable to the insurer, the commissioner may issue an order, in accordance with the
- 104 factors described in Subsection (5)(b), specifying a minimum financial security
- 105 benchmark to apply to the insurer provided the financial security benchmark is at least
- 106 the applicable amount described in Subsection (1).
- 107 (3) The commissioner may establish by rule a minimum financial security benchmark that
- 108 is a multiple of authorized control level risk-based capital to apply to any class of
- 109 insurers provided the amount established by the regulation is at least the greater of the
- 110 applicable amount described in Subsection (1).
- 111 (4) The commissioner, when setting an insurer's minimum financial security benchmark as
- 112 described in Subsection (1), shall set the minimum financial security benchmark at an
- 113 amount that will provide reasonable security against contingencies affecting the insurer's
- 114 financial position that are not fully covered by reserves or by reinsurance.
- 115 (5) In setting an insurer's minimum financial security benchmark as described in Subsection
- 116 (1), the commissioner shall consider:
- 117 (a) the risks of:
- 118 (i) increases in the frequency or severity of losses beyond the levels contemplated by
- 119 the rates charged;
- 120 (ii) increases in expenses beyond those contemplated by the rates charged;
- 121 (iii) decreases in the value of or the return on invested assets below the expected
- 122 values or returns in the insurer's investment plan;
- 123 (iv) changes in economic conditions that would modify the insurer's assessment of
- 124 the need for liquidity and force untimely sale of assets or prevent timely
- 125 investments;
- 126 (v) currency devaluation to which the insurer may be subject; and
- 127 (vi) any other contingencies the commissioner identifies that may affect the insurer's
- 128 operations; and
- 129 (b) the following factors:
- 130 (i) the most reliable information available regarding the magnitude of the risks
- 131 described in Subsection (5)(a);
- 132 (ii) the extent to which the risks in Subsection (5)(a) are related and whether any

- 133 dependency is direct or inverse;
134 (iii) the insurer's recent history of profits or losses;
135 (iv) the extent of the insurer's protections against the contingencies in other ways than
136 the establishment of surplus, including:
137 (A) redundancy of premiums;
138 (B) adjustability of contracts under the insurer's terms;
139 (C) investment valuation reserves, whether voluntary or mandatory;
140 (D) appropriate reinsurance;
141 (E) the use of conservative actuarial assumptions to provide a margin of security;
142 (F) reserve adjustments in recognition of previous rate inadequacies;
143 (G) contingency or catastrophe reserves;
144 (H) diversification of assets; and
145 (I) underwriting risks;
146 (v) independent judgment of the soundness of the insurer's operations, as evidenced
147 by the ratings of reliable professional financial reporting services; and
148 (vi) any other factors the commissioner deems relevant.

149 Section 3. Section **31A-18-103** is repealed and reenacted to read:

150 **31A-18-103 . Authorized investments.**

- 151 (1) Subject to the provisions of this chapter, an insurer may, to the same extent as any other
152 person under the laws of this state and the United States:
153 (a) loan or invest the insurer's funds; and
154 (b) buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and
155 deal with the insurer's investments, property, and other assets.
156 (2) The board of directors, in handling an insurer's investments, shall:
157 (a) exercise the judgment and care of a reasonable person in the management of a similar
158 enterprise, not in the context of speculating, but in the context of the permanent
159 disposition of the insurer's funds;
160 (b) consider the probable income of an investment as well as the probable security of the
161 insurer's capital;
162 (c) ensure the insurer's investments are of sufficient value, liquidity, and diversity for the
163 insurer to meet the insurer's outstanding obligations based on reasonable assumptions
164 regarding new business production for the insurer's current lines of business; and
165 (d) consider the prudence evaluation criteria described in Section 31A-18-105.
166 (3) An insurer shall establish and implement internal controls and procedures that ensure:

- 167 (a) compliance with the insurer's investment policies;
168 (b) the insurer's investment staff and any consultant the insurer uses are reputable and
169 capable;
170 (c) a periodic evaluation and monitoring process occurs for assessing the effectiveness
171 of investment policy and strategies;
172 (d) the insurer's management's performance is assessed based on the stated objectives
173 within the investment policy;
174 (e) the insurer undertakes appropriate analyses of the degree to which asset cash flows
175 adequately meet liability cash flows under different economic environments; and
176 (f) the insurer conducts the analyses described in Subsection (3)(e) at least annually and
177 makes specific reference to economic conditions.

178 Section 4. Section **31A-18-105** is repealed and reenacted to read:

179 **31A-18-105 . Prudence evaluation criteria.**

- 180 (1) An insurer shall consider the following factors to determine whether an investment
181 portfolio or investment policy is prudent:
182 (a) general economic conditions;
183 (b) the possible effect of inflation or deflation;
184 (c) the expected tax consequences of investment decisions or strategies;
185 (d) the fairness or reasonableness of the terms of an investment considering the
186 investment's:
187 (i) probable risk and reward characteristics; and
188 (ii) relationship to the investment portfolio as a whole;
189 (e) the extent of the diversification of the insurer's investments among:
190 (i) individual investments;
191 (ii) classes of investments;
192 (iii) industry concentrations;
193 (iv) dates of maturity; and
194 (v) geographic areas;
195 (f) the quality and liquidity of investments in the insurer's affiliates;
196 (g) the investment exposure to:
197 (i) liquidity risk;
198 (ii) credit and default risk;
199 (iii) systemic risk;
200 (iv) interest rate risk;

- 201 (v) call, prepayment, and extension risk;
202 (vi) exchange rate risk; and
203 (vii) foreign sovereign risk;
204 (h) the amount of the insurer's:
205 (i) assets;
206 (ii) capital and surplus;
207 (iii) premium writings;
208 (iv) insurance in force; and
209 (v) other appropriate characteristics;
210 (i) the insurer's reported liabilities;
211 (j) the matching of the expected cash flows of the insurer's assets and liabilities;
212 (k) the risk of adverse changes in the insurer's assets and liabilities; and
213 (l) the adequacy of the insurer's capital and surplus to secure the risks and liabilities of
214 the insurer.
215 (2) The commissioner shall consider the factors described in Subsection (1) prior to making
216 a determination that an insurer's investment portfolio or investment policy is not prudent.
217 Section 5. Section **31A-18-106** is repealed and reenacted to read:
218 **31A-18-106 . Insurer investment policy.**
219 (1) An insurer shall establish and follow a written investment policy for exchanging,
220 holding, selling, or managing an investment.
221 (2) An insurer's board of directors shall review the written investment policy described in
222 Subsection (1) at least once annually.
223 (3) The insurer shall include, in the written investment policy described in Subsection (1),
224 at least the following:
225 (a) policies, procedures, and controls covering all aspects of the investing functions;
226 (b) quantified goals and objectives regarding the composition of classes of investments,
227 including maximum internal limits;
228 (c) a method for periodic evaluation of the investment portfolio regarding the investment
229 portfolio's risk and reward characteristics;
230 (d) professional standards for the individuals making day-to-day investment decisions to
231 ensure that those individuals make those decisions in an ethical and capable manner;
232 (e) the types of investments an insurer will make and avoid, based on:
233 (i) the investments' risk and reward characteristics; and
234 (ii) the insurer's level of experience with the investments;

- 235 (f) the relationship of classes of investments to the insurer's insurance products and
236 liabilities;
- 237 (g) the manner in which the insurer intends to implement the prudence evaluation
238 criteria described in Section 31A-18-105; and
- 239 (h) the level of risk appropriate for the insurer given the level of capitalization and
240 expertise available to the insurer.
- 241 (4) Nothing in this section precludes an insurer from the use of modern portfolio theory to
242 manage the insurer's investments.

243 Section 6. Section **31A-18-107** is repealed and reenacted to read:

244 **31A-18-107 . Protection against currency fluctuations.**

- 245 (1) An insurer that, in the ordinary course of business, makes payments in more than one
246 currency shall have an investment in securities:
- 247 (a) in each of the currencies with which the insurer makes payments; and
- 248 (b) in an amount that, independent of all other investments, meets the requirements of
249 this chapter as applied separately to the insurer's obligation in each currency.
- 250 (2) The commissioner may exempt an insurer, or a class of insurers, from the requirement
251 described in Subsection (1), if the commissioner determines the obligations an insurer or
252 class of insurers maintains in other currencies are small enough that there is not a
253 significant risk to the financial security of the insurer or the class of insurers from
254 substantial fluctuation in relative currency values.

255 Section 7. Section **31A-18-108** is repealed and reenacted to read:

256 **31A-18-108 . Prohibited investments.**

- 257
- 258 (1) An insurer may not:
- 259 (a) invest in:
- 260 (i) an investment prohibited by a department rule or statute of this state;
- 261 (ii) securities issued by a corporation if one or more of the insurer's officers or
262 directors owns, directly or indirectly, a majority of the corporation's stock with
263 voting power;
- 264 (iii) securities issued by an insolvent corporation; or
- 265 (iv) any instrument or security that the commissioner finds is designed to evade a
266 limitation or prohibition in this chapter; or
- 267 (b) use a derivative instrument for:
- 268 (i) replication; or

- 269 (ii) any purpose other than hedging or income generation.
- 270 (2) The commissioner shall allow an insurer a reasonable time, not to exceed five years, to
271 divest of prohibited investments if:
- 272 (a) the insurer demonstrates the investment was not prohibited at the time the insurer
273 made the investment;
- 274 (b) the insurer made a good faith mistake in making the investment; or
- 275 (c) the commissioner determines that the sale of the investment is contrary to the
276 interests of insureds, creditors, or the general public.

277 Section 8. Section **31A-18-109** is enacted to read:

278 **31A-18-109 . Effect of investment restrictions.**

- 279 (1)(a) An insurer may count an invested asset towards the satisfaction of the minimum
280 asset requirement only to the extent that the insurer invests the invested asset in
281 compliance with this chapter, applicable department rules, and orders issued by the
282 commissioner in compliance with this chapter.
- 283 (b) An insurer may count assets other than invested assets towards the satisfaction of the
284 minimum asset requirement at admitted annual statement value.
- 285 (2) An investment held as an admitted asset by an insurer and that qualified under this
286 chapter as an admitted asset on May 7, 2025, remains an admitted asset under this
287 chapter.
- 288 (3) For purposes of Subsection (1), an insurer may count assets that would not otherwise
289 qualify under this chapter if an insurer acquires the assets in the bona fide enforcement
290 of creditors' rights or in a bona fide workout or settlement of disputed claims for five
291 years after acquisition of the asset.

292 Section 9. Section **31A-18-110** is repealed and reenacted to read:

293 **31A-18-110 . Authorized classes of investments.**

294 An insurer may count the following classes of investments for the purposes stated
295 in Section 31A-18-109, whether the insurer makes these investments directly or as a
296 participant in a partnership, joint venture, or limited liability company:

- 297 (1) cash in the direct possession of the insurer or on deposit with a financial institution
298 regulated by a federal or state agency;
- 299 (2) a bond, debt-like preferred stock, and other evidence of indebtedness to:
- 300 (a) a government unit in the United States or Canada;
- 301 (b) an instrumentality of a government unit in the United States or Canada; or
- 302 (c) a private business entity domiciled in the United States or Canada, including

- 303 asset-backed securities and mutual funds listed by the Securities Valuation Office of
304 the NAIC;
- 305 (3) a loan secured by:
- 306 (a) a mortgage, trust deed, or other security interest in real property located in the United
307 States or Canada; or
- 308 (b) insurance against default issued by:
- 309 (i) a government insurance corporation of the United States or Canada; or
310 (ii) an insurer authorized to do business in this state;
- 311 (4)(a) common stock, equity-like preferred stock, or equity interests in any United
312 States or Canadian business entity; or
- 313 (b) a share of mutual funds registered with the Securities and Exchange Commission of
314 the United States under the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1
315 et seq., other than any mutual fund listed by the Securities Valuation Office of the
316 NAIC;
- 317 (5) real property necessary for the convenient transaction of the insurer's business;
- 318 (6) real property, including the fixtures, furniture, furnishings, and equipment pertaining to
319 the real property that:
- 320 (a) is located in the United States or Canada; and
- 321 (b) produces, or after suitable improvement can reasonably be expected to produce
322 substantial income;
- 323 (7) a loan, security, or other investment described in Subsections (1) through (6) in a
324 country other than the United States or Canada;
- 325 (8) a bond or other evidence of indebtedness to an international development organization
326 of which the United States is a member;
- 327 (9) a loan upon the security of the insurer's own policies:
- 328 (a) in an amount that is adequately secured by the policies; and
- 329 (b) that does not exceed the surrender values of the policies;
- 330 (10) tangible personal property under contract of sale or lease with a contractual payment
331 that may be reasonably expected to return the principal of, and provide earnings on, the
332 investments within the tangible personal property's anticipated useful life;
- 333 (11) a loan secured by a pledged security or evidence of debt eligible for investment under
334 this section;
- 335 (12) other investments the commissioner authorizes by rule; and
- 336 (13) for an investment not otherwise permitted by this section, and not specifically

337 prohibited by statute, the lesser of:

338 (a) excess surplus as that term is defined in Section 31A-1-301; or

339 (b) 5% of the first \$500,000,000 of the insurer's admitted assets plus 10% of the insurer's
340 admitted assets exceeding \$500,000,000.

341 Section 10. Section **31A-18-111** is enacted to read:

342 **31A-18-111 . Limitations generally applicable.**

343 (1) For purposes of determining compliance with Section 31A-18-109:

344 (a) securities of a single issuer and the single issuer's affiliates, other than the
345 government of the United States and subsidiaries authorized under Section
346 31A-16-102.5, may not exceed:

347 (i) 5% of admitted assets; or

348 (ii) 10% of admitted assets, if the securities are secured by real property and the
349 insurer demonstrates a prudent investment policy regarding the investments
350 described in Section 31A-18-105; and

351 (b) investments in the voting securities of a depository institution, or any company that
352 controls a depository institution, may not exceed 5% of the insurer's admitted assets.

353 (2) For purposes of Section 31A-18-109, the following limitations on classes of investments
354 apply:

355 (a) for an investment authorized under Subsection 31A-18-110(2), and an investment
356 authorized by Subsection 31A-18-110(7) that is a type of investment described in
357 Subsection 31A-18-110(2), the aggregate amount of:

358 (i) medium and lower grade investments may not exceed 20% of the insurer's
359 admitted assets;

360 (ii) lower grade investments may not exceed 10% of the insurer's admitted assets;

361 (iii) investments rated 5 or 6 by the Securities Valuation Office of the NAIC, may not
362 exceed 5% of the insurer's admitted assets;

363 (iv) investments rated 6 by the Securities Valuation Office of the NAIC, may not
364 exceed 1% of the insurer's admitted assets; or

365 (v) medium and lower grade investments that receive, as cash income, less than the
366 equivalent yield for Treasury issues with a comparative average life, may not
367 exceed 1% of the insurer's admitted assets;

368 (b) for an investment authorized under Subsection 31A-18-110(3):

369 (i) 50% of admitted assets, if the insurer is a life insurer; and

370 (ii) 25% of admitted assets if the insurer is a non-life insurer;

- 371 (c) for an investment authorized under Subsection 31A-18-110(4), other than
372 subsidiaries of the type authorized in Section 31A-16-102.5:
373 (i) 20% of admitted assets, if the insurer is a life insurer; and
374 (ii) 35% of admitted assets, if the insurer is a non-life insurer;
375 (d) for an investment authorized under Subsection 31A-18-110(5), 10% of admitted
376 assets;
377 (e) for an investment authorized under Subsection 31A-18-110(6):
378 (i) 20% of admitted assets, if the insurer is a life insurer; and
379 (ii) 10% of admitted assets, if the insurer is a non-life insurer;
380 (f) for an investment authorized under Subsection 31A-18-110(7), 20% of admitted
381 assets;
382 (g) for an investment authorized under Subsection 31A-18-110(8), 2% of admitted
383 assets;
384 (h) for an investment authorized under Subsection 31A-18-110(10), 2% of admitted
385 assets; and
386 (i) for an investment authorized under Subsection 31A-18-110(11), that is considered an
387 investment in a kind of security or evidence of debt pledged, the investment is subject
388 to the class limitations applicable to the pledged security or evidence of debt.
389 (3) For purposes of determining compliance with the limitations of this section, the
390 admitted portion of assets of subsidiaries under Section 31A-15-102.5 are deemed to be
391 owned directly by the insurer and any other investors in proportion to the market value,
392 or, if there is no market, the reasonable value of the investors' interest in the subsidiaries.
393 (4) To the extent an investment exceeds the limitations described in Subsections (1) and (2),
394 the insurer may assign the excess to the investment class authorized in Subsection
395 31A-18-110(13), until that limit is exhausted.
396 (5) If the commissioner determines necessary to get a proper evaluation of an insurer's
397 investment portfolio, the commissioner may require that an investment in a mutual fund,
398 pooled investment vehicle, or other investment company be treated, for purposes of this
399 chapter, as if the investor directly owned the investor's proportional share of the assets
400 owned by the mutual fund, pooled investment vehicle, or investment company.
401 (6) Unless otherwise specified, an investment limitation computed on the basis of an
402 insurer's admitted assets or capital and surplus is the amount the insurer stated on the
403 insurer's statutory balance sheet that the insurer most recently filed with the
404 commissioner.

405 Section 11. Section **31A-18-112** is enacted to read:

406 **31A-18-112 . Reports and replies.**

407 (1) The commissioner may require:

408 (a) any of the following from a person subject to regulation under this chapter:

409 (i) statements, reports, and responses to or other information gathered from
410 questionnaires issued by the commissioner;

411 (ii) evidence corroborating any statement, report, or response provided in accordance
412 with Subsection (1)(a)(i), in a form that the commissioner designates and at
413 reasonable intervals that the commissioner chooses; and

414 (iii) a full explanation of the programming of any data storage or communication
415 system that the person subject to regulation uses; and

416 (b) that a person subject to regulation under this chapter make information from any
417 book, record, electronic data processing system, computer, or any other information
418 storage system the person subject to regulation uses available to the commissioner at
419 a reasonable time and in a reasonable manner.

420 (2)(a) The commissioner may provide forms for a statement, report, or response
421 described in Subsection (1) and specify how to execute or certify the statement,
422 report, or response.

423 (b) The commissioner shall ensure that forms for a statement, report, or response
424 required by Subsection (1) are consistent, to the extent practicable, with forms
425 required by other jurisdictions.

426 (3) The commissioner may provide reasonable minimum standards and techniques of
427 accounting and data handling to ensure:

428 (a) timely and reliable information exist; and

429 (b) the commissioner's access to the information described in Subsection (3)(a).

430 (4) The following shall reply promptly, in writing or in another reasonable manner, to a
431 written inquiry from the commissioner in which the commissioner requests a reply:

432 (a) an officer of an insurer;

433 (b) a manager or general agent of an insurer subject to this chapter;

434 (c) an individual controlling or having a contract under which the person has a right to
435 control the insurer, whether exclusively or otherwise; or

436 (d) an individual with executive authority over or in charge of any segment of the
437 insurer's affairs.

438 (5) The commissioner may require that any communication made to the commissioner

439 under this section be verified.

440 (6) A person making a communication to the commissioner, or to an expert or consultant
441 retained by the commissioner, required by this chapter is not subject to damages for the
442 communication in the absence of actual malice.

443 (7) Notwithstanding Subsection (6), the commissioner may bring an action against any
444 person that provides information required under this chapter that is not truthful or
445 accurate.

446 Section 12. Section **31A-18-113** is enacted to read:

447 **31A-18-113 . Retention of experts.**

448 (1) The commissioner may retain, if the commissioner deems necessary to assist in
449 reviewing the insurer's investments, experts including:

450 (a) attorneys;

451 (b) actuaries;

452 (c) accountants; and

453 (d) investment specialists.

454 (2) The commissioner shall:

455 (a) direct and maintain control of the individuals retained under Subsection (1); and

456 (b) ensure that the individuals described in Subsection (1) operate in solely an advisory
457 capacity for the commissioner.

458 Section 13. Section **31A-18-114** is enacted to read:

459 **31A-18-114 . Commissioner's orders.**

460 (1) If the commissioner determines that an insurer's practices do not meet the provisions of
461 this chapter, the commissioner may order, after notification to the insurer of the
462 commissioner's findings, the insurer to make changes necessary to comply with the
463 provisions in this chapter.

464 (2) If the commissioner determines that due to the financial condition, current investment
465 practice, or current investment plan of an insurer, the interests of insureds, creditors, or
466 the general public are or may be endangered, the commissioner may:

467 (a) impose reasonable additional restrictions on the admissibility or valuation of
468 investments; or

469 (b) impose restrictions on the investment practices of an insurer, including prohibition or
470 divestment.

471 (3) If an insurer demonstrates that a law of a country other than the United States requires
472 the insurer to invest in an asset as a condition for doing business in that country, the

473 commissioner may count that asset towards the insurer's compliance with the minimum
474 asset requirement if the commissioner finds that counting the asset does not endanger
475 the interests of the insureds, creditors, or the general public.

476 (4)(a) If an insurer demonstrates the financial security of an insurer and the competence
477 of the insurer's management and advisor in a way that satisfies the commissioner, the
478 commissioner may issue an order, after a hearing, adjusting the limitations of classes
479 of investment described in Section 31A-18-111 for that insurer if the commissioner is
480 satisfied that the interests of the insureds, creditors, and the public are sufficiently
481 protected in other ways.

482 (b) The increase authorized by the commissioner to the amount an insurer may invest in
483 any or all asset classes may not exceed, in value, 10% of the insurer's liabilities.

484 Section 14. Section **31A-18-115** is enacted to read:

485 **31A-18-115 . Administrative hearings.**

486 An insurer may request a hearing if the insurer is directly aggrieved by the
487 commissioner issuing an order or rule or failing to comply with the provisions of this
488 chapter.

489 Section 15. Section **31A-18-116** is enacted to read:

490 **31A-18-116 . Confidentiality of information.**

491 The investment policy, or information related to the investment policy provided to
492 the commissioner for review, are not records under Title 63G, Chapter 2,
493 Government Records Access and Management Act, except as provided in Sections
494 31A-16-105 and 31A-16-107.5, Chapter 27a, Part 3, Rehabilitation, and Chapter 27a,
495 Part 4, Liquidation.

496 Section 16. Section **31A-18-117** is enacted to read:

497 **31A-18-117 . Conflicts of laws and other standards.**

498 (1) Except as provided in Subsection (2), the provisions of this chapter apply if there is a
499 conflict between this chapter and another provision of state statute.

500 (2) Chapter 16, Insurance Holding Companies, purporting to authorize an insurer to make a
501 particular investment, supersedes this chapter.

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

505 Section 17. Section **31A-18-118** is enacted to read:

506 **31A-18-118 . Rules.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
508 the commissioner may make rules interpreting and implementing the provisions of this
509 chapter.

510 Section 18. Section **63G-2-103** is amended to read:

511 **63G-2-103 . Definitions.**

512 As used in this chapter:

513 (1) "Audit" means:

514 (a) a systematic examination of financial, management, program, and related records for
515 the purpose of determining the fair presentation of financial statements, adequacy of
516 internal controls, or compliance with laws and regulations; or

517 (b) a systematic examination of program procedures and operations for the purpose of
518 determining their effectiveness, economy, efficiency, and compliance with statutes
519 and regulations.

520 (2) "Chronological logs" mean the regular and customary summary records of law
521 enforcement agencies and other public safety agencies that show:

522 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
523 and

524 (b) any arrests or jail bookings made by the agency.

525 (3) "Classification," "classify," and their derivative forms mean determining whether a
526 record series, record, or information within a record is public, private, controlled,
527 protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

528 (4)(a) "Computer program" means:

529 (i) a series of instructions or statements that permit the functioning of a computer
530 system in a manner designed to provide storage, retrieval, and manipulation of
531 data from the computer system; and

532 (ii) any associated documentation and source material that explain how to operate the
533 computer program.

534 (b) "Computer program" does not mean:

535 (i) the original data, including numbers, text, voice, graphics, and images;

536 (ii) analysis, compilation, and other manipulated forms of the original data produced
537 by use of the program; or

538 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
539 algorithms contained in the program, that would be used if the manipulated forms
540 of the original data were to be produced manually.

- 541 (5)(a) "Contractor" means:
- 542 (i) any person who contracts with a governmental entity to provide goods or services
- 543 directly to a governmental entity; or
- 544 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 545 (b) "Contractor" does not mean a private provider.
- 546 (6) "Controlled record" means a record containing data on individuals that is controlled as
- 547 provided by Section 63G-2-304.
- 548 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
- 549 governmental entity's familiarity with a record series or based on a governmental entity's
- 550 review of a reasonable sample of a record series, the primary classification that a
- 551 majority of records in a record series would be given if classified and the classification
- 552 that other records typically present in the record series would be given if classified.
- 553 (8) "Elected official" means each person elected to a state office, county office, municipal
- 554 office, school board or school district office, special district office, or special service
- 555 district office, but does not include judges.
- 556 (9) "Explosive" means a chemical compound, device, or mixture:
- 557 (a) commonly used or intended for the purpose of producing an explosion; and
- 558 (b) that contains oxidizing or combustive units or other ingredients in proportions,
- 559 quantities, or packing so that:
- 560 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
- 561 compound or mixture may cause a sudden generation of highly heated gases; and
- 562 (ii) the resultant gaseous pressures are capable of:
- 563 (A) producing destructive effects on contiguous objects; or
- 564 (B) causing death or serious bodily injury.
- 565 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 566 (11)(a) "Governmental entity" means:
- 567 (i) executive department agencies of the state, the offices of the governor, lieutenant
- 568 governor, state auditor, attorney general, and state treasurer, the Board of Pardons
- 569 and Parole, the Board of Examiners, the National Guard, the Career Service
- 570 Review Office, the State Board of Education, the Utah Board of Higher
- 571 Education, and the State Archives;
- 572 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
- 573 Analyst, Office of Legislative Research and General Counsel, the Legislature, and
- 574 legislative committees, except any political party, group, caucus, or rules or sifting

- 575 committee of the Legislature;
- 576 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
577 administrative units in the judicial branch;
- 578 (iv) any state-funded institution of higher education or public education; or
- 579 (v) any political subdivision of the state, but, if a political subdivision has adopted an
580 ordinance or a policy relating to information practices pursuant to Section
581 63G-2-701, this chapter shall apply to the political subdivision to the extent
582 specified in Section 63G-2-701 or as specified in any other section of this chapter
583 that specifically refers to political subdivisions.
- 584 (b) "Governmental entity" also means:
- 585 (i) every office, agency, board, bureau, committee, department, advisory board, or
586 commission of an entity listed in Subsection (11)(a) that is funded or established
587 by the government to carry out the public's business;
- 588 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
589 undertaking, except for the Water District Water Development Council created
590 pursuant to Section 11-13-228;
- 591 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 592 (iv) an association as defined in Section 53G-7-1101;
- 593 (v) the Utah Independent Redistricting Commission; and
- 594 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
595 more law enforcement officers, as defined in Section 53-13-103.
- 596 (c) "Governmental entity" does not include the Utah Educational Savings Plan created in
597 Section 53B-8a-103.
- 598 (12) "Gross compensation" means every form of remuneration payable for a given period to
599 an individual for services provided including salaries, commissions, vacation pay,
600 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and
601 any similar benefit received from the individual's employer.
- 602 (13) "Individual" means a human being.
- 603 (14)(a) "Initial contact report" means an initial written or recorded report, however
604 titled, prepared by peace officers engaged in public patrol or response duties
605 describing official actions initially taken in response to either a public complaint
606 about or the discovery of an apparent violation of law, which report may describe:
- 607 (i) the date, time, location, and nature of the complaint, the incident, or offense;
- 608 (ii) names of victims;

- 609 (iii) the nature or general scope of the agency's initial actions taken in response to the
610 incident;
- 611 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- 612 (v) the name, address, and other identifying information about any person arrested or
613 charged in connection with the incident; or
- 614 (vi) the identity of the public safety personnel, except undercover personnel, or
615 prosecuting attorney involved in responding to the initial incident.
- 616 (b) Initial contact reports do not include follow-up or investigative reports prepared after
617 the initial contact report. However, if the information specified in Subsection (14)(a)
618 appears in follow-up or investigative reports, it may only be treated confidentially if
619 it is private, controlled, protected, or exempt from disclosure under Subsection
620 63G-2-201(3)(b).
- 621 (c) Initial contact reports do not include accident reports, as that term is described in
622 Title 41, Chapter 6a, Part 4, Accident Responsibilities.
- 623 (15) "Legislative body" means the Legislature.
- 624 (16) "Notice of compliance" means a statement confirming that a governmental entity has
625 complied with an order of the State Records Committee.
- 626 (17) "Person" means:
- 627 (a) an individual;
- 628 (b) a nonprofit or profit corporation;
- 629 (c) a partnership;
- 630 (d) a sole proprietorship;
- 631 (e) other type of business organization; or
- 632 (f) any combination acting in concert with one another.
- 633 (18) "Personal identifying information" means the same as that term is defined in Section
634 63A-12-100.5.
- 635 (19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.
- 636 (20) "Private provider" means any person who contracts with a governmental entity to
637 provide services directly to the public.
- 638 (21) "Private record" means a record containing data on individuals that is private as
639 provided by Section 63G-2-302.
- 640 (22) "Protected record" means a record that is classified protected as provided by Section
641 63G-2-305.
- 642 (23) "Public record" means a record that is not private, controlled, or protected and that is

- 643 not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
- 644 (24) "Reasonable search" means a search that is:
- 645 (a) reasonable in scope and intensity; and
- 646 (b) not unreasonably burdensome for the government entity.
- 647 (25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
- 648 card, tape, recording, electronic data, or other documentary material regardless of
- 649 physical form or characteristics:
- 650 (i) that is prepared, owned, received, or retained by a governmental entity or political
- 651 subdivision; and
- 652 (ii) where all of the information in the original is reproducible by photocopy or other
- 653 mechanical or electronic means.
- 654 (b) "Record" does not include:
- 655 (i) a personal note or personal communication prepared or received by an employee
- 656 or officer of a governmental entity:
- 657 (A) in a capacity other than the employee's or officer's governmental capacity; or
- 658 (B) that is unrelated to the conduct of the public's business;
- 659 (ii) a temporary draft or similar material prepared for the originator's personal use or
- 660 prepared by the originator for the personal use of an individual for whom the
- 661 originator is working;
- 662 (iii) material that is legally owned by an individual in the individual's private capacity;
- 663 (iv) material to which access is limited by the laws of copyright or patent unless the
- 664 copyright or patent is owned by a governmental entity or political subdivision;
- 665 (v) proprietary software;
- 666 (vi) junk mail or a commercial publication received by a governmental entity or an
- 667 official or employee of a governmental entity;
- 668 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
- 669 of a library open to the public;
- 670 (viii) material that is cataloged, indexed, or inventoried and contained in the
- 671 collections of a library open to the public, regardless of physical form or
- 672 characteristics of the material;
- 673 (ix) a daily calendar ;
- 674 (x) a note prepared by the originator for the originator's own use or for the sole use of
- 675 an individual for whom the originator is working;
- 676 (xi) a computer program that is developed or purchased by or for any governmental

- 677 entity for its own use;
- 678 (xii) a note or internal memorandum prepared as part of the deliberative process by:
- 679 (A) a member of the judiciary;
- 680 (B) an administrative law judge;
- 681 (C) a member of the Board of Pardons and Parole; or
- 682 (D) a member of any other body, other than an association or appeals panel as
- 683 defined in Section 53G-7-1101, charged by law with performing a
- 684 quasi-judicial function;
- 685 (xiii) a telephone number or similar code used to access a mobile communication
- 686 device that is used by an employee or officer of a governmental entity, provided
- 687 that the employee or officer of the governmental entity has designated at least one
- 688 business telephone number that is a public record as provided in Section
- 689 63G-2-301;
- 690 (xiv) information provided by the Public Employees' Benefit and Insurance Program,
- 691 created in Section 49-20-103, to a county to enable the county to calculate the
- 692 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- 693 (xv) information that an owner of unimproved property provides to a local entity as
- 694 provided in Section 11-42-205;
- 695 (xvi) a video or audio recording of an interview, or a transcript of the video or audio
- 696 recording, that is conducted at a Children's Justice Center established under
- 697 Section 67-5b-102;
- 698 (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- 699 (xviii) before final disposition of an ethics complaint occurs, a video or audio
- 700 recording of the closed portion of a meeting or hearing of:
- 701 (A) a Senate or House Ethics Committee;
- 702 (B) the Independent Legislative Ethics Commission;
- 703 (C) the Independent Executive Branch Ethics Commission, created in Section
- 704 63A-14-202; or
- 705 (D) the Political Subdivisions Ethics Review Commission established in Section
- 706 63A-15-201;
- 707 (xix) confidential communication described in Section 58-60-102, 58-61-102, or
- 708 58-61-702;
- 709 (xx) any item described in Subsection (25)(a) that is:
- 710 (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

- 711 (B) shared between any of the following entities:
- 712 (I) the Division of Risk Management;
- 713 (II) the Office of the Attorney General;
- 714 (III) the governor's office; or
- 715 (IV) the Legislature;[-øø]
- 716 (xxi) the email address that a candidate for elective office provides to a filing officer
- 717 under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv)[-] ; or
- 718 (xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an
- 719 investment policy, or information related to an investment policy, provided to the
- 720 insurance commissioner as described in Title 31A, Chapter 18, Investments.
- 721 (26) "Record series" means a group of records that may be treated as a unit for purposes of
- 722 designation, description, management, or disposition.
- 723 (27) "Records officer" means the individual appointed by the chief administrative officer of
- 724 each governmental entity, or the political subdivision to work with state archives in the
- 725 care, maintenance, scheduling, designation, classification, disposal, and preservation of
- 726 records.
- 727 (28) "Schedule," "scheduling," and their derivative forms mean the process of specifying
- 728 the length of time each record series should be retained by a governmental entity for
- 729 administrative, legal, fiscal, or historical purposes and when each record series should be
- 730 transferred to the state archives or destroyed.
- 731 (29) "Sponsored research" means research, training, and other sponsored activities as
- 732 defined by the federal Executive Office of the President, Office of Management and
- 733 Budget:
- 734 (a) conducted:
- 735 (i) by an institution within the state system of higher education defined in Section
- 736 53B-1-102; and
- 737 (ii) through an office responsible for sponsored projects or programs; and
- 738 (b) funded or otherwise supported by an external:
- 739 (i) person that is not created or controlled by the institution within the state system of
- 740 higher education; or
- 741 (ii) federal, state, or local governmental entity.
- 742 (30) "State archives" means the Division of Archives and Records Service created in
- 743 Section 63A-12-101.
- 744 (31) "State archivist" means the director of the state archives.

745 (32) "State Records Committee" means the State Records Committee created in Section
746 63G-2-501.

747 (33) "Summary data" means statistical records and compilations that contain data derived
748 from private, controlled, or protected information but that do not disclose private,
749 controlled, or protected information.

750 Section 19. **Effective date.**

751 This bill takes effect on May 7, 2025.