

Chapter 23a
Insurance Marketing - Licensing Producers,
Consultants, and Reinsurance Intermediaries

Part 1
General Provisions

31A-23a-101 Purposes.

The purposes of this chapter include:

- (1) promoting the professional competence of insurance producers, surplus lines producers, limited line producers, consultants, managing general agents, and reinsurance intermediaries;
- (2) providing maximum freedom of marketing methods for insurance, consistent with the interests of the Utah public;
- (3) preserving and encouraging competition at the consumer level;
- (4) regulating insurance marketing practices in conformity with the general purposes of this title;
- (5) governing the qualifications and procedures for the licensing of insurance producers, surplus lines producers, limited line producers, consultants, managing general agents, and reinsurance intermediaries; and
- (6) promoting uniform licensing requirements between the several states.

Amended by Chapter 253, 2012 General Session

31A-23a-102 Definitions.

As used in this chapter:

- (1) "Bail bond producer" is as defined in Section 31A-35-102.
- (2) "Designated home state" means the state or territory of the United States or the District of Columbia:
 - (a) in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee does not maintain the licensee's principal:
 - (i) place of residence; or
 - (ii) place of business;
 - (b) if the resident state, territory, or District of Columbia of the licensee does not license for the line of authority sought, the licensee has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:
 - (i) examination requirement;
 - (ii) fingerprint background check requirement; and
 - (iii) continuing education requirement; and
 - (c) if the licensee has designated the state, territory, or District of Columbia as the designated home state.
- (3) "DOD civilian" means the same as that term is defined in Section 53B-8-102.
- (4) "Home state" means:
 - (a) a state or territory of the United States or the District of Columbia in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee:
 - (i) maintains the licensee's principal:
 - (A) place of residence; or

- (B) place of business; and
- (ii) is licensed to act as a resident licensee; or
- (b) if the resident state, territory, or the District of Columbia described in Subsection (4)(a) does not license for the line of authority sought, a state, territory, or the District of Columbia:
 - (i) in which the licensee is licensed;
 - (ii) in which the licensee is in good standing; and
 - (iii) that the licensee has designated as the licensee's designated home state.
- (5) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:
 - (a) a risk retention group as defined in:
 - (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;
 - (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and
 - (iii) Chapter 15, Part 2, Risk Retention Groups Act;
 - (b) a residual market pool;
 - (c) a joint underwriting authority or association; and
 - (d) a captive insurer.
- (6) "License" is defined in Section 31A-1-301.
- (7)
 - (a) "Managing general agent" means a person that:
 - (i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;
 - (ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;
 - (iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:
 - (A) with or without the authority;
 - (B) separately or together with an affiliate; and
 - (C) directly or indirectly; and
 - (iv)
 - (A) adjusts or pays claims in excess of an amount determined by the commissioner; or
 - (B) negotiates reinsurance on behalf of the insurer.
 - (b) Notwithstanding Subsection (7)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:
 - (i) an employee of the insurer;
 - (ii) a United States manager of the United States branch of an alien insurer;
 - (iii) an underwriting manager that, pursuant to contract:
 - (A) manages all the insurance operations of the insurer;
 - (B) is under common control with the insurer;
 - (C) is subject to Chapter 16, Insurance Holding Companies; and
 - (D) is not compensated based on the volume of premiums written; and
 - (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.
- (8) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:
 - (a) sells insurance; or
 - (b) obtains insurance from insurers for purchasers.

- (9) "Reinsurance intermediary" means:
 - (a) a reinsurance intermediary-broker; or
 - (b) a reinsurance intermediary-manager.
- (10) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.
- (11)
 - (a) "Reinsurance intermediary-manager" means a person who:
 - (i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and
 - (ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.
 - (b) Notwithstanding Subsection (11)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:
 - (i) an employee of the reinsurer;
 - (ii) a United States manager of the United States branch of an alien reinsurer;
 - (iii) an underwriting manager that, pursuant to contract:
 - (A) manages all the reinsurance operations of the reinsurer;
 - (B) is under common control with the reinsurer;
 - (C) is subject to Chapter 16, Insurance Holding Companies; and
 - (D) is not compensated based on the volume of premiums written; and
 - (iv) the manager of a group, association, pool, or organization of insurers that:
 - (A) engage in joint underwriting or joint reinsurance; and
 - (B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.
- (12) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (13) "Sell" means to exchange a contract of insurance:
 - (a) by any means;
 - (b) for money or its equivalent; and
 - (c) on behalf of an insurance company.
- (14) "Solicit" means:
 - (a) attempting to sell insurance;
 - (b) asking or urging a person to apply for:
 - (i) a particular kind of insurance; and
 - (ii) insurance from a particular insurance company;
 - (c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or
 - (d) holding oneself out as being in the insurance business.
- (15) "Terminate" means:
 - (a) the cancellation of the relationship between:
 - (i) an individual licensee or agency licensee and a particular insurer; or
 - (ii) an individual licensee and a particular agency licensee; or
 - (b) the termination of:
 - (i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or

- (ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.
- (16) "Title examination" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.
- (17) "Title marketing representative" means a person who:
 - (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:
 - (i) title insurance; or
 - (ii) escrow services; and
 - (b) does not have a title examination or escrow license as provided in Section 31A-23a-106.
- (18) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.
- (19) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Amended by Chapter 438, 2025 General Session

31A-23a-103 Requirement of license.

- (1)
 - (a) Unless exempted from the licensing requirement under Section 31A-23a-201 or 31A-23a-207, a person may not perform, offer to perform, or advertise any service as a producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary in Utah, without a valid individual or agency license issued under this chapter.
 - (b) A valid license includes at least one license type and one line of authority pertaining to that license type.
 - (c) A person may not utilize the services of another as a producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary if that person knows or should know that the other does not have a license as required by law.
- (2) This part may not be construed to require an insurer to obtain an insurance producer license.
- (3) An insurance contract is not invalid as a result of a violation of this section.

Amended by Chapter 253, 2012 General Session

31A-23a-104 Application for individual license -- Application for agency license.

- (1) This section applies to an initial or renewal license as a:
 - (a) producer;
 - (b) surplus lines producer;
 - (c) limited line producer;
 - (d) consultant;
 - (e) managing general agent; or
 - (f) reinsurance intermediary.
- (2)
 - (a) Subject to Subsection (2)(b), to obtain or renew an individual license, an individual shall:
 - (i) file an application for an initial or renewal individual license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) except as provided in Subsection (6), pay a license fee that is not refunded if the application:

- (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
- (b) An application described in this Subsection (2) shall provide:
- (i) information about the applicant's identity;
 - (ii) the applicant's Social Security number;
 - (iii) the applicant's personal history, experience, education, and business record;
 - (iv) whether the applicant is 18 years old or older;
 - (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111;
 - (vi) if the application is for a resident individual producer license, certification that the applicant complies with Section 31A-23a-203.5; and
 - (vii) any other information the commissioner reasonably requires.
- (3) The commissioner may require a document reasonably necessary to verify the information contained in an application filed under this section.
- (4) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.
- (5)
- (a) Subject to Subsection (5)(b), to obtain or renew an agency license, a person shall:
 - (i) file an application for an initial or renewal agency license with the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) pay a license fee that is not refunded if the application:
 - (A) is denied; or
 - (B) is incomplete when filed and is never completed by the applicant.
 - (b) An application described in Subsection (5)(a) shall provide:
 - (i) information about the applicant's identity;
 - (ii) the applicant's federal employer identification number;
 - (iii) the designated responsible licensed individual;
 - (iv) the identity of the owners, partners, officers, and directors;
 - (v) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and
 - (vi) any other information the commissioner reasonably requires.
- (6) The following individuals are exempt from paying a license fee:
- (a) an individual serving in the armed forces of the United States while the individual is stationed within this state, if:
 - (i) the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
 - (ii) the license is current and the individual is in good standing in the state or jurisdiction of licensure; and
 - (b) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:
 - (i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
 - (ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Amended by Chapter 438, 2025 General Session

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

- (1)
 - (a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:
 - (i) a producer;
 - (ii) a surplus lines producer;
 - (iii) a limited line producer;
 - (iv) a consultant;
 - (v) a managing general agent; or
 - (vi) a reinsurance intermediary.
 - (b) The commissioner shall issue or renew a license described in Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:
 - (i) satisfies the application requirements under Section 31A-23a-104;
 - (ii) satisfies the character requirements under Section 31A-23a-107;
 - (iii) satisfies applicable continuing education requirements under Section 31A-23a-202;
 - (iv) satisfies applicable examination requirements under Section 31A-23a-108;
 - (v) satisfies applicable training period requirements under Section 31A-23a-203;
 - (vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:
 - (A) is in compliance with Section 31A-23a-203.5; and
 - (B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;
 - (vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;
 - (viii) if a nonresident:
 - (A) complies with Section 31A-23a-109; and
 - (B) holds an active similar license in that person's home state;
 - (ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;
 - (x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and
 - (xi) pays the applicable fees under Section 31A-3-103.
- (2)
 - (a) This Subsection (2) applies to the following persons:
 - (i) an applicant for a pending:
 - (A) individual or agency producer license;
 - (B) surplus lines producer license;
 - (C) limited line producer license;
 - (D) consultant license;
 - (E) managing general agent license; or
 - (F) reinsurance intermediary license; or
 - (ii) a licensed:
 - (A) individual or agency producer;
 - (B) surplus lines producer;
 - (C) limited line producer;
 - (D) consultant;
 - (E) managing general agent; or
 - (F) reinsurance intermediary.

- (b) A person described in Subsection (2)(a) shall report to the commissioner:
 - (i) an administrative action taken against the person, including a denial of a new or renewal license application:
 - (A) in another jurisdiction; or
 - (B) by another regulatory agency in this state;
 - (ii) a criminal prosecution taken against the person in any jurisdiction; and
 - (iii) a civil action filed against the person in any jurisdiction if the action involves conduct related to a professional or occupational license, certification, authorization, or registration, regardless of whether the person held the license, certification, authorization, or registration.
- (c) The report required by Subsection (2)(b) shall:
 - (i) be filed:
 - (A) at the time the person files the application for an individual or agency license; and
 - (B) for an action or prosecution that occurs on or after the day on which the person files the application:
 - (I) for an administrative action, within 30 days of the final disposition of the administrative action; or
 - (II) for a criminal prosecution or civil action, within 30 days of the initial appearance before a court; and
 - (ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).
- (3)
 - (a) The department may require an individual applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.
 - (b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:
 - (i) submit a fingerprint card in a form acceptable to the department; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Utah Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (c) For an individual who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:
 - (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
 - (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.
 - (d) The department shall use information obtained by the department from the review of criminal history records received under this Subsection (3) for the purposes of:
 - (i) determining if an individual satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;
 - (ii) determining if an individual has failed to maintain the character requirements under Section 31A-23a-107; and
 - (iii) preventing an individual who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.
 - (e) If the department requests the criminal background information, the department shall:
 - (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

- (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and
 - (iii) charge the individual applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).
- (4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:
- (a) insurance producer;
 - (b) surplus lines producer;
 - (c) limited line producer;
 - (d) consultant;
 - (e) managing general agent; or
 - (f) reinsurance intermediary.
- (5)
- (a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:
 - (i) fails to satisfy the requirements as set forth in this section; or
 - (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.
 - (b) This Subsection (5) applies to the following licenses:
 - (i) producer;
 - (ii) surplus lines producer;
 - (iii) limited line producer;
 - (iv) consultant;
 - (v) managing general agent; or
 - (vi) reinsurance intermediary.

Amended by Chapter 175, 2025 General Session

31A-23a-106 License types.

- (1)
- (a) A resident or nonresident license issued under this chapter shall be issued under the license types described under Subsection (2).
 - (b) A license type and a line of authority pertaining to a license type describe the type of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license type is intended to describe the matters to be considered under any education, examination, and training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.
- (2)
- (a) A producer license type includes the following lines of authority:
 - (i) life insurance, including a nonvariable contract;
 - (ii) variable contracts, including variable life and annuity, if the producer has the life insurance line of authority;
 - (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

- (iv) property insurance;
 - (v) casualty insurance, including a surety or other bond;
 - (vi) title insurance under one or more of the following categories:
 - (A) title examination, including authority to act as a title marketing representative;
 - (B) escrow, including authority to act as a title marketing representative; and
 - (C) title marketing representative only; and
 - (vii) personal lines insurance.
- (b) A surplus lines producer license type includes the following lines of authority:
- (i) property insurance, if the person holds an underlying producer license with the property line of insurance; and
 - (ii) casualty insurance, if the person holds an underlying producer license with the casualty line of authority.
- (c) A limited line producer license type includes the following limited lines of authority:
- (i) limited line credit insurance;
 - (ii) travel insurance, as set forth in Part 9, Travel Insurance Act;
 - (iii) motor club insurance;
 - (iv) car rental related insurance;
 - (v) legal expense insurance;
 - (vi) crop insurance;
 - (vii) self-service storage insurance;
 - (viii) bail bond producer;
 - (ix) guaranteed asset protection waiver;
 - (x) portable electronics insurance; and
 - (xi) pet insurance.
- (d) A consultant license type includes the following lines of authority:
- (i) life insurance, including a nonvariable contract;
 - (ii) variable contracts, including variable life and annuity, if the consultant has the life insurance line of authority;
 - (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (iv) property insurance;
 - (v) casualty insurance, including a surety or other bond; and
 - (vi) personal lines insurance.
- (e) A managing general agent license type includes the following lines of authority:
- (i) life insurance, including a nonvariable contract;
 - (ii) variable contracts, including variable life and annuity, if the managing general agent has the life insurance line of authority;
 - (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (iv) property insurance;
 - (v) casualty insurance, including a surety or other bond; and
 - (vi) personal lines insurance.
- (f) A reinsurance intermediary license type includes the following lines of authority:
- (i) life insurance, including a nonvariable contract;
 - (ii) variable contracts, including variable life and annuity, if the reinsurance intermediary has the life insurance line of authority;

- (iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (iv) property insurance;
 - (v) casualty insurance, including a surety or other bond; and
 - (vi) personal lines insurance.
 - (g) A person who holds a license under Subsection (2)(a) has the qualifications necessary to act as a holder of a license under Subsection (2)(c), except that the person may not act under Subsection (2)(c)(viii) or (ix).
- (3)
- (a) The commissioner may by rule recognize other producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a) through (f).
 - (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and Escrow Commission may by rule, with the concurrence of the commissioner and subject to Section 31A-2-404, recognize other categories for an individual title insurance producer or agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).
- (4) The variable contracts line of authority requires:
- (a) for a producer, licensure by the Financial Industry Regulatory Authority as a:
 - (i) registered broker-dealer; or
 - (ii) broker-dealer agent, with a current registration with a broker-dealer; and
 - (b) for a consultant, registration with the Securities and Exchange Commission or licensure by the Utah Division of Securities as an:
 - (i) investment adviser; or
 - (ii) investment adviser representative, with a current association with an investment adviser.
- (5) A surplus lines producer is a producer who has a surplus lines license.

Amended by Chapter 194, 2023 General Session

31A-23a-107 Character requirements.

- An applicant for a license under this chapter shall show to the commissioner that:
- (1) the applicant has the intent in good faith, to engage in the type of business that the license applied for would permit;
 - (2)
 - (a) if a natural person, the applicant is:
 - (i) competent; and
 - (ii) trustworthy; or
 - (b) if the applicant is an agency:
 - (i) the partners, directors, or principal officers or persons having comparable powers are trustworthy; and
 - (ii) that it will transact business in such a way that the acts that may only be performed by a licensed producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary are performed exclusively by natural persons who are licensed under this chapter to transact that type of business and designated on the agency's license;
 - (3) the applicant intends to comply with Section 31A-23a-502; and
 - (4) if a natural person, the applicant is at least 18 years of age.

Amended by Chapter 319, 2018 General Session

31A-23a-108 Examination requirements.

- (1)
 - (a) The commissioner may require an applicant for a particular license type under Section 31A-23a-106 to pass a line of authority examination as a requirement for a license, except that an examination may not be required of an applicant for:
 - (i) a license under Subsection 31A-23a-106(2)(c); or
 - (ii) another limited line license line of authority recognized by the commissioner or the Title and Escrow Commission by rule as provided in Subsection 31A-23a-106(3).
 - (b) The examination described in Subsection (1)(a):
 - (i) shall reasonably relate to the line of authority for which it is prescribed; and
 - (ii) may be administered by the commissioner or as otherwise specified by rule.
- (2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:
 - (a) applies for an insurance producer license in this state within 90 days of establishing legal residence in this state;
 - (b) has been licensed for the same line of authority in another state; and
 - (c)
 - (i) is licensed in the state described in Subsection (2)(b) at the time the applicant applies for an insurance producer license in this state; or
 - (ii) if the application is received within 90 days of the cancellation of the applicant's previous license:
 - (A) the prior state certifies that at the time of cancellation, the applicant was in good standing in that state; or
 - (B) the state's producer database records maintained by the National Association of Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or subsidiaries, indicates that the producer is or was licensed in good standing for the line of authority requested.
- (3) This section's requirement may only be applied to an applicant who is a natural person.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-23a-109 Nonresident jurisdictional agreement.

- (1)
 - (a) If a nonresident license applicant has a valid producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license from the nonresident license applicant's home state or designated home state and the conditions of Subsection (1)(b) are met, the commissioner shall:
 - (i) waive the license requirements for a license under this section; and
 - (ii) issue the nonresident license applicant a nonresident license.
 - (b) Subsection (1)(a) applies if:
 - (i) the nonresident license applicant:
 - (A) is licensed in the nonresident license applicant's home state or designated home state at the time the nonresident license applicant applies for a nonresident producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license;

- (B) has submitted the proper request for licensure;
 - (C) has submitted to the commissioner:
 - (I) the application for licensure that the nonresident license applicant submitted to the applicant's home state or designated home state; or
 - (II) a completed uniform application; and
 - (D) has paid the applicable fees under Section 31A-3-103; and
 - (ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing.
- (2) A nonresident applicant applying under Subsection (1) shall in addition to complying with all license requirements for a license under this chapter execute, in a form acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter related to the applicant's insurance activities in this state, on the basis of:
- (a) service of process under Sections 31A-2-309 and 31A-2-310; or
 - (b) service authorized:
 - (i) in the Utah Rules of Civil Procedure; or
 - (ii) under Section 78B-3-206.
- (3) The commissioner may verify a producer's licensing status through the producer database maintained by:
- (a) the National Association of Insurance Commissioners; or
 - (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.
- (4) The commissioner may not assess a greater fee for an insurance license or related service to a person not residing in this state solely on the fact that the person does not reside in this state.

Amended by Chapter 175, 2025 General Session

31A-23a-110 Form and contents of license.

- (1) A license issued under this chapter shall be in the form the commissioner prescribes and shall set forth:
- (a) the name and address of the licensee;
 - (b) the license types and lines of authority under Section 31A-23a-106;
 - (c) the date of license issuance; and
 - (d) any other information the commissioner considers necessary.
- (2) A licensee under this chapter doing business under another name than the licensee's legal name shall notify the commissioner before using the assumed name in this state.

Amended by Chapter 345, 2008 General Session

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

- (1) A license type issued under this chapter remains in force until:
- (a) revoked or suspended under Subsection (5);
 - (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
 - (c) the licensee dies or is adjudicated incompetent as defined under:
 - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
 - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
 - (d) lapsed under Section 31A-23a-113; or
 - (e) voluntarily surrendered.

- (2) The following may be reinstated within one year after the day on which the license is no longer in force:
 - (a) a lapsed license; or
 - (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.
- (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:
 - (a) this title; or
 - (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) A line of authority issued under this chapter remains in force until:
 - (a) the qualifications pertaining to a line of authority are no longer met by the licensee;
 - (b) the supporting license type:
 - (i) is revoked or suspended under Subsection (5);
 - (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
 - (iii) lapses under Section 31A-23a-113; or
 - (iv) is voluntarily surrendered; or
 - (c) the licensee dies or is adjudicated incompetent as defined under:
 - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
 - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.
- (5)
 - (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:
 - (i) revoke:
 - (A) a license; or
 - (B) a line of authority;
 - (ii) suspend for a specified period of 12 months or less:
 - (A) a license; or
 - (B) a line of authority;
 - (iii) limit in whole or in part:
 - (A) a license; or
 - (B) a line of authority;
 - (iv) deny a license application;
 - (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
 - (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).
 - (b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:
 - (i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;
 - (ii) violates:
 - (A) an insurance statute;
 - (B) a rule that is valid under Subsection 31A-2-201(3); or
 - (C) an order that is valid under Subsection 31A-2-201(4);

- (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
- (iv) is more than 60 days past due on a final judgment;
- (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;
- (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;
- (vii) refuses:
 - (A) to be examined; or
 - (B) to produce the licensee's or license applicant's accounts, records, and files for examination;
- (viii) has an officer who refuses to:
 - (A) give information with respect to the insurance producer's affairs; or
 - (B) perform any other legal obligation as to an examination;
- (ix) provides information in the license application that is:
 - (A) incorrect;
 - (B) misleading;
 - (C) incomplete; or
 - (D) materially untrue;
- (x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
- (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- (xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;
- (xiii) intentionally misrepresents the terms of an actual or proposed:
 - (A) insurance contract;
 - (B) application for insurance; or
 - (C) life settlement;
- (xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:
 - (A) a felony; or
 - (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- (xv) admits or is found to have committed an unfair trade practice or fraud;
- (xvi) in the conduct of business in this state or elsewhere:
 - (A) uses fraudulent, coercive, or dishonest practices; or
 - (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- (xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:
 - (A) denied;
 - (B) suspended;
 - (C) revoked; or
 - (D) surrendered to resolve an administrative action;
- (xviii) forges another's name to:
 - (A) an application for insurance; or
 - (B) a document related to an insurance transaction;
- (xix) improperly uses notes or another reference material to complete an examination for an insurance license;

- (xx) knowingly accepts insurance business from an individual who is not licensed;
 - (xxi) fails to comply with an administrative or court order imposing a child support obligation;
 - (xxii) fails to comply with an administrative or court order directing payment of state income tax;
 - (xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;
 - (xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or
 - (xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.
- (c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.
- (d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:
- (i) the individual;
 - (ii) the agency, if the agency:
 - (A) is reckless or negligent in its supervision of the individual; or
 - (B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
 - (iii)
 - (A) the individual; and
 - (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- (6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:
- (a) the licensee's license is:
 - (i) revoked;
 - (ii) suspended;
 - (iii) limited;
 - (iv) surrendered in lieu of administrative action;
 - (v) lapsed; or
 - (vi) voluntarily surrendered; and
 - (b) the licensee:
 - (i) continues to act as a licensee; or
 - (ii) violates the terms of the license limitation.
- (7) A licensee under this chapter shall immediately report to the commissioner:
- (a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;
 - (b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or
 - (c) a judgment or injunction entered against that person on the basis of conduct involving:
 - (i) fraud;
 - (ii) deceit;
 - (iii) misrepresentation;
 - (iv) a violation of an insurance law or rule; or
 - (v) payment of money.
- (8)

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

Amended by Chapter 175, 2025 General Session

31A-23a-112 Probation -- Grounds for revocation.

- (1) The commissioner may place a licensee on probation for a period not to exceed 24 months as follows:
 - (a) after an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, for circumstances that would justify a suspension under Section 31A-23a-111; or
 - (b) at the issuance or renewal of a license:
 - (i) with an admitted violation under 18 U.S.C. Sec. 1033; or
 - (ii) with a response to background information questions on a new or renewal license application or information received from a background check conducted in connection with a new or renewal license application that indicates:
 - (A) the person has been convicted of a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation;
 - (B) the person is currently charged with a crime, that is listed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as a crime that is grounds for probation regardless of whether adjudication is withheld;
 - (C) the person has been involved in an administrative proceeding regarding a professional or occupational license; or
 - (D) a business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding a professional or occupational license.
- (2) The commissioner may place a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Sec. 1033.
- (3) The probation order shall state the conditions for retention of the license, which shall be reasonable.
- (4) A violation of the probation is grounds for revocation pursuant to a proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-23a-113 License lapse and voluntary surrender.

- (1)
 - (a) A license issued under this chapter, including a line of authority, shall lapse if the licensee fails to:
 - (i) pay when due a fee under Section 31A-3-103;

- (ii) complete continuing education requirements under Section 31A-23a-202 before submitting the license renewal application;
 - (iii) submit a completed renewal application as required by Section 31A-23a-104;
 - (iv) submit additional documentation required to complete the licensing process as related to a specific license type or line of authority; or
 - (v) maintain an active license in a licensee's home state if the licensee is a nonresident licensee.
- (b) A license that lapses shall expire effective at midnight on the day on which the license expires.
- (c)
- (i) A licensee whose license lapses may request reinstatement of the license and line of authority no more than one year after the day on which the license lapses.
 - (ii) A licensee whose license lapses due to the following may request an action described in Subsection (1)(c)(iii):
 - (A) military service;
 - (B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or
 - (C) some other extenuating circumstances, including long-term medical disability.
 - (iii) A licensee described in Subsection (1)(c)(ii) may request:
 - (A) reinstatement of the license and line of authority no later than one year after the day on which the license lapses; and
 - (B) waiver of any of the following imposed for failure to comply with renewal procedures:
 - (I) an examination requirement;
 - (II) reinstatement fees set under Section 31A-3-103;
 - (III) continuing education requirements; or
 - (IV) other sanction imposed for failure to comply with renewal procedures.
- (2) If a license or line of authority issued under this chapter is voluntarily surrendered, the license or line of authority may be reinstated:
- (a) during the license period in which the license or line of authority is voluntarily surrendered; and
 - (b) no later than one year after the day on which the license or line of authority is voluntarily surrendered.

Amended by Chapter 252, 2021 General Session

31A-23a-114 Temporary individual or agency license -- Trustee for terminated licensee's business.

- (1)
- (a) The commissioner may issue a temporary individual or agency license:
 - (i) to a person listed in Subsection (1)(b):
 - (A) if the commissioner considers that the temporary license is necessary:
 - (I) for the servicing of an insurance business in the public interest; and
 - (II) to provide continued service to the insureds who procured insurance in a circumstance described in Subsection (1)(b);
 - (B) for a period not to exceed 180 days; and
 - (C) without requiring an examination; or
 - (ii) in any other circumstance:

- (A) if the commissioner considers the public interest will best be served by issuing the temporary license;
 - (B) for a period not to exceed 180 days; and
 - (C) without requiring an examination.
- (b) The commissioner may issue a temporary individual or agency license in accordance with Subsection (1)(a) to:
- (i) the surviving spouse or court-appointed personal representative of a licensee who dies or acquires a mental or physical disability to allow adequate time for:
 - (A) the sale of the insurance business owned by the licensee;
 - (B) recovery or return of the licensee to the business; or
 - (C) the training and licensing of new personnel to operate the licensee's business;
 - (ii) to a member or employee of a business entity licensed as an agency upon the death or disability of an individual designated in:
 - (A) the business entity application; or
 - (B) the license; or
 - (iii) the designee of a licensed agency entering active service in the armed forces of the United States of America.
- (2) If a person's license is terminated under Section 31A-23a-111 or 31A-23a-113, the commissioner may appoint a trustee to provide in the public interest continuing service to the insureds who procured insurance through the person whose license is terminated:
- (a) at the request of the person whose license is terminated; or
 - (b) upon the commissioner's own initiative.
- (3) This section does not apply if the deceased licensee or licensee with a disability does not or did not own any ownership interest in the accounts and associated expiration lists that were previously serviced by the licensee.
- (4)
- (a) A person issued a temporary license under Subsection (1) receives the license and shall perform the duties under the license subject to the commissioner's authority to:
 - (i) require a temporary licensee to have a suitable sponsor who:
 - (A) is a licensee; and
 - (B) assumes responsibility for all acts of the temporary licensee; or
 - (ii) impose other requirements that are:
 - (A) designed to protect the insureds and the public; and
 - (B) similar to the condition described in Subsection (4)(a)(i).
 - (b) A trustee appointed under Subsection (2) shall be appointed and perform the trustee's duties subject to the terms and conditions described in Subsections (4)(b)(i) through (vi).
 - (i)
 - (A) A trustee appointed under Subsection (2) shall be licensed under this chapter to perform the services required by the trustor's clients.
 - (B) When possible, the commissioner shall appoint a trustee who is no longer actively engaged on the trustee's own behalf in business as a licensee.
 - (C) The commissioner shall only select a person to act as trustee who is trustworthy and competent to perform the necessary services.
 - (ii)
 - (A) If the deceased person, person with a disability, or unlicensed person for whom the trustee is acting was a producer, the insurers through which the former producer's business was written shall cooperate with the trustee in allowing the trustee to service the policies written through the insurer.

- (B) The trustee shall abide by the terms of the agency agreement between the former producer and the issuing insurer, except that terms in those agreements terminating the agreement upon the death, disability, or license termination of the former producer do not bar the trustee from continuing to act under the agreement.
- (iii)
 - (A) The commissioner shall set the trustee's compensation, which:
 - (I) may be stated in terms of a percentage of commissions; and
 - (II) shall be equitable.
 - (B) The compensation shall be paid exclusively from:
 - (I) the commissions generated by the former licensee's insurance accounts serviced by the trustee; and
 - (II) other funds the former licensee or the licensee's successor in interest agree to pay.
 - (C) The trustee has no special priority to commissions over the former licensee's creditors.
- (iv)
 - (A) The commissioner or the state may not be held liable for errors or omissions of:
 - (I) the former licensee; or
 - (II) the trustee.
 - (B) The trustee may not be held liable for errors and omissions that were caused in any material way by the negligence of the former licensee.
 - (C) The trustee may be held liable for errors and omissions which arise solely from the trustee's negligence.
 - (D) The trustee's compensation level shall be sufficient to allow the trustee to purchase errors and omissions coverage, if that coverage is not provided the trustee by:
 - (I) the former licensee; or
 - (II) the licensee's successor in interest.
- (v)
 - (A) It is a breach of the trustee's fiduciary duty to capture the accounts of trustor's clients, either directly or indirectly.
 - (B) The trustee may not purchase the accounts or expiration lists of the former licensee, unless the commissioner expressly ratifies the terms of the sale.
 - (C) The commissioner may adopt rules that:
 - (I) further define the trustee's fiduciary duties; and
 - (II) explain how the trustee is to carry out the trustee's responsibilities.
- (vi)
 - (A) The trust may be terminated by:
 - (I) the commissioner; or
 - (II) the person that requested the trust be established.
 - (B) The trust is terminated by written notice being delivered to:
 - (I) the trustee; and
 - (II) the commissioner.
- (5)
 - (a) The commissioner may by order:
 - (i) limit the authority of any temporary licensee or trustee in any way the commissioner considers necessary to protect insureds and the public; and
 - (ii) revoke a temporary license or trustee's appointment if the commissioner finds that the insureds or the public are endangered.
 - (b) A temporary license or trustee's appointment may not continue after the owner or personal representative disposes of the business.

Amended by Chapter 366, 2011 General Session

31A-23a-115 Appointment of individual and agency insurance producer, limited line producer, or managing general agent -- Reports and lists.

- (1)
 - (a) An insurer shall appoint an individual or agency with whom it has a contract as an insurance producer, limited line producer, or managing general agent to act on the insurer's behalf in order for the licensee to do business for the insurer in this state.
 - (b) An insurer shall report to the commissioner, at intervals and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) a new appointment; and
 - (ii) a termination of appointment.
- (2) An insurer shall notify a producer that the producer's appointment is terminated by the insurer and of the reason for termination at an interval and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
 - (a)
 - (i) An insurer shall report to the commissioner the cause of termination of an appointment if:
 - (A) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b); or
 - (B) the insurer has knowledge that the individual or agency licensee is found to have engaged in an activity described in Subsection 31A-23a-111(5)(b) by:
 - (I) a court;
 - (II) a government body; or
 - (III) a self-regulatory organization, which the commissioner may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (ii) The information provided to the commissioner under this Subsection (3) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.
 - (b) An insurer is immune from civil action, civil penalty, or damages if the insurer complies in good faith with this Subsection (3) in reporting to the commissioner the cause of termination of an appointment.
 - (c) Notwithstanding any other provision in this section, an insurer is not immune from any action or resulting penalty imposed on the reporting insurer as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with this Subsection (3).
- (4) If an insurer appoints an agency, the insurer need not appoint, report, or pay appointment reporting fees for an individual designated on the agency's license under Section 31A-23a-302.
- (5) If an insurer has a contract with or lists a licensee in a report submitted under Subsection (3), there is a rebuttable presumption that in placing a risk with the insurer the contracted or appointed licensee or any of the licensee's licensed employees act on behalf of the insurer.

Amended by Chapter 168, 2017 General Session

31A-23a-115.5 Use of customer service representative.

A producer, surplus lines producer, or consultant who employs a customer service representative is responsible for the duties performed by the customer service representative. A customer service representative:

- (1) may not maintain an office independent of the customer service representative's licensed producer, surplus lines producer, or consultant employer for the purpose of conducting insurance activities;
- (2) except as provided in Subsection (3), may not sell, solicit, negotiate, or bind coverage; and
- (3) may provide a customer a quote on behalf of the customer service representative's licensed producer, surplus lines producer, or consultant employer.

Amended by Chapter 253, 2012 General Session

31A-23a-116 Services performed for unauthorized insurers.

- (1) A person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, may not perform an act that assists a person not authorized as an insurer to act as an insurer.
- (2) It is a violation of this section to assist a person purporting to be exempt from state insurance regulation under Section 514 of the Employee Retirement Income Security Act of 1974, unless that person submits to the commissioner a certificate from the United States Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of 1974 or other federal law.
- (3) It is not a violation of this section:
 - (a) to assist a person engaged in self insurance as defined under Section 31A-1-301; or
 - (b) for a surplus lines producer to engage in the placement of insurance under Section 31A-15-103.

Amended by Chapter 345, 2008 General Session

31A-23a-117 Special requirements for life settlement providers and producers.

- (1) A life settlement provider or life settlement producer shall be licensed in accordance with this title, with the additional requirements listed in this section.
- (2) A life settlement provider shall provide to the commissioner:
 - (a) a detailed plan of operation with the life settlement provider's:
 - (i) initial license application; and
 - (ii) renewal application;
 - (b) a copy of the life settlement provider's most current audited financial statement;
 - (c) an antifraud plan that meets the requirements of Section 31A-36-117; and
 - (d) a bond or other form of assurance of financial responsibility as provided under rules made in accordance with Section 31A-36-119.
- (3) A life settlement provider shall provide with the life settlement provider's initial license application information describing the life settlement provider's life settlement experience, training, and education.
- (4) A life settlement provider shall provide to the commissioner, within 30 days after a change occurs, new or revised information concerning any of the following:
 - (a) officers;
 - (b) holders of more than 10% of its stock;
 - (c) partners;
 - (d) directors;
 - (e) members; and
 - (f) designated employees.

Amended by Chapter 355, 2009 General Session

31A-23a-118 Car rental related licensing requirements.

- (1) Subject to Section 31A-23a-103, a person is required to hold a limited line producer license with a car rental related insurance limited line of authority to sell or offer car rental related insurance coverage under a car rental related insurance policy.
- (2) A car rental related insurance limited line license issued pursuant to Sections 31A-23a-103 and 31A-23a-106 authorizes an employee or authorized representative of the licensee to sell or offer coverage under a car rental related insurance policy to a customer at each location at which the licensee engages in car rental related insurance transactions.
- (3) An agency holding a car rental related insurance limited line license shall:
 - (a) be appointed by an insurer underwriting a car rental related insurance policy that the agency sells or offers; and
 - (b) have a designated responsible licensed individual at each location at which the agency is soliciting, selling, or offering car rental related insurance.
- (4) An agency holding a car rental related insurance limited line license may employ a nonlicensed individual employed as a counter sales representative in soliciting, selling, or offering car rental related insurance. The nonlicensed individual shall be:
 - (a) trained and supervised in the sale of car rental related insurance products; and
 - (b) responsible to a licensed individual designated by the agency at each location where a car rental related insurance product is sold.

Enacted by Chapter 319, 2013 General Session

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

- (1) As used in this section:
 - (a) "Applicable percentage" means:
 - (i) on January 1, 2024, through December 31, 2024, 2.5%;
 - (ii) on January 1, 2025, through December 31, 2025, 3%;
 - (iii) on January 1, 2026, through December 31, 2026, 3.5%;
 - (iv) on January 1, 2027, through December 31, 2027, 4%; and
 - (v) on January 1, 2028, through December 31, 2028, 4.5%.
 - (b) "Sufficient capital and net worth" means:
 - (i) for a new title entity:
 - (A) \$100,000 for the first five years after becoming a new agency title insurance producer; or
 - (B) after the first five years after becoming a new agency title insurance producer, the greater of \$50,000, or on January 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or
 - (ii) for a title entity licensed before May 14, 2019:
 - (A) for the time period beginning on January 1, 2020, and ending on December 31, 2029, the lesser of an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the January 1 on which the applicable percentage applies or \$150,000; and
 - (B) beginning on January 1, 2029, the greater of \$50,000 or an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.

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

Amended by Chapter 175, 2025 General Session

Part 2 Producers and Consultants

31A-23a-201 Exceptions to producer licensing.

- (1) The commissioner may not require a license as an insurance producer of:
- (a) an officer, director, or employee of an insurer or of an insurance producer if:
 - (i) the officer, director, or employee does not receive any commission on a policy written or sold to insure risks residing, located, or to be performed in this state; and
 - (ii)
 - (A) the officer's, director's, or employee's activities are:
 - (I) executive, administrative, managerial, clerical, or a combination of these activities; and
 - (II) only indirectly related to the sale, solicitation, or negotiation of insurance;
 - (B) the officer's, director's, or employee's function relates to:
 - (I) underwriting;
 - (II) loss control;
 - (III) inspection; or
 - (IV) the processing, adjusting, investigating or settling of a claim on a contract of insurance;or
 - (C)
 - (I) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting an insurance producer;
 - (II) the officer's, director's, or employee's activities are limited to providing technical advice and assistance to a licensed insurance producer; and
 - (III) the officer's, director's, or employee's activities do not include the sale, solicitation, or negotiation of insurance;
 - (b) a person who:
 - (i) is paid no commission for the services described in Subsection (1)(b)(ii); and
 - (ii) secures and furnishes information for the purpose of:
 - (A) group life insurance;
 - (B) group property and casualty insurance;
 - (C) group annuities;
 - (D) a group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance;
 - (E) enrolling individuals under plans;
 - (F) issuing certificates under plans; or
 - (G) otherwise assisting in administering plans;
 - (c) a person who:
 - (i) is paid no commission for the services described in Subsection (1)(c)(ii); and
 - (ii) performs administrative services related to mass marketed property and casualty insurance;
 - (d)

- (i) any of the following if the conditions of Subsection (1)(d)(ii) are met:
 - (A) an employer or association; or
 - (B) an officer, director, employee, or trustee of an employee trust plan;
 - (ii) a person listed in Subsection (1)(d)(i):
 - (A) to the extent that the employer, officer, employee, director, or trustee is engaged in the administration or operation of a program of employee benefits for:
 - (I) the employer's or association's own employees; or
 - (II) the employees of a subsidiary or affiliate of an employer or association;
 - (B) the program involves the use of insurance issued by an insurer; and
 - (C) the employer, association, officer, director, employee, or trustee is not in any manner compensated, directly or indirectly, by the company issuing the contract;
 - (e) an employee of an insurer or organization employed by an insurer who:
 - (i) is engaging in:
 - (A) the inspection, rating, or classification of risks; or
 - (B) the supervision of the training of insurance producers; and
 - (ii) is not individually engaged in the sale, solicitation, or negotiation of insurance;
 - (f) a person whose activities in this state are limited to advertising:
 - (i) without the intent to solicit insurance in this state;
 - (ii) through communications in mass media including:
 - (A) a printed publication; or
 - (B) a form of electronic mass media;
 - (iii) that is distributed to residents outside of the state; and
 - (iv) if the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;
 - (g) a person who:
 - (i) is not a resident of this state;
 - (ii) sells, solicits, or negotiates a contract of insurance:
 - (A) for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; and
 - (B) insures risks located in a state in which the person is licensed as provided in Subsection (1)(g)(iii); and
 - (iii) is licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business; or
 - (h) if the employee does not sell, solicit, or receive a commission for a contract of insurance, a salaried full-time employee who counsels or advises the employee's employer relating to the insurance interests of:
 - (i) the employer; or
 - (ii) a subsidiary or business affiliate of the employer.
- (2) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23a-103(1) if:
- (a) the functions performed by the class of persons does not require:
 - (i) special competence;
 - (ii) special trustworthiness; or
 - (iii) regulatory surveillance made possible by licensing; or
 - (b) other existing safeguards make regulation unnecessary.

Amended by Chapter 252, 2021 General Session

31A-23a-202 Continuing education requirements.

- (1) Pursuant to this section, the commissioner shall by rule prescribe the continuing education requirements for a producer and a consultant.
- (2)
 - (a) The commissioner may not state a continuing education requirement in terms of formal education.
 - (b) The commissioner may state a continuing education requirement in terms of hours of insurance-related instruction received.
 - (c) Insurance-related formal education may be a substitute, in whole or in part, for the hours required under Subsection (2)(b).
- (3)
 - (a) The commissioner shall impose continuing education requirements in accordance with a two-year licensing period in which the licensee meets the requirements of this Subsection (3).
 - (b)
 - (i) Except as provided in this section, the continuing education requirements shall require:
 - (A) that a licensee complete 24 credit hours of continuing education for every two-year licensing period;
 - (B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics courses; and
 - (C) that the licensee complete at least half of the required hours through classroom hours of insurance-related instruction.
 - (ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be obtained through:
 - (A) classroom attendance;
 - (B) home study;
 - (C) watching a video recording;
 - (D) experience credit; or
 - (E) another method provided by rule.
 - (iii)
 - (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), an individual title insurance producer is required to complete 12 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses unless the individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years.
 - (B) If an individual title insurance producer is licensed in this state as an individual title insurance producer for 20 or more consecutive years, the individual title insurance producer is required to complete 6 credit hours of continuing education for every two-year licensing period, with 3 of the credit hours being ethics courses.
 - (C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), an individual title insurance producer is considered to have met the continuing education requirements imposed under Subsection (3)(b)(iii)(A) or (B) if at the time of license renewal the individual title insurance producer:
 - (I) provides the department evidence that the individual title insurance producer is an active member in good standing with the Utah State Bar;
 - (II) is in compliance with the continuing education requirements of the Utah State Bar; and
 - (III) if requested by the department, provides the department evidence that the individual title insurance producer complied with the continuing education requirements of the Utah State Bar.
 - (c) A licensee may obtain continuing education hours at any time during the two-year licensing period.

- (d)
 - (i) A licensee is exempt from continuing education requirements under this section if:
 - (A) the licensee was first licensed before December 31, 1982;
 - (B) the license does not have a continuous lapse for a period of more than one year, except for a license for which the licensee has had an exemption approved before May 11, 2011;
 - (C) the licensee requests an exemption from the department; and
 - (D) the department approves the exemption.
 - (ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is not required to apply again for the exemption.
- (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule:
 - (i) publish a list of insurance professional designations whose continuing education requirements can be used to meet the requirements for continuing education under Subsection (3)(b);
 - (ii) authorize a continuing education provider or a state or national professional producer or consultant association to:
 - (A) offer a qualified program for a license type or line of authority on a geographically accessible basis; and
 - (B) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner; and
 - (iii) provide that membership by a producer or consultant in a state or national professional producer or consultant association is considered a substitute for the equivalent of two hours for each year during which the producer or consultant is a member of the professional association, except that the commissioner may not give more than two hours of continuing education credit in a year regardless of the number of professional associations of which the producer or consultant is a member.
- (f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a professional producer or consultant association program may be less for an association member, on the basis of the member's affiliation expense, but shall preserve the right of a nonmember to attend without affiliation.
- (4) The commissioner shall approve a continuing education provider or continuing education course that satisfies the requirements of this section.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule set the processes and procedures for continuing education provider registration and course approval.
- (6) The requirements of this section apply only to a producer or consultant who is an individual.
- (7) A nonresident producer or consultant is considered to have satisfied this state's continuing education requirements if the nonresident producer or consultant satisfies the nonresident producer's or consultant's home state's continuing education requirements for a licensed insurance producer or consultant.
- (8) A producer or consultant subject to this section shall keep documentation of completing the continuing education requirements of this section for two years after the end of the two-year licensing period to which the continuing education applies.

Amended by Chapter 138, 2016 General Session

31A-23a-203 Training period requirements.

- (1) A producer is eligible to become a surplus lines producer only if the producer:

- (a) has passed the applicable surplus lines producer examination;
 - (b) has been a producer with property or casualty or both lines of authority for at least three years during the four years immediately preceding the date of application; and
 - (c) has paid the applicable fee under Section 31A-3-103.
- (2) A person is eligible to become a consultant only if the person has acted in a capacity that would provide the person with preparation to act as an insurance consultant for a period aggregating not less than three years during the four years immediately preceding the date of application.
- (3)
- (a) A resident producer with an accident and health line of authority may only sell long-term care insurance if the producer:
 - (i) initially completes a minimum of three hours of long-term care training before selling long-term care coverage; and
 - (ii) after completing the training required by Subsection (3)(a)(i), completes a minimum of three hours of long-term care training during each subsequent two-year licensing period.
 - (b) A course taken to satisfy a long-term care training requirement may be used toward satisfying a producer continuing education requirement.
 - (c) Long-term care training is not a continuing education requirement to renew a producer license.
 - (d) An insurer that issues long-term care insurance shall demonstrate to the commissioner, upon request, that a producer who is appointed by the insurer and who sells long-term care insurance coverage is in compliance with this Subsection (3).
- (4)
- (a) A resident producer with a property line of authority may only sell flood insurance coverage under the National Flood Insurance Program if the producer completes a minimum of three hours of flood insurance training related to the National Flood Insurance Program before selling flood insurance coverage.
 - (b) A course taken to satisfy a flood insurance training requirement may be used toward satisfying a producer continuing education requirement.
 - (c) Flood insurance training is not a continuing education requirement to renew a producer license.
 - (d) An insurer that issues flood insurance shall demonstrate to the commissioner, upon request, that a producer who is appointed by the insurer and who sells flood insurance coverage is in compliance with this Subsection (4).
- (5) The training periods required under this section apply only to an individual applying for a license under this chapter.

Amended by Chapter 168, 2017 General Session

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

- (1) In accordance with this section, a resident individual producer shall ensure that the resident individual producer is covered:
- (a) for the legal liability of the resident individual producer as the result of an erroneous act or failure to act in the resident individual producer's capacity as a producer; and
 - (b) at all times during the term of the resident individual producer's license.
- (2) The coverage required by Subsection (1) shall consist of:
- (a) a policy naming the resident individual producer;
 - (b) a policy naming the agency that designates the resident individual producer in accordance with this chapter; or

- (c) a written agreement by an insurer or group of affiliated insurers, on behalf of a resident individual producer who is or will become an exclusive agent of the insurer or group of affiliated insurers, under which the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of an aggrieved person, for legal liability of the resident individual producer as the result of an erroneous act or failure to act in the resident individual producer's capacity as a producer for the insurer or group of affiliated insurers.
- (3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:
 - (a) the terms and conditions of the coverage required under Subsection (1); and
 - (b) if the coverage required by Subsection (1) is terminated during a resident individual producer's license term, requirements to:
 - (i) provide notice; and
 - (ii) replace the coverage.
- (4) An individual title insurance producer is considered to be in compliance with this section when:
 - (a) the individual title insurance producer who is not designated by an agency title producer maintains the individual title insurance producer's own bond, policy, or other financial protection in accordance with Subsection 31A-23a-204(2);
 - (b) the individual title insurance producer is designated by an agency title insurance producer that maintains a bond, policy, or other financial protection in accordance with Subsection 31A-23a-204(2); or
 - (c) the individual title insurance producer is an employee of and is appointed by a title insurer.
- (5) Notwithstanding the other provisions of this section, a resident individual producer is exempt from the requirement to maintain coverage as provided in this section during a period in which the resident individual producer is not either:
 - (a) appointed by an insurer under this title; or
 - (b) designated by an agency under this title.
- (6) A limited lines producer is exempt from this section.

Amended by Chapter 312, 2015 General Session

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

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

- (1)
 - (a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:
 - (i) a title examination line of authority; and
 - (ii) an escrow line of authority.
 - (b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) by having the agency title insurance producer owned or managed by:
 - (i) one or more individuals who are licensed with the title examination line of authority for the time period provided in Subsection (1)(a); and
 - (ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection (1)(a).

- (c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:
 - (i) a title examination line of authority; and
 - (ii) an escrow line of authority.
 - (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt an attorney with real estate experience from the experience requirements in Subsection (1)(a).
 - (e) An individual who satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.
- (2)
- (a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall maintain:
 - (i) a fidelity bond;
 - (ii) a professional liability insurance policy; or
 - (iii) a financial protection:
 - (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and
 - (B) that the commissioner considers adequate.
 - (b) The bond, insurance, or financial protection required by this Subsection (2):
 - (i) shall be supplied under a contract approved by the commissioner to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and
 - (ii) be in a face amount no less than \$250,000.
 - (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection (2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.
- (3) An individual title insurance producer or agency title insurance producer appointed by an insurer may maintain a reserve fund to the extent money was deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance producer or agency title insurance producer.
- (4) An examination for licensure shall include questions regarding the examination of title to real property.
- (5) An individual title insurance producer may not perform the functions of escrow unless the individual title insurance producer has been examined on the fiduciary duties and procedures involved in those functions.
- (6) The Title and Escrow Commission may adopt rules, establishing an examination for a license that will satisfy this section, subject to Section 31A-2-404, and after consulting with the commissioner's test administrator.
- (7) A license may be issued to an individual title insurance producer or agency title insurance producer who has qualified:
 - (a) to perform only examinations of title as specified in Subsection (4);
 - (b) to handle only escrow arrangements as specified in Subsection (5); or
 - (c) to act as a title marketing representative.
- (8)
- (a) A person licensed to practice law in Utah is exempt from the requirements of Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

- (b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.
- (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.
- (10) The department may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, take any of the following actions against a title insurance producer if the title insurance producer does not have an appointment from a title insurer as described in Section 31A-23a-115:
 - (a) suspend or revoke the title insurance producer's license;
 - (b) freeze a bank account associated with the title insurance producer's business;
 - (c) subpoena the title insurance producer's records;
 - (d) enjoin the title producer's business operations; or
 - (e) post, at the title producer's business location, a notice of an action listed in Subsections (10)(a) through (10)(d).

Amended by Chapter 196, 2024 General Session

31A-23a-205 Special requirements for bail bond producers and bail bond enforcement agents.

- (1) As used in this section, "bail bond producer" and "bail enforcement agent" have the same definitions as in Section 31A-35-102.
- (2) A bail bond producer may not operate in this state without an appointment from one or more authorized bail bond surety insurers or licensed bail bond companies.
- (3) A bail bond enforcement agent may not operate in this state without an appointment from one or more licensed bail bond producers.

Amended by Chapter 32, 2020 General Session

31A-23a-206 Special requirements for variable contracts line of authority.

- (1) Before applying for a variable contracts line of authority:
 - (a) a producer shall be licensed under Section 61-1-3 as a:
 - (i) broker-dealer; or
 - (ii) broker-dealer agent; and
 - (b) a consultant shall be licensed under Section 61-1-3 as an:
 - (i) investment adviser; or
 - (ii) investment adviser representative.
- (2) A producer's or consultant's variable contracts line of authority is canceled on the day the producer's or consultant's securities related license under Section 61-1-3 is no longer active.

Amended by Chapter 138, 2016 General Session

31A-23a-207 Registration of motor club agents.

- (1) Subsection 31A-23a-103(1) does not apply to persons who sell no insurance products other than motor club service contracts, if those contracts provide only for those services described in Subsections 31A-11-102(1)(b) through (1)(f), and personal accident insurance provided automatically with the purchase of the motor club contract.

- (2) Section 31A-11-110 applies to those persons in Subsection (1).
- (3) Subsection 31A-23a-103(1) applies to persons selling motor club contracts providing services in addition to those described under Subsections 31A-11-102(1)(b) through (1)(f).

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-208 Producer and agency authority in health insurance exchange.

A producer or agency licensed under this chapter, with a line of authority that permits the producer or agency to sell, negotiate, or solicit accident and health insurance, is authorized to sell, negotiate, or solicit qualified health plans offered on a health insurance exchange.

Amended by Chapter 319, 2018 General Session

**Part 3
Agencies**

31A-23a-301 Agency license.

An insurance organization shall be licensed as an agency if the insurance organization acts as:

- (1) a producer;
- (2) a surplus lines producer;
- (3) a limited line producer;
- (4) a consultant;
- (5) a managing general agent; or
- (6) a reinsurance intermediary.

Amended by Chapter 253, 2012 General Session

31A-23a-302 Agency designations.

- (1) An agency shall designate an individual that has an individual producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary license to act on the agency's behalf in order for the licensee to do business for the agency in this state.
- (2) An agency shall report to the commissioner, at intervals and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) a new designation; and
 - (b) a terminated designation.
- (3) An agency shall notify an individual designee that the individual's designation is terminated by the agency and of the reason for termination at an interval and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4)
 - (a) An agency licensed under this chapter shall report to the commissioner the cause of termination of a designation if:
 - (i) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b); or

- (ii) the agency has knowledge that the individual licensee is found to have engaged in an activity described in Subsection 31A-23a-111(5)(b) by:
 - (A) a court;
 - (B) a government body; or
 - (C) a self-regulatory organization, which the commissioner may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (b) The information provided the commissioner under Subsection (4)(a) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (c) An agency is immune from civil action, civil penalty, or damages if the agency complies in good faith with this Subsection (4) in reporting to the commissioner the cause of termination of a designation.
- (d) Notwithstanding any other provision in this section, an agency is not immune from an action or resulting penalty imposed on the reporting agency as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with this Subsection (4).
- (5) An agency licensed under this chapter may act in a capacity for which it is licensed only through an individual who is licensed under this chapter to act in the same capacity.
- (6) An agency licensed under this chapter shall designate and report to the commissioner in accordance with any rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the name of the designated responsible licensed individual who has authority to act on behalf of the agency in the matters pertaining to compliance with this title and orders of the commissioner.
- (7) If an agency has a contract with or designates a licensee in reports submitted under Subsection (2) or (6), there is a rebuttable presumption that the contracted or designated licensee acts on behalf of the agency.
- (8)
 - (a) When a license is held by an agency, both the agency itself and any individual contracted or designated under the agency license shall be considered to be the holder of the agency license for purposes of this section.
 - (b) If an individual contracted or designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the agency license, or assessing a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i), the commissioner may assess a forfeiture, suspend, revoke, or limit the license of, or take a combination of these actions against:
 - (i) the individual;
 - (ii) the agency, if the agency:
 - (A) is reckless or negligent in its supervision of the individual; or
 - (B) knowingly participates in the act or failure to act that is the ground for assessing a forfeiture, or suspending, revoking, or limiting the license; or
 - (iii)
 - (A) the individual; and
 - (B) the agency if the agency meets the requirements of Subsection (8)(b)(ii).

Amended by Chapter 168, 2017 General Session

Part 4

Marketing Practices

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

- (1)
 - (a) Except as provided under Subsection (1)(b):
 - (i) a licensee under this chapter may not act in the same or any directly related transaction as:
 - (A) a producer for the insured or consultant; and
 - (B) producer for the insurer; and
 - (ii) a producer for the insured or consultant may not recommend or encourage the purchase of insurance from or through an insurer or other producer:
 - (A) of which the producer for the insured or consultant or producer for the insured's or consultant's spouse is an owner, executive, or employee; or
 - (B) to which the producer for the insured or consultant has the type of relation that a material benefit would accrue to the producer for the insured or consultant or spouse as a result of the purchase.
 - (b) Subsection (1)(a) does not apply if the following three conditions are met:
 - (i) Prior to performing the consulting services, the producer for the insured or consultant shall disclose to the client, prominently, in writing:
 - (A) the producer for the insured's or consultant's interest as a producer for the insurer, or the relationship to an insurer or other producer; and
 - (B) that as a result of those interests, the producer for the insured's or the consultant's recommendations should be given appropriate scrutiny.
 - (ii) The producer for the insured's or consultant's fee shall be agreed upon, in writing, after the disclosure required under Subsection (1)(b)(i), but before performing the requested services.
 - (iii) Any report resulting from requested services shall contain a copy of the disclosure made under Subsection (1)(b)(i).
- (2) A licensee under this chapter may not act as to the same client as both a producer for the insurer and a producer for the insured without the client's prior written consent based on full disclosure.
- (3) Whenever a person applies for insurance coverage through a producer for the insured, the producer for the insured shall disclose to the applicant, in writing, that the producer for the insured is not the producer for the insurer or the potential insurer. This disclosure shall also inform the applicant that the applicant likely does not have the benefit of an insurer being financially responsible for the conduct of the producer for the insured.
- (4) If a licensee is subject to both this section and Subsection 31A-23a-501(4), the licensee shall provide the disclosure required under each statute.

Amended by Chapter 12, 2009 General Session

31A-23a-402 Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

- (1)
 - (a)
 - (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or

any licensee under this title, including information that is false or misleading because it is incomplete:

- (A) a person who is or should be licensed under this title;
 - (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);
 - (C) a person whose primary interest is as a competitor of a person licensed under this title; and
 - (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).
- (ii) As used in this Subsection (1), "false or misleading information" includes:
- (A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and
 - (B) with intent to deceive a person examining it:
 - (I) filing a report;
 - (II) making a false entry in a record; or
 - (III) wilfully refraining from making a proper entry in a record.
- (iii) A licensee under this title may not:
- (A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or
 - (B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency and the Children's Health Insurance Program created in Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program:
 - (I) is responsible for the insurance sales activities of the person;
 - (II) stands behind the credit of the person;
 - (III) guarantees any returns on insurance products of or sold by the person; or
 - (IV) is a source of payment of any insurance obligation of or sold by the person.
- (iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.
- (v) A person other than persons licensed as health maintenance organizations under Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.
- (b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:
- (i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:
 - (A) that the licensee represents; or
 - (B) for whom the licensee processes claims; and
 - (ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.
- (2)
- (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:
 - (i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;
 - (ii) any special favor or advantage not generally available to others;
 - (iii) any money or other consideration, except if approved under Section 31A-2-405; or

- (iv) material inducement.
- (b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.
- (c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:
 - (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;
 - (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;
 - (iii) a builder;
 - (iv) an attorney; or
 - (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).
- (3)
 - (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.
 - (b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.
- (4)
 - (a) This Subsection (4) applies to:
 - (i) a person who is or should be licensed under this title;
 - (ii) an employee of that licensee or person who should be licensed;
 - (iii) a person whose primary interest is as a competitor of a person licensed under this title; and
 - (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).
 - (b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:
 - (i) tends to produce:
 - (A) an unreasonable restraint of the business of insurance; or
 - (B) a monopoly in that business; or
 - (ii) results in an applicant purchasing or replacing an insurance contract.
- (5)
 - (a)
 - (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.
 - (ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.
 - (b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.
- (6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

- (7)
 - (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.
 - (b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.
- (8)
 - (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:
 - (i) is misleading;
 - (ii) is deceptive;
 - (iii) is unfairly discriminatory;
 - (iv) provides an unfair inducement; or
 - (v) unreasonably restrains competition.
 - (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:
 - (i) is misleading;
 - (ii) is deceptive;
 - (iii) is unfairly discriminatory;
 - (iv) provides an unfair inducement; or
 - (v) unreasonably restrains competition.

Amended by Chapter 328, 2023 General Session

31A-23a-402.5 Inducements.

- (1)
 - (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:
 - (i) specified in the insurance contract; or
 - (ii) directly related to the insurance contract.
 - (b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.
 - (c) A licensee under this title may not absorb the tax under Section 31A-3-301.
- (2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.
- (3) Items not prohibited by Subsection (1) include an insurer:
 - (a) reducing premiums because of expense savings;
 - (b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:
 - (i) a premium discount offered to a small or large employer group based on a wellness program if:

- (A) the premium discount for the employer group does not exceed 20% of the group premium; and
- (B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;
- (ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives;
- (iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:
 - (A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and
 - (B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or
- (iv) rewards or incentives for employees of an employer group, if the rewards or incentives are for a savings reward program described in Section 31A-22-647; or
- (c) receiving premiums under an installment payment plan.
- (4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:
 - (a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;
 - (b) extending credit on a premium to the insured:
 - (i) without interest, for no more than 90 days after the day on which the insurance contract becomes effective;
 - (ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and
 - (iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);
 - (c) preparing or conducting a survey that:
 - (i) is directly related to an accident and health insurance policy purchased from the licensee; or
 - (ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;
 - (d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:
 - (i) answering questions directly related to:
 - (A) an employee benefit offering or administration, if the insurance product purchased from the licensee is accident and health insurance or health insurance; and
 - (B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and
 - (ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;
 - (e) providing the following types of information or guidance:
 - (i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;
 - (ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or
 - (iii) providing information regarding:
 - (A) employee benefit issues;
 - (B) directly related insurance regulatory and legislative updates; or

- (C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;
- (f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;
- (g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;
- (h) providing enrollment and billing assistance, including:
 - (i) providing benefit statements or new hire insurance benefits packages; and
 - (ii) providing technology services such as an electronic enrollment platform or application system;
- (i) communicating coverages in writing and in consultation with the insured and employees;
- (j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;
- (k) providing claims management and resolution to the extent permitted under the licensee's license;
- (l) providing underwriting or actuarial analysis or services;
- (m) negotiating with an insurer regarding the placement and pricing of an insurance product;
- (n) recommending placement and coverage options;
- (o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;
- (p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;
- (q) assisting with a summary plan description, including providing a summary plan description wraparound;
- (r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;
- (s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;
- (t) sending proof of coverage to a third party with a legitimate interest in coverage;
- (u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;
- (v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:
 - (i) risk management;
 - (ii) claims and loss control services;
 - (iii) risk assessment consulting, including analysis of:
 - (A) employer's job descriptions; or
 - (B) employer's safety procedures or manuals; and
 - (iv) providing information and training on best practices;
- (w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and
- (x) providing other directly related services approved by the department.

- (5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:
- (a)
- (i) except as permitted under Section 31A-22-647, providing a rebate, reward, or incentive;
 - (ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or
 - (iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or
- (b) except as provided in Subsection (10), engaging in one or more of the following, unless a fee is paid in accordance with Subsection (8):
- (i) performing background checks of prospective employees;
 - (ii) providing legal services by a person licensed to practice law;
 - (iii) performing drug testing that is directly related to an insurance product purchased from the licensee;
 - (iv) preparing employer or employee handbooks, except that a licensee may:
 - (A) provide information for a medical benefit section of an employee handbook;
 - (B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or
 - (C) prepare or print an employee benefit enrollment guide;
 - (v) providing job descriptions, postings, and applications for a person;
 - (vi) providing payroll services;
 - (vii) providing performance reviews or performance review training;
 - (viii) providing union advice;
 - (ix) providing accounting services;
 - (x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);
 - (xi) providing administration of health reimbursement accounts or health savings accounts; or
 - (xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:
 - (A) performing background checks of prospective employees;
 - (B) providing legal services by a person licensed to practice law;
 - (C) performing drug testing that is directly related to an insurance product purchased from the insurer;
 - (D) preparing employer or employee handbooks;
 - (E) providing job descriptions postings, and applications;
 - (F) providing payroll services;
 - (G) providing performance reviews or performance review training;
 - (H) providing union advice;
 - (I) providing accounting services;
 - (J) providing discrimination testing; or
 - (K) providing data analysis information technology programs.
- (6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).
- (7)

- (a) A de minimis gift or meal not to exceed a fair market value of \$100 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).
- (b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product.
- (8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the fee paid for the item shall equal or exceed the fair market value of the item.
- (9) For purposes of this section, "fair market value" means what a knowledgeable, willing, and unpressured buyer would pay for a product or service to a knowledgeable, willing, and unpressured seller in the open market without any connection to other goods, services, including insurance services, or contracts, including insurance contracts, sold by the producer, consultant, or other licensee, or an officer or employee of the licensee.
- (10) Notwithstanding any other provision of this section, a producer, consultant, or other licensee, or an officer or employee of a licensee, may offer, make available, or provide goods or services, whether or not the goods or services are directly related to an insurance contract, for free or for less than fair market value if:
 - (a) the goods or services are available on the same terms to the general public;
 - (b) receipt of the goods or services is not contingent upon the immediate or future purchase, continuation, or termination of an insurance product or receipt of a quote for an insurance product; and
 - (c) the producer, consultant, or other licensee, or an officer or an employee of a licensee, does not retroactively charge for the goods or services based on an event subsequent to receipt of the goods or services.
- (11)
 - (a) A producer, consultant, or other licensee, or an officer or employee of a licensee, that provides or offers goods or services that are not described in Subsection (3) or (4) for free or less than fair market value shall conspicuously disclose to the recipient before the purchase of insurance, receipt of a quote for insurance, or designation of an agent of record, that receipt of the goods or services is not contingent on the purchase, continuation, or termination of an insurance product or receiving a quote for an insurance product.
 - (b) A producer, consultant, or other licensee, or an officer or employee of the licensee, may comply with this Subsection (11) by an oral or written disclosure.

Amended by Chapter 252, 2021 General Session

31A-23a-403 Inherent unsuitability.

- (1) If the commissioner finds after a hearing that a certain type of accident and health insurance, life insurance, or annuity product is inherently unsuitable for persons of certain ages or in certain conditions of health, the commissioner shall make a rule declaring the accident and health insurance, life insurance, or annuity product as inherently unsuitable for persons of certain ages or in certain conditions of health.
- (2) An accident and health insurance, life insurance, or annuity product that is subject to the rule may not be sold to a person for whom the product has been determined as inherently unsuitable unless that person purchasing the product signs a receipt acknowledging having received a statement that expresses that the product has been determined by the commissioner to be inherently unsuitable for persons of certain ages or in certain conditions of health.

- (3) Unless the insurer or its appointed licensee establishes that its sale of coverage is inconsistent with the rule made under Subsection (1) is due to excusable neglect, the purchaser may treat the sale as voidable, if acted upon by the insured within a two-year period from the date of sale.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-405 Insurer liability.

- (1) As used in this section, "insurer" includes bail bond surety companies as defined in Section 31A-35-102.
- (2) There is a rebuttable presumption that every insurer is bound by any act of its appointed licensee performed in this state that is within the scope of the appointed licensee's actual (express or implied) or apparent authority, until the insurer has canceled the appointed licensee's appointment and has made reasonable efforts to recover from the appointed licensee its policy forms and other indicia of agency. Reasonable efforts include a formal demand in writing for return of the indicia, and notice to the commissioner if the appointed licensee does not promptly comply with the demand. This Subsection (2) neither waives any common law defense available to insurers, nor precludes the insured from seeking redress against the appointed licensee individually or jointly against the insurer and licensee.
- (3) When a licensee under this chapter with authority to bind more than one insurer on a particular risk agrees to bind coverage on a particular risk, but fails to outwardly indicate the insurer with which the risk is placed, and before the risk is placed with a particular insurer a loss occurs, if there is no conclusive admissible evidence indicating the insurer with which the licensee exercised his binding authority, a court may equitably apportion the loss among all insurers with which the licensee had binding authority as to the particular type of risk.

Renumbered and Amended by Chapter 298, 2003 General Session

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

- (1) As used in this section:
 - (a) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.
 - (b) "Depository institution" means the same as that term is defined in Section 7-1-103.
 - (c) "Funds transfer system" means the same as that term is defined in Section 70A-4a-105.
- (2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:
 - (a) the individual title insurance producer or agency title insurance producer is licensed with:
 - (i) the title line of authority; and
 - (ii) the escrow subline of authority;
 - (b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;
 - (c) except as provided in Subsection (4), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:
 - (i) an owner's policy offering title insurance;
 - (ii) a lender's policy offering title insurance; or
 - (iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;

- (d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:
 - (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
 - (A) has a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and
 - (B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and
 - (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;
 - (e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow;
 - (f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;
 - (g) earnings on money held in escrow may be paid out of the trust account to any person in accordance with the conditions of the escrow;
 - (h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:
 - (i) construction money; or
 - (ii) money held for exchange under Section 1031, Internal Revenue Code; and
 - (i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.
- (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:
- (a) the escrow involves:
 - (i) a mobile home;
 - (ii) a grazing right;
 - (iii) a water right; or
 - (iv) other personal property authorized by the commissioner; and
 - (b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (2)(c).
- (4)
- (a) Subsection (2)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.
 - (b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (2)(c) as part of a transaction described in Subsection (4)(a).
- (5) Money held in escrow:
- (a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;
 - (b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and
 - (c) may not be used until the conditions of the escrow are met.
- (6) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

- (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
 - (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- (7)
- (a) A check from the trust account described in Subsection (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated trust account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.
 - (b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be disbursed as follows:
 - (i) cash may be disbursed on the same day the cash is deposited;
 - (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
 - (iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than \$10,000:
 - (A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;
 - (B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's trust account;
 - (C) a personal check not to exceed \$500 per closing; or
 - (D) a check drawn on the trust account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the trust account of the individual title insurance producer or agency title insurance producer in the escrow transaction;
 - (iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:
 - (A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network transfer process;
 - (B) except as a function of the ACH network process, the transferred funds are not subject to comingling or third party access during the transfer process;
 - (C) the transferred funds are deposited into the title insurance producer's trust account and are available for disbursement; and
 - (D) either the ACH network payment type or the title insurance producer's systems prevent the transaction from being unilaterally canceled or reversed by the consumer once the transferred funds are deposited to the individual title insurance producer or agency title producer; or
 - (v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:
 - (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer system; or
 - (B) a funds transfer system provided by an association of federally insured depository institutions.

- (c) A check or deposit not described in Subsection (7)(b) may be disbursed:
 - (i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or
 - (ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.
- (8) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.
- (9) An individual title insurance producer or agency title insurance producer shall comply with:
 - (a) Section 31A-23a-409;
 - (b) Title 46, Chapter 1, Notaries Public Reform Act; and
 - (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.
- (10) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Amended by Chapter 120, 2024 General Session

31A-23a-406.5 Conduct of escrow.

- (1) Only an escrow agent or a title insurer in compliance with Subsection 31A-4-107(1)(a) and Section 31A-14-211 shall conduct escrow.
- (2) Subsection (1) does not limit or expand the authority granted to:
 - (a) a person defined as an escrow agent in Section 7-22-101;
 - (b) a person licensed to practice law in Utah, if that person meets the requirements of Section 31A-23a-204;
 - (c) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or
 - (d) a person licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

Enacted by Chapter 319, 2013 General Session

31A-23a-407 Liability for acts of title insurance producers.

- (1) Subject to the other provisions in this section, a title insurer that has a contract with or appoints an individual title insurance producer or an agency title insurance producer is liable to a buyer, seller, borrower, lender, or third party that deposits money with the individual title insurance producer or agency title insurance producer for the receipt and disbursement of money deposited with the individual title insurance producer or agency title insurance producer for a transaction when a commitment for a policy of title insurance of that title insurer is ordered, issued, or distributed or a title insurance policy of that title insurer is issued, except that once a title insurer is named in an issued commitment only that title insurer is liable as a title insurer under this section.
- (2) The liability of a title insurer under Subsection (1) and the liability of an individual title insurance producer or agency title insurance producer for the receipt and disbursement of money deposited with the individual title insurance producer or agency title insurance producer is limited to the amount of money received and disbursed, not to exceed the amount of proposed insurance set forth in the commitment or title insurance policy described in Subsection (1) plus 10% of the amount of the proposed insurance.

- (3) The liability described in Subsection (1) does not modify, mitigate, impair, or affect the contractual obligations between an individual title insurance producer or agency title insurance producer and the title insurer.
- (4) The liability of a title insurer with respect to the condition of title to the real property that is the subject of a title insurance policy or a title insurance commitment for a title insurance policy is limited to the terms, conditions, and stipulations contained in the title insurance policy or title commitment.

Amended by Chapter 168, 2017 General Session

31A-23a-408 Representations of agency.

A person may not represent that the person is acting in behalf of an insurer unless a written agency contract is in effect giving the person authority from the insurer and the insurer appoints that person to act in behalf of the insurer.

Amended by Chapter 284, 2011 General Session

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

- (1)
 - (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received by, or collected by a licensee for forwarding to insurers or to insureds.
 - (b)
 - (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:
 - (A) the licensee's own money; or
 - (B) money held in any other capacity.
 - (ii) This Subsection (1)(b) does not apply to:
 - (A) amounts necessary to pay bank charges; and
 - (B) money paid by insureds and belonging in part to the licensee as a fee or commission.
 - (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.
 - (d)
 - (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).
 - (ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.
- (2) Money required to be deposited under Subsection (1) shall be deposited:
 - (a) into a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:
 - (i) has a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee;
 - (ii) has federal deposit insurance; and
 - (iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or
 - (b) into some other account, that:
 - (i) the commissioner approves by rule or order; and
 - (ii) provides safety comparable to an account described in Subsection (2)(a).

- (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the amount of the federal insurance on the accounts.
- (4) A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the licensee, so long as the licensee otherwise complies with this section and with the contract with the insurer.
- (5) A depository institution or other organization holding trust funds under this section may not offset or impound trust account funds against debts and obligations incurred by the licensee.
- (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.
- (7) A nonresident licensee:
 - (a) shall comply with Subsection (1)(a) by complying with the trust account requirements of the nonresident licensee's home state; and
 - (b) is not required to comply with the other provisions of this section.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 194, 2023 General Session

31A-23a-410 Insurer's liability if insured pays premium to a licensee or group policyholder.

- (1) Subject to Subsections (2) and (5), as between the insurer and the insured, the insurer is considered to have received the premium and is liable to the insured for losses covered by the insurance and for any unearned premiums upon cancellation of the insurance if an insurer, including a surplus lines insurer:
 - (a) assumes a risk; and
 - (b) the premium for that insurance is received by:
 - (i) a licensee who placed the insurance;
 - (ii) a group policyholder;
 - (iii) an employer who deducts part or all of the premium from an employee's wages or salary; or
 - (iv) an employer who pays all or part of the premium for an employee.
- (2) Subsection (1) does not apply if:
 - (a) the insured pays a licensee, knowing the licensee does not intend to submit the premium to the insurer; or
 - (b) the insured has premium withheld from the insured's wages or salary knowing the employer does not intend to submit it to the insurer.
- (3)
 - (a) In the case of a group policyholder who has received the premium, the insurer may terminate its liability by giving notice of coverage termination to:
 - (i) the certificate holders;
 - (ii) the policyholder; and
 - (iii) the producer, if any, for the policy.
 - (b) The insurer may not send the notice required by Subsection (3)(a) to a certificate holder before 20 days after the day on which premium is due and unpaid.
 - (c) The liability of the insurer for the losses covered by the insurance terminates at the later of:
 - (i) the last day of the coverage period for which premium has been received by the group policyholder;
 - (ii) 10 days after the date the insurer mails notice to the certificate holder that coverage has terminated; or

- (iii) if the insurer fails to provide notice as required by this Subsection (3), 45 days from the last date for which premium is received.
- (4) Despite a group policyholder's collection of premium under Subsection (1), the responsibility of an insurer to continue to cover the losses covered by the insurance to group policy certificate holders terminates upon the effective date of notice from the policyholder that:
 - (a) coverage of a similar kind and quality has been obtained from another insurer; or
 - (b) the policyholder is electing to voluntarily terminate the certificate holder's coverage and has given the certificate holder's notice of the termination.
- (5) If the insurer is obligated to pay a claim pursuant to this section, the licensee or group policyholder who received the premium and failed to forward it is obligated to the insurer for the entire unpaid premium due under the policy together with reasonable expenses of suit and reasonable attorney fees.
- (6) If, under an employee health insurance plan, an employee builds up credit for future coverage because the employee has not used the policy protection, or in some other way, the insurer is obligated to the employee for that future coverage earned while the policy was in full effect.
- (7)
 - (a) Notwithstanding that an insurer is liable for losses as provided in this section, this section applies only to apportion the liability for the losses described in this section.
 - (b) This section does not:
 - (i) extend a policy or coverage beyond its date of termination; or
 - (ii) alter or amend a provision of a policy.

Amended by Chapter 138, 2016 General Session

31A-23a-411.1 Person's liability if premium received is not forwarded to the insurer.

A person commits insurance fraud as described in Subsection 31A-31-103(1)(g) if that person knowingly fails to forward to the insurer a premium:

- (1) received from one of the following in partial or total payment of the premium due from:
 - (a) an applicant;
 - (b) a policyholder; or
 - (c) a certificate holder; or
- (2) collected from or on behalf of an insured employee under an insured employee benefit plan.

Amended by Chapter 193, 2019 General Session

31A-23a-412 Place of business and residence address -- Records.

- (1)
 - (a) A licensee under this chapter shall register and maintain with the commissioner:
 - (i) the address and the one or more telephone numbers of the licensee's principal place of business; and
 - (ii) a valid business email address at which the commissioner may contact the licensee.
 - (b) If a licensee is an individual, in addition to complying with Subsection (1)(a) the individual shall register and maintain with the commissioner the individual's residence address and telephone number.
 - (c) A licensee shall notify the commissioner within 30 days of a change of any of the following required to be registered with the commissioner under this section:
 - (i) an address;
 - (ii) a telephone number; or

- (iii) a business email address.
- (2)
- (a) Except as provided under Subsection (3), a licensee under this chapter or an insurer under Chapter 14, Foreign Insurers, shall keep at the principal place of business address registered under Subsection (1), separate and distinct books and records of the transactions consummated under the Utah license.
 - (b) The books and records described in Subsection (2)(a) shall:
 - (i) be in an organized form;
 - (ii) be available to the commissioner for inspection upon reasonable notice; and
 - (iii) include all of the following:
 - (A) if the licensee is a producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary:
 - (I) a record of each insurance contract procured by or issued through the licensee, with the names of insurers and insureds, the amount of premium and commissions or other compensation, and the subject of the insurance;
 - (II) the names of any other producers, surplus lines producers, limited line producers, consultants, managing general agents, or reinsurance intermediaries from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid; and
 - (III) a record of the consumer complaints forwarded to the licensee by an insurance regulator;
 - (B) if the licensee is a consultant, a record of each agreement outlining the work performed and the fee for the work; and
 - (C) any additional information which:
 - (I) is customary for a similar business; or
 - (II) may reasonably be required by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) Subsection (2) is satisfied if the books and records specified in Subsection (2) can be obtained immediately from a central storage place or elsewhere by on-line computer terminals located at the registered address.
- (4) A licensee who represents only a single insurer satisfies Subsection (2) if the insurer maintains the books and records pursuant to Subsection (2) at a place satisfying Subsections (1) and (5).
- (5)
 - (a) The books and records maintained under Subsection (2) or Section 31A-23a-413 shall be available for the inspection of the commissioner during the business hours for a period of time after the date of the transaction as specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, but in no case for less than three calendar years in addition to the current calendar year.
 - (b) Discarding a book or record after the applicable record retention period has expired does not place the licensee in violation of a later-adopted longer record retention period.

Amended by Chapter 168, 2017 General Session

31A-23a-413 Title insurance producer's annual report.

An agency title insurance producer shall annually file with the commissioner, by a date and in a form the commissioner specifies by rule, a verified statement of the agency title insurance producer's financial condition, transactions, and affairs as of the end of the preceding calendar year.

Amended by Chapter 120, 2024 General Session

31A-23a-414 Consultant's duty to report illegal insurance.

Section 31A-15-110 applies to a consultant's duty to report illegal insurance.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-415 Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as described in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2)

(a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

(i) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

- (i) \$250 for the first office in each county in which the title insurer maintains an office;
- (ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and
- (iii) an amount calculated by:
 - (A) aggregating the assessments imposed on:
 - (I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and
 - (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);
 - (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and
 - (C) multiplying:
 - (I) the amount calculated under Subsection (2)(c)(iii)(B); and
 - (II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.
- (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, during the first quarter of each fiscal year the Title and Escrow Commission shall approve the amount of costs and expenses described under Subsection (3) for the prior fiscal year that will be covered by the assessment.
- (e)
 - (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.
 - (ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.
- (3)
 - (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.
 - (b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."
 - (c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.
 - (d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers.
 - (e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.
- (4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Amended by Chapter 175, 2025 General Session

31A-23a-416 Solicitations to loan applicants.

- (1)
 - (a) A person authorized to engage in insurance activities in this state shall prominently disclose in writing the information described in Subsection (1)(b) to a person seeking an extension of credit if:

- (i) the person authorized to engage in insurance activities also extends credit directly or through a subsidiary or an affiliate;
 - (ii) the person requires a customer to obtain insurance in connection with an extension of credit; and
 - (iii) the person offers to the person seeking an extension of credit the line of credit insurance required in connection with the extension of credit.
- (b) The disclosure required by Subsection (1)(a) shall be in a form substantially similar to the following. "You may obtain insurance required in connection with your extension of credit from any insurance producer or approved insurer that sells such insurance. Your choice of insurance provider will not affect our credit decision or your credit terms."
- (c) The person shall make the required disclosure under Subsection (1)(a):
- (i) at the time of written application for an extension of credit; or
 - (ii) if there is no written application, before the closing of the extension of credit.
- (2) The disclosure required by Subsection (1)(c)(ii) may be in a verbal, electronic, or other unwritten form if a printed disclosure is included with the first printed statement of terms and conditions of the extension of credit sent to the person seeking the extension of credit.
- (3) This section does not apply when:
- (a) a person is contacting a person in the course of direct or mass marketing to a group of persons in a manner that bears no relation to the person's application for an extension of credit or credit decision; and
 - (b) an agreement for the extension of credit is changed or extended, if the person who originally sought the extension of credit is not required to purchase new or additional insurance.
- (4)
- (a) For purposes of this section, "approved insurer" means an insurer that is approved to issue insurance related to the extension of credit by the person that extends the credit.
 - (b) The commissioner shall make rules establishing standards that govern the approval under Subsection (4)(a) of an insurer by a person that extends credit.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-417 Financial services insurance activities regulation.

- (1) It is the intent of the Legislature that the regulation of insurance activities of any person in this state be based on functional regulation principles established in the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.
- (2) The insurance activities of any person in this state shall be functionally regulated by the commissioner subject to Sections 104, 301-308, 501-507, and 509 of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.
- (3) Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules consistent with Section 104(d) of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, and the functional regulation of insurance activities of any person otherwise subject to the jurisdiction of the commissioner in this state described in Subsection (2).
- (4) The commissioner shall consult and coordinate with the commissioner of the Department of Financial Institutions and the director of the Division of Securities for the purpose of assuring, to the extent possible, that the rules prescribed by the department are consistent and comparable with federal regulations governing the insurance, banking, and securities industries.

Amended by Chapter 382, 2008 General Session

Part 5 Compensation of Producers and Consultants

31A-23a-501 Licensee compensation.

- (1) As used in this section:
- (a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:
 - (i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;
 - (ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or
 - (iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.
 - (b)
 - (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:
 - (A) whether or not payable pursuant to a written agreement; and
 - (B) received from:
 - (I) an insurer; or
 - (II) a third party to the transaction for the sale or placement of insurance.
 - (ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:
 - (A) a fee or pass-through costs as provided in Subsection (1)(e); or
 - (B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.
 - (c)
 - (i) "Customer" means:
 - (A) the person signing the application or submission for insurance; or
 - (B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.
 - (ii) "Customer" does not mean a person who is a participant or beneficiary of:
 - (A) an employee benefit plan; or
 - (B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.
 - (d)
 - (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.
 - (ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.
 - (e) "Pass-through costs" include:
 - (i) costs for copying documents to be submitted to the insurer; and
 - (ii) bank costs for processing cash or credit card payments.
- (2)
- (a) Except as provided in Subsection (3), a licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation.

- (b) Noncommission compensation shall be:
 - (i) limited to actual or reasonable expenses incurred for services; and
 - (ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.
 - (c) The following additional noncommission compensation is authorized:
 - (i) compensation a surety bond's principal debtor pays, under procedures approved by a rule or order of the commissioner, to a producer of a compensation corporate surety for an extra service;
 - (ii) compensation an insurance producer receives for services performed for an insured in connection with a claim adjustment, if the producer:
 - (A) does not receive and is not promised compensation for aiding in the claim adjustment before the claim occurs; and
 - (B) is also licensed as a public adjuster in accordance with Section 31A-26-203;
 - (iii) compensation a consultant receives as a consulting fee, if the consultant complies with the requirements under Section 31A-23a-401; and
 - (iv) a compensation arrangement that the commissioner approves after finding that the arrangement:
 - (A) does not violate Section 31A-23a-401; and
 - (B) is not harmful to the public.
 - (d) All accounting records relating to noncommission compensation shall be maintained in a manner that facilitates an audit.
- (3)
- (a) A surplus lines producer may receive noncommission compensation when acting as a producer for the insured in a surplus lines transaction, if:
 - (i) the producer and the insured have agreed on the producer's noncommission compensation; and
 - (ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.
 - (b) The disclosure required by this Subsection (3) shall:
 - (i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;
 - (ii) clearly specify:
 - (A) the amount of any known noncommission compensation;
 - (B) the type and amount, if known, of any potential and contingent noncommission compensation; and
 - (C) the existence and source of any other compensation; and
 - (iii) be provided to the insured or prospective insured before the performance of the service.
- (4)
- (a) For purposes of this Subsection (4):
 - (i) "Large customer" means an employer who, with respect to a calendar year and to a plan year:
 - (A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and
 - (B) employs at least two employees on the first day of the plan year.
 - (ii) "Producer" includes:
 - (A) a producer;
 - (B) an affiliate of a producer; or
 - (C) a consultant.

- (b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.
- (c) A producer shall:
 - (i) obtain the large customer's signed acknowledgment that the disclosure under Subsection (4)(b) was made to the large customer; or
 - (ii)
 - (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and
 - (B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.
- (d) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:
 - (i) the signed acknowledgment described in Subsection (4)(c)(i); or
 - (ii) the signed statement described in Subsection (4)(c)(ii).
- (e) Subsection (4)(c) does not apply to:
 - (i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or
 - (ii) the placement of insurance in a secondary or residual market.
- (f)
 - (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of a health benefit plan to a large customer that is:
 - (A) the state;
 - (B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);
 - (C) a county, city, town, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or
 - (D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.
 - (ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.
- (g) At the request of the department, a producer shall provide the department a copy of:
 - (i) a disclosure required by this Subsection (4); or

- (ii) an Internal Revenue Service Form 5500 and its relevant attachments.
- (5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.
- (6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.
- (7) A licensee may not receive noncommission compensation from an insurer, insured, or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Amended by Chapter 16, 2023 General Session

31A-23a-502 Controlled business, except as to title insurance.

- (1) As used in this section, "controlled business" means insurance procured by:
 - (a) an insurance producer who is a natural person upon the life, person, or property of himself, his relative within the second degree by blood or marriage, his employer, employees, or organization; or
 - (b) an insurance producer that is an organization upon its own property or upon the life, person, or property of its partners, shareholders, directors, or employees, or their relatives within the second degree by blood or marriage.
- (2) No producer may receive any compensation from an insurer for effecting insurance upon controlled business unless during the preceding 12 months the producer had effected other insurance with aggregate premiums exceeding the premiums on the controlled business.
- (3) This section does not apply to title insurance.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-504 Sharing commissions.

- (1)
 - (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:
 - (i) a producer;
 - (ii) a limited line producer;
 - (iii) a consultant;
 - (iv) a managing general agent; or
 - (v) a reinsurance intermediary.
 - (b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).
- (2)
 - (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.

- (b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:
 - (i) with another consultant licensed under this chapter; and
 - (ii) to the extent that the other consultant contributed to the services performed.
- (3) This section does not prohibit:
 - (a) the payment of renewal commissions to former licensees under this chapter, former Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;
 - (b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:
 - (i) the person is not licensed to sell insurance;
 - (ii) the person does not sell or provide opinions or advice on the product; and
 - (iii) the compensation does not depend on whether the referral results in a purchase or sale; or
 - (c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-402.5.
- (4)
 - (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:
 - (i) an unlawful rebate; or
 - (ii) payment of a forwarding fee or finder's fee.
 - (b) A person may share compensation for the issuance of a title insurance policy only to the extent that the person contributed to the examination of the title or other services connected with the title insurance policy.
- (5) This section does not apply to:
 - (a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102 and as described in Subsection 31A-23a-106(2)(c);
 - (b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or
 - (c) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):
 - (i) car rental related insurance;
 - (ii) self-service storage insurance;
 - (iii) portable electronics insurance; or
 - (iv) travel insurance.

Amended by Chapter 475, 2019 General Session

31A-23a-505 Benefit plans for producers.

An authorized insurer may establish retirement, insurance, and other benefit plans for producers on a basis approved by the commissioner.

Renumbered and Amended by Chapter 298, 2003 General Session

Part 6

Managing General Agents

31A-23a-601 Licensure.

- (1) A person, firm, association, or corporation may not act in the capacity of managing general agent with respect to risks located in this state for an insurer licensed in this state unless the person is a licensed producer in this state.
- (2) A person, firm, association, or corporation may not act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless the person is licensed as a producer in this state pursuant to this chapter. The license may be a nonresident license.
- (3) The commissioner may require a bond in an amount he finds acceptable for the protection of each insurer represented.
- (4) The commissioner may require the managing general agent to maintain an errors and omissions policy or other security acceptable to the commissioner.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-602 Required contract provisions.

A person, firm, association, or corporation acting in the capacity of a managing general agent may not place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party, and where both parties share responsibility for a particular function, the contract specifies the division of shared responsibilities. The written contract shall contain the following minimum provisions:

- (1) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.
- (2) The managing general agent will render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer at least monthly.
- (3) All funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a bank which is insured by the FDIC. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months estimated claims payments and allocated loss adjustment expenses.
- (4) Separate records of business written by the managing general agent shall be maintained. The insurer shall have access and the right to copy all accounts and records related to its business and shall have access to all books, bank accounts, and records of the managing general agent. The records shall be retained according to Section 31A-23a-412 and shall be kept in a form usable by the insurer and the commissioner.
- (5) The contract may not be assigned in whole or part by the managing general agent.
- (6) The insurer shall have the right to cancel or nonrenew any policy of insurance subject to the applicable laws and rules. The contract shall contain appropriate underwriting guidelines including:
 - (a) the maximum annual premium volume;
 - (b) the basis of the rates to be charged;
 - (c) the types of risks which may be written;
 - (d) maximum limits of liability;
 - (e) applicable exclusions;
 - (f) territorial limitations;

- (g) policy cancellation provisions; and
 - (h) the maximum policy period.
- (7) If the contract permits the managing general agent to settle claims on behalf of the insurer:
- (a) All claims shall be reported to the company in a timely manner.
 - (b) A copy of the claim file shall be sent to the insurer at its request, or as soon as it becomes known that the claim:
 - (i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the company;
 - (ii) involves a coverage dispute;
 - (iii) may exceed the managing general agent's claims settlement authority;
 - (iv) is open for more than six months; or
 - (v) is closed by payment the lesser of an amount set by the commissioner or an amount set by the company.
 - (c) All claim files will be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer, the files become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis.
 - (d) Any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.
- (8) Where electronic claims files are in existence, the contract shall address the timely transmission of the data.
- (9) If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves, controlling claim payments, or in any other manner, interim profits may not be paid to the managing general agent until one year after they are earned for property insurance business, and five years after they are earned on casualty business, but not until the profits have been verified by a review conducted pursuant to Section 31A-23a-603.
- (10) The managing general agent may not:
- (a) bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules;
 - (b) commit the insurer to participate in insurance or reinsurance syndicates;
 - (c) appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which the producer is appointed;
 - (d) without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which may not exceed 1% of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;
 - (e) collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer; if prior approval is given, a report shall be promptly forwarded to the insurer;
 - (f) permit its subproducer to serve on the insurer's board of directors;
 - (g) jointly employ an individual who is employed with the insurer; or
 - (h) appoint a submanaging general agent.

Amended by Chapter 297, 2011 General Session

31A-23a-603 Duties of insurers.

- (1) The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner, of each managing general agent with which the insurer has done business.
- (2)
 - (a) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent.
 - (b) The requirement of Subsection (2)(a) is in addition to any other required loss reserve certification.
- (3) The insurer shall at least semiannually conduct an on-site review of the underwriting and claims processing operations of the managing general agent.
- (4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who may not be affiliated with the managing general agent.
- (5)
 - (a) Within 30 days after entering into or terminating a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner.
 - (b) A notice of appointment of a managing general agent shall include:
 - (i) a statement of duties that the applicant is expected to perform on behalf of the insurer;
 - (ii) the lines of insurance for which the applicant is to be authorized to act; and
 - (iii) any other information the commissioner may request.
- (6)
 - (a) An insurer shall review the insurer's books and records each quarter to determine if any producer, as defined in Section 31A-1-301, has become a managing general agent as defined in Section 31A-23a-102.
 - (b) If the insurer determines that a producer has become a managing general agent:
 - (i) the insurer shall promptly notify the producer and the commissioner of the determination; and
 - (ii) the insurer and producer shall fully comply with the provisions of this chapter within 30 days.
- (7)
 - (a) An insurer may not appoint officers, directors, employees, subproducers, or controlling shareholders of the insurer's managing general agents to the insurer's board of directors.
 - (b) This Subsection (7) does not apply to relationships governed by:
 - (i) Chapter 16, Insurance Holding Companies; or
 - (ii) Chapter 23a, Part 7, Producer Controlled Insurers, if it applies.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-604 Examination authority.

The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined as if it were the insurer.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-605 Penalties and liabilities.

- (1) If the commissioner finds after a hearing that any person has violated any provision of this part, the commissioner may order:
 - (a) for each separate violation, a penalty in an amount of \$5,000;
 - (b) revocation or suspension of the producer's license; and
 - (c) the managing general agent to reimburse the insurer, the rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by the managing general agent's violation.
- (2) Nothing contained in this section affects the right of the commissioner to impose any other penalties provided for in this title.
- (3) Nothing contained in this part is intended to, or in any manner limits or restricts the rights of policyholders, claimants, and auditors.

Renumbered and Amended by Chapter 298, 2003 General Session

Part 7 Producer Controlled Insurers

31A-23a-701 Applicability.

- (1) This part applies to licensed insurers, as defined in Section 31A-23a-102, that are domiciled:
 - (a) in this state; or
 - (b) in a state that does not have a substantially similar law.
- (2) All provisions of Chapter 16, Insurance Holding Companies, to the extent they are not superseded by this part, continue to apply to all parties within holding company systems subject to this part.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-702 Minimum standards.

- (1) This section applies if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than 5% of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the prior year.
- (2) Notwithstanding Subsection (1), this section does not apply if:
 - (a) the controlling producer places insurance only with the controlled insurer, or only with the controlled insurer and members of the controlled insurer's holding company system, or with the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with the insurance placed;
 - (b) the controlling producer accepts insurance placements only from nonaffiliated producers who are not controlling producers, and not directly from insureds; and
 - (c) the controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.
- (3) A controlled insurer may not accept business from a controlling producer and a controlling producer may not place business with a controlled insurer unless there is a written contract between the controlling producer and the insurer that specifies the responsibilities of each party

and that has been approved by the board of directors of the insurer. The contract shall contain the following minimum provisions:

- (a) The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination.
- (b) The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer.
- (c) The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer at least monthly. The due date shall be fixed so that premiums or premium installments collected shall be remitted no later than 90 days after the effective date of any policy placed with the controlled insurer under the contract.
- (d) All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System FDIC, in accordance with applicable provisions of this title. However, funds of a controlling producer not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction.
- (e) The controlling producer shall maintain separately identifiable records of business written for the controlled insurer.
- (f) The contract may not be assigned in whole or in part by the controlling producer.
- (g) The controlled insurer shall provide the controlling producer with its underwriting standards, rules, procedures, and manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer.
- (h) The contract shall state the rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of the commissions, charges, and other fees may not be greater than those applicable to comparable business and services placed with the controlled insurer by producers other than controlling producers. For purposes of Subsections (3)(g) and (h), examples of "comparable business and services" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business.
- (i) If the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then the compensation may not be determined and paid until at least five years after the premiums on liability insurance are earned, and at least one year after the premiums are earned on any other insurance. In no event may the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to Subsection (5).
- (j) The contract shall include a limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit to each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and may not accept business from the controlling producer if the limit is reached. The controlling producer may not place business with the

controlled insurer if it has been notified by the controlled insurer that the limit has been reached.

- (k) The controlling producer may negotiate but may not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer. However, the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.
- (4) Each controlled insurer shall have an audit committee of the board of directors. The audit committee shall annually meet to review the adequacy of the insurer's loss reserves. The committee shall meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or any other independent loss reserve specialists acceptable to the commissioner.
- (5)
 - (a) In addition to any other required loss reserve certification, the controlled insurer shall file with the commissioner on April 1 of each year an opinion of an independent casualty actuary, or any other independent loss reserve specialist acceptable to the commissioner. The opinion shall report loss ratios for each line of business written and shall attest to the adequacy of loss reserves established for losses incurred and outstanding as of year-end on business placed by the producer including losses incurred but not reported.
 - (b) The controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage that amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

Amended by Chapter 297, 2011 General Session

31A-23a-703 Disclosure.

The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. However, if the business is placed through a producer who is not a controlling producer, the controlling producer shall retain in his records a signed commitment from the noncontrolling producer that the noncontrolling producer is aware of the relationship between the insurer and the producer and that the noncontrolling producer has, or will, notify the insured.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-704 Penalties.

- (1)
 - (a) If, after notice and opportunity to be heard, the commissioner finds that the controlling producer or any other person has not materially complied with this part, or any rule made or order issued under the part, the commissioner may order the controlling producer to cease placing business with the controlled insurer.
 - (b) If the commissioner finds that because of the material noncompliance that the controlled insurer or any policyholder of the controlled insurer has suffered any loss or damage, the commissioner may maintain a civil action or may intervene in an action brought by or on

behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or the commissioner may seek other appropriate relief.

- (2) If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to Chapter 27a, Insurer Receivership Act, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with this part, or any rule made or order issued under this part, and the insurer suffered any loss or damage as a result of the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.
- (3) Nothing in this section affects the right of the commissioner to impose any other penalties provided for in this title.
- (4) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors, or other third parties.

Amended by Chapter 309, 2007 General Session

Part 8

Reinsurance Intermediaries

31A-23a-801 Licensure.

- (1) A person, firm, association, or corporation may not act as a reinsurance intermediary-broker in this state if the reinsurance intermediary-broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation unless:
 - (a) in this state, the reinsurance intermediary-broker is a licensed producer in this state; or
 - (b) in another state, the reinsurance intermediary-broker is a licensed producer in this state or another state having a licensing law substantially similar to this part, or the reinsurance intermediary-broker is licensed in this state as a nonresident reinsurance intermediary.
- (2) A person, firm, association, or corporation may not act as a reinsurance intermediary-manager:
 - (a) for a reinsurer domiciled in this state, unless the reinsurance intermediary-manager is a licensed producer in this state;
 - (b) in this state, if the reinsurance intermediary-manager maintains an office either directly or as a member or employee of a firm or association, or as an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary-manager is a licensed producer in this state; or
 - (c) in another state for a nondomestic insurer, unless the reinsurance intermediary-manager is a licensed producer in this state or another state having a licensing law substantially similar to this chapter, or the person is licensed in this state as a nonresident reinsurance intermediary.
- (3) The commissioner may require a bond in an amount he finds acceptable for the protection of each reinsurer represented.
- (4)
 - (a) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation which has complied with the requirements of this chapter.
 - (i) Any license issued to a firm or association will authorize all the members of the firm or association, and any designated employees, to act as reinsurance intermediaries under the license. Each member, employee, or similar person shall be named in the application and any supplements to the application.

- (ii) Any license issued to a corporation shall authorize all of the officers, directors, and any designated employees to act as reinsurance intermediaries on behalf of the corporation, and all authorized persons shall be named in the application and any supplements to the application.
- (b) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by this title for designation of service of process upon unauthorized insurers. The applicant also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and the change does not become effective until acknowledged by the commissioner.
- (5) The commissioner may refuse to issue a reinsurance intermediary license if he determines that the applicant, any one named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the persons named has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license. Upon written request the commissioner will furnish a summary of the basis for his refusal to issue a license. The summary document shall be confidential.
- (6) Licensed attorneys-at-law of this state when acting in their professional capacity as attorneys are exempt from this section.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-802 Required contract provisions -- Reinsurance intermediary-broker.

Transactions between a reinsurance intermediary-broker and the insurer it represents in that capacity may only be entered into pursuant to a written authorization, which specifies the responsibilities of each party. The authorization shall, at a minimum, provide that the reinsurance intermediary-broker:

- (1) may have his authority terminated by the insurer at any time;
- (2) will render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to the reinsurance intermediary-broker, and that he will remit all funds due to the insurer within 30 days of receipt;
- (3) shall hold, in a fiduciary capacity, all funds collected for the insurer's account in a financial institution, which is a qualified United States financial institution;
- (4) will comply with Section 31A-23a-803;
- (5) will comply with the written standards established by the insurer for the cession or retrocession of all risks; and
- (6) will disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-803 Books and records -- Reinsurance intermediary-broker.

- (1) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-broker, he will keep a complete record for each transaction showing:

- (a) the type of contract, limits, underwriting restrictions, classes or risks, and territory;
 - (b) the period of coverage, including the effective and expiration dates, cancellation provisions, and notice required of cancellation;
 - (c) reporting and settlement requirements of balances;
 - (d) the rate used to compute the reinsurance premium;
 - (e) the names and addresses of assuming reinsurers;
 - (f) the rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-broker;
 - (g) related correspondence and memoranda;
 - (h) proof of placement;
 - (i) details regarding retrocessions handled by the reinsurance intermediary-broker, including the identity of retrocessionaires and percentage of each contract assumed or ceded;
 - (j) financial records including premium and loss accounts; and
 - (k) when the reinsurance intermediary-broker procures a reinsurance contract on behalf of a licensed ceding insurer:
 - (i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 - (ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.
- (2) The insurer will have access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary-broker related to its business in a form usable by the insurer.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-804 Duties of insurers utilizing the services of a reinsurance intermediary-broker.

- (1) An insurer may not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-broker on its behalf unless the person is licensed as required by Subsection 31A-23a-801(1).
- (2) An insurer may not employ an individual who is employed by a reinsurance intermediary-broker with which it transacts business, unless the reinsurance intermediary-broker is under common control with the insurer and subject to Title 31A, Chapter 16, Insurance Holding Companies.
- (3) The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-broker with which it transacts business.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-805 Required contract provisions -- Reinsurance intermediary-manager.

Transactions between a reinsurance intermediary-manager and the reinsurer it represents in that capacity may only be entered into pursuant to a written contract, which specifies the responsibilities of each party, and which shall be approved by the reinsurer's board of directors. At least 30 days before the reinsurer assumes or cedes business through the producer, a true copy of the approved contract shall be filed with the commissioner for approval. The contract shall, at a minimum, provide or require the following:

- (1) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary-manager. The reinsurer may immediately suspend the authority of the reinsurance intermediary-manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

- (2) The reinsurance intermediary-manager will render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the reinsurance intermediary-manager, and he shall remit all funds due under the contract to the reinsurer at least monthly.
- (3) All funds collected for the reinsurer's account will be held by the reinsurance intermediary-manager in a fiduciary capacity in a financial institution which is a qualified United States financial institution. The reinsurance intermediary-manager may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary-manager shall maintain a separate account for each reinsurer that it represents.
- (4) For at least 10 years after expiration of each contract of reinsurance transacted by the reinsurance intermediary-manager, he shall keep a complete record for each transactions showing:
 - (a) the type of contract, limits, underwriting restrictions, classes of risks, and territory;
 - (b) period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks;
 - (c) reporting and settlement requirements of balances;
 - (d) rates used to compute the reinsurance premium;
 - (e) names and addresses of reinsurers;
 - (f) rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary-manager;
 - (g) related correspondence and memoranda;
 - (h) proof of placement;
 - (i) details regarding retrocessions handled by the reinsurance intermediary-manager, as permitted by Subsection 31A-23a-807(4), including the identity of retrocessionaires and percentage of each contract assumed or ceded;
 - (j) financial records, including premium and loss accounts; and
 - (k) when the reinsurance intermediary-manager places a reinsurance contract on behalf of a ceding insurer:
 - (i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
 - (ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.
- (5) The reinsurer will have access and the right to copy all accounts and records maintained by the reinsurance intermediary-manager which are related to its business, in a form usable by the reinsurer.
- (6) The contract cannot be assigned in whole or in part by the reinsurance intermediary-manager.
- (7) The reinsurance intermediary-manager will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.
- (8) The contract shall set forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary-manager may levy against the reinsurer.
- (9) If the contract permits the reinsurance intermediary-manager to settle claims on behalf of the reinsurer:
 - (a) All claims will be reported to the reinsurer in a timely manner.
 - (b) A copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim:
 - (i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;
 - (ii) involves a coverage dispute;

- (iii) may exceed the reinsurance intermediary-manager claims settlement authority;
 - (iv) is open for more than six months; or
 - (v) is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.
- (c) All claim files will be the joint property of the reinsurer and reinsurance intermediary-manager. However, upon an order of liquidation of the reinsurer the files shall become the sole property of the reinsurer or its estate. The reinsurance intermediary-manager shall have reasonable access to and the right to copy the files on a timely basis.
 - (d) Any settlement authority granted to the reinsurance intermediary-manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary-manager, or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.
- (10) If the contract provides for a sharing of interim profits by the reinsurance intermediary-manager, that the contract shall provide interim profits will not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business, or a later time period set by the commissioner for specified lines of insurance, and not until the adequacy of reserves on remaining claims has been verified pursuant to Subsection 31A-23a-807(3).
 - (11) The reinsurance intermediary-manager will annually provide the reinsurer with a statement of its financial condition prepared by an independent certified public accountant.
 - (12) The reinsurer shall at least semi-annually conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary-manager.
 - (13) The reinsurance intermediary-manager will disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract.
 - (14) Within the scope of its actual or apparent authority the acts of the reinsurance intermediary-manager shall be considered to be the acts of the reinsurer on whose behalf it is acting.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-806 Prohibited acts.

- (1) The reinsurance intermediary-manager may not cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary-manager may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for facultative retrocessions. The guidelines shall include a list of reinsurers with which automatic agreements are in effect, and for each listed reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules.
- (2) The reinsurance intermediary-manager may not commit the reinsurer to participate in reinsurance syndicates.
- (3) The reinsurance intermediary-manager may not appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which the producer is appointed.
- (4) The reinsurance intermediary-manager may not, without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or 1% of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year.

- (5) The reinsurance intermediary-manager may not collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report shall be promptly forwarded to the reinsurer.
- (6) The reinsurance intermediary-manager may not jointly employ an individual who is employed by the reinsurer unless the reinsurance intermediary-manager is under common control with the reinsurer subject to Title 31A, Chapter 16, Insurance Holding Companies.
- (7) The reinsurance intermediary-manager may not appoint a subreinsurance intermediary-manager.

Amended by Chapter 297, 2011 General Session

31A-23a-807 Duties of reinsurers utilizing the services of reinsurance.

- (1) A reinsurer may not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary-manager on its behalf unless the person is licensed as required by Subsection 31A-23a-801(2).
- (2) The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary-manager which the reinsurer has engaged, which shall be prepared by an independent certified public accountant in a form acceptable to the commissioner.
- (3) If a reinsurance intermediary-manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary-manager. The actuary's opinion shall be in addition to any other required loss reserve certification.
- (4) Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer, who may not be affiliated with the reinsurance intermediary-manager.
- (5) Within 30 days of termination of a contract with a reinsurance intermediary-manager, the reinsurer shall provide written notification of the termination to the commissioner.
- (6) A reinsurer may not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary-manager. This subsection does not apply to relationships governed by Title 31A, Chapter 16, Insurance Holding Companies, or Chapter 23a, Part 7, Producer Controlled Insurers, if it applies.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-808 Examination authority.

- (1) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary, which shall be kept in a form usable to the commissioner.
- (2) A reinsurance intermediary-manager may be examined as if it were the reinsurer.

Renumbered and Amended by Chapter 298, 2003 General Session

31A-23a-809 Penalties and liabilities.

- (1) A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to be in violation of any provisions of this title, shall:
 - (a) for each separate violation, pay a civil penalty in an amount not exceeding \$5,000;

- (b) be subject to revocation or suspension of its license; and
 - (c) if a violation was committed by the reinsurance intermediary, the reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.
- (2) Nothing contained in this section affects the right of the commissioner to impose any other penalties provided in this title.
- (3) Nothing contained in this part is intended to, or in any manner limits or restricts the rights of policyholders, claimants, creditors, or other third parties; nor does it confer any rights to such persons.

Amended by Chapter 382, 2008 General Session

Part 9

Travel Insurance Act

31A-23a-901 Title.

This part is known as the "Travel Insurance Act."

Enacted by Chapter 277, 2014 General Session

31A-23a-902 Definitions.

As used in this part, unless the context requires otherwise:

- (1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.
- (2) "Blanket travel insurance" means a travel insurance policy that:
 - (a) an insurer issues to an eligible group; and
 - (b) covers:
 - (i) a specific class of persons defined in the policy; and
 - (ii) all members of the eligible group without a separate charge to an individual member of the eligible group.
- (3) "Cancellation fee waiver" means a contractual agreement that:
 - (a) is between a supplier of a travel assistance service and the supplier's customer; and
 - (b) waives a non-refundable cancellation fee provision of the supplier's underlying travel contract, with or without regard to:
 - (i) the reason for the cancellation; or
 - (ii) the form of reimbursement.
- (4)
 - (a) "Eligible group" means a group of two or more persons who:
 - (i) are engaged in a common enterprise; or
 - (ii) have an economic, educational, or social affinity or relationship.
 - (b) "Eligible group" includes:
 - (i) an entity engaged in the business of providing travel or a travel service in which, with regard to the particular travel or travel service or type of travel or travelers, all members or customers of the group have common exposure to risk attendant to that travel, including:
 - (A) a tour operator;

- (B) a lodging provider;
 - (C) a vacation property owner;
 - (D) a hotel or resort;
 - (E) a travel club;
 - (F) a travel agency;
 - (G) a property manager;
 - (H) a cultural exchange program;
 - (I) a common carrier; and
 - (J) the operator, owner, or lessor of a means of transportation of passengers, including an airline, a cruise line, a railroad, a steamship company, and a public bus carrier;
- (ii) a college, school, or other institution of learning, covering students, teachers, employees, or volunteers;
 - (iii) an employer covering employees, volunteers, contractors, a board of directors, dependents, or guests;
 - (iv) a sports team, camp, or a sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;
 - (v) a religious, charitable, recreational, educational, or civic organization, or a branch of a religious, charitable, recreational, educational, or civic organization, covering members, participants, or volunteers;
 - (vi) a financial institution, a financial institution vendor, or a parent holding company, trustee, or agent of or designated by a financial institution or a financial institution vendor, covering accountholders, credit card holders, debtors, guarantors, or purchasers;
 - (vii) an incorporated or unincorporated association, including a labor union, that:
 - (A) has a common interest, constitution, and bylaws;
 - (B) is organized and maintained in good faith for a purpose other than to cover members or participants of the association; and
 - (C) covers members of the association;
 - (viii) an entertainment production company covering participants, volunteers, audience members, contestants, or workers;
 - (ix) a volunteer fire department, ambulance, rescue, police, or court or a volunteer first aid, civil defense, or other volunteer group similar to first aid or civil defense, covering members, participants, or volunteers;
 - (x) a preschool, a daycare institution for children or adults, or a senior citizen club, covering attendees or participants;
 - (xi) an automobile or truck rental or leasing company:
 - (A) covering individuals who may become renters, lessees, or passengers depending on the travel status of the individual on a rented or leased vehicle; and
 - (B) if the common carrier, operator, owner or lessor of the means of transportation, or the automobile or truck rental or leasing company is the policyholder; and
 - (xii) a group not described in Subsections (4)(b)(i) through (xi), if the commissioner determines that:
 - (A) the members of the group are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship; and
 - (B) issuance of the policy would not be contrary to the public interest.
- (5) "Fulfillment material" means documentation that:
- (a) is sent to the purchaser of a travel protection plan;
 - (b) confirms the purchase of the travel protection plan; and
 - (c) provides the travel protection plan's coverage and assistance details.

- (6) "Group travel insurance" means travel insurance issued to an eligible group, covering each certificate holder in the eligible group.
- (7) "Limited lines travel insurance producer" means one of the following designated by an insurer as the travel insurance supervising entity as provided in Subsection 31A-23a-905(4):
 - (a) a licensed managing general agent or third party administrator; or
 - (b) a licensed insurance producer, including a limited lines producer.
- (8) "Offer and disseminate" means:
 - (a) providing general information, including a description of the coverage and price;
 - (b) processing an application;
 - (c) collecting a premium; and
 - (d) performing activities that the state permits to be done by a person who is not licensed.
- (9)
 - (a) "Travel administrator" means a person who, in connection with travel insurance, directly or indirectly:
 - (i) underwrites;
 - (ii) collects a charge, collateral, or a premium from a resident of this state; or
 - (iii) adjusts or settles a claim on a resident of this state.
 - (b) "Travel administrator" does not include a person whose action that would otherwise cause the person to be considered a travel administrator is among the following:
 - (i) a person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;
 - (ii) a travel retailer that, in accordance with this part:
 - (A) offers and disseminates travel insurance; and
 - (B) is registered under the license of a limited lines travel insurance producer;
 - (iii) an individual adjusting or settling claims:
 - (A) in the normal course of that individual's practice or employment as an attorney; and
 - (B) who does not collect a charge or premium in connection with insurance coverage; or
 - (iv) a business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.
- (10)
 - (a) "Travel assistance service" means a service:
 - (i) for which the consumer is not indemnified based on a fortuitous event;
 - (ii) where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance; and
 - (iii) that is furnished in connection with planned travel.
 - (b) "Travel assistance service" includes:
 - (i) a security advisory;
 - (ii) destination information;
 - (iii) a vaccination and immunization information service;
 - (iv) a travel reservation service;
 - (v) entertainment;
 - (vi) activity and event planning;
 - (vii) translation assistance;
 - (viii) emergency messaging;
 - (ix) an international legal or medical referral;
 - (x) medical case monitoring;
 - (xi) coordination of transportation arrangements;
 - (xii) emergency cash transfer assistance;

- (xiii) medical prescription replacement assistance;
- (xiv) passport and travel document replacement assistance;
- (xv) lost luggage assistance; and
- (xvi) a concierge service.

(11)

- (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including:
 - (i) interruption or cancellation of a trip or event;
 - (ii) loss of baggage or personal effects;
 - (iii) damages to accommodations or rental vehicles;
 - (iv) sickness, accident, disability, or death during travel;
 - (v) emergency evacuation;
 - (vi) repatriation of remains; or
 - (vii) a contractual obligation that indemnifies or pays a specified amount to the traveler upon a determinable contingency related to travel.
- (b) "Travel insurance" does not include a major medical plan that provides comprehensive medical protection for a traveler with a trip lasting six months or longer, including an individual working overseas or military personnel being deployed.

(12) "Travel protection plan" means a plan that provides:

- (a) travel insurance;
- (b) a travel assistance service; or
- (c) a cancellation fee waiver.

(13) "Travel retailer" means a business entity that:

- (a) makes, arranges, or offers a travel service; and
- (b) may offer and disseminate travel insurance as a service to the entity's customers on behalf of and under the direction of a limited lines travel insurance producer.

Amended by Chapter 364, 2022 General Session

31A-23a-902.1 Scope.

(1) The requirements under this part:

- (a) apply to travel insurance:
 - (i) that covers a resident of this state;
 - (ii) that is sold, solicited, negotiated, or offered in this state; and
 - (iii) for which policies and certificates are delivered or issued for delivery in this state; and
- (b) do not apply, except as expressly provided, to:
 - (i) a cancellation fee waiver; or
 - (ii) a travel assistance service.

(2) If there is a conflict between a provision of this part and another provision under this title, this part governs.

Enacted by Chapter 364, 2022 General Session

31A-23a-903 Issuance of limited lines travel insurance producer license.

Notwithstanding any other provision of this chapter:

(1) The commissioner may issue to an individual or business entity that has filed with the commissioner an application in a form and manner prescribed by the commissioner a limited

lines travel insurance producer license that authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

- (2) A limited lines travel insurance producer, and those registered under the license of the limited lines travel producer, are exempt from:
- (a) the examination requirements under Section 31A-23a-108; and
 - (b) the continuing education requirements under Section 31A-23a-202.

Enacted by Chapter 277, 2014 General Session

31A-23a-904 Travel retailers.

Notwithstanding any other provision of this chapter, a travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

- (1) The limited lines travel insurance producer or travel retailer shall provide to a purchaser of travel insurance:
- (a) a description of the material terms or the actual material terms of the insurance coverage;
 - (b) a description of the process for filing a claim;
 - (c) a description of the review or cancellation process for the travel insurance policy; and
 - (d) the identity and contact information of the insurer and limited lines travel insurance producer.
- (2)
- (a) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf.
 - (b) The limited lines travel insurance producer shall maintain and update the register annually and include:
 - (i) the name, address, and contact information of the travel retailer;
 - (ii) the name, address, and contact information of an officer or person who directs or controls the travel retailer's operations; and
 - (iii) the travel retailer's federal tax identification number.
 - (c) The limited lines travel insurance producer shall submit the register to the department upon reasonable request by the department.
 - (d) The limited lines travel insurance producer shall certify that the travel retailer registered with the limited lines travel insurance producer has not violated 18 U.S.C. Sec. 1033.
- (3) The limited lines travel insurance producer shall designate one of its employees who is a licensed individual travel insurance producer as the designated responsible producer who is responsible for the limited lines travel insurance producer's compliance with the travel insurance laws and rules of the state.
- (4) The designated responsible producer, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations shall comply with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.
- (5) The limited lines travel insurance producer shall pay all applicable insurance producer licensing fees imposed in accordance with Section 31A-3-103.
- (6) The limited lines travel insurance producer shall require an employee or authorized representative of a travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training that may be subject to review by the commissioner. The training materials shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

Enacted by Chapter 277, 2014 General Session

31A-23a-905 Offering or disseminating travel insurance.

- (1) A travel retailer offering or disseminating travel insurance shall make available to a prospective purchaser a brochure or other written material that:
 - (a) provides the identity and contact information of the insurer and the limited lines travel insurance producer;
 - (b) explains that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; and
 - (c) explains that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to:
 - (i) answer a technical question about the terms and conditions of the insurance the travel retailer offers; or
 - (ii) evaluate the adequacy of the prospective purchaser's existing insurance coverage.
- (2) A travel retailer's employee or authorized representative who is not licensed as an insurance producer may not:
 - (a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;
 - (b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or
 - (c) hold the person out as a licensed insurer, licensed producer, or insurance expert.
- (3) Notwithstanding any other provision of this chapter, a travel retailer whose insurance-related activities, and the activities of the travel retailer's employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this part, is authorized to do so and receive related compensation for services, upon registration of the limited lines travel insurance producer as described in Subsection 31A-23a-904(2).
- (4) As the insurer designee, the limited lines travel insurance producer:
 - (a) is responsible for the acts of the travel retailer; and
 - (b) shall use responsible means to ensure compliance by the travel retailer under this part.
- (5) A person licensed in a general line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance.

Amended by Chapter 364, 2022 General Session

31A-23a-906 Travel insurance.

Travel insurance may be provided under an individual policy or under a group or master policy.

Enacted by Chapter 277, 2014 General Session

31A-23a-907 Market conduct and penalties.

A limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance under the limited lines travel insurance producer license are subject to Sections 31A-2-308, 31A-23a-402, and 31A-23a-402.5.

Enacted by Chapter 277, 2014 General Session

31A-23a-908 Travel protection plans.

A person may offer a travel protection plan for one price for the combined features that the travel protection plan offers, if:

- (1) the person ensures the travel protection plan:
 - (a) clearly discloses to the consumer, at or before the time of purchase, that the plan includes:
 - (i) travel insurance;
 - (ii) a travel assistance service; or
 - (iii) a cancellation fee waiver; and
 - (b) provides information and an opportunity, at or before the time of purchase, for the consumer to obtain additional information regarding the features and pricing of the travel insurance, travel assistance service, and cancellation fee waiver, as applicable; and
- (2) the fulfillment material for the travel protection plan:
 - (a) describes and delineates the travel insurance, travel assistance services, and cancellation fee waiver in the travel protection plan;
 - (b) includes each travel insurance disclosure required under state law; and
 - (c) includes the contact information for each person providing a:
 - (i) travel assistance service; or
 - (ii) cancellation fee waiver.

Enacted by Chapter 364, 2022 General Session

31A-23a-909 Sales practices.

- (1) As used in this section, "deliver" or "delivery" means:
 - (a) handing fulfillment material to a policyholder or certificate holder; or
 - (b) sending fulfillment material by mail or electronic means to a policyholder or certificate holder.
- (2) A person who offers or sells a travel insurance policy to a resident of this state shall:
 - (a) ensure that each document the person provides to the consumer before the consumer purchases the travel insurance, including sales material, advertising material, and marketing material, is consistent with the purchased travel insurance policy, including each form and rate filing;
 - (b) provide the consumer information and an opportunity to learn more about each pre-existing condition exclusion the policy includes:
 - (i) before the consumer purchases the policy; and
 - (ii) in the travel protection plan's fulfillment materials; and
 - (c) after a consumer purchases a travel protection plan, provide each policyholder or certificate holder as soon as practicable:
 - (i) the fulfillment materials; and
 - (ii) the information described in Subsection 31A-23a-904(1).
- (3)
 - (a) Except as provided in Subsection (3)(b), a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price during the period that:
 - (i) begins the day on which the consumer purchases the policy or certificate; and
 - (ii) ends no earlier than:
 - (A) if the travel protection plan's fulfillment materials are delivered to the policyholder or certificate holder by mail, 15 days after the day on which the mail is postmarked; or
 - (B) if the travel protection plan's fulfillment materials are delivered by means other than mail, 10 days after the day on which the delivery occurs.

- (b) A policyholder or certificate holder may not cancel a policy or certificate as described in Subsection (3)(a) if an insured under the policy or certificate:
 - (i) begins a trip covered under the travel insurance coverage; or
 - (ii) files a claim under the travel insurance coverage.
- (4)
 - (a) An unfair trade practice under Section 31A-23a-402 includes:
 - (i) offering or selling a travel insurance policy that could never result in payment of a claim for an insured under the policy; or
 - (ii) marketing blanket travel insurance coverage as free of charge.
 - (b) It is not an unfair trade practice under Section 31A-23a-402 to market travel insurance directly to a consumer through an insurer's website or through an aggregator site, if:
 - (i) an accurate summary or short description of coverage is provided on the website; and
 - (ii) the consumer has access to the full provisions of the policy through electronic means.
 - (c) If a consumer's destination jurisdiction requires insurance coverage and the consumer is provided proof of the requirement at the time of purchase, it is not an unfair trade practice under Section 31A-23a-402 to require that the consumer choose between the following options as a condition of purchasing a trip or travel package:
 - (i) purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or
 - (ii) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.
- (5)
 - (a) A person offering, soliciting, or negotiating travel insurance or a travel protection plan may not offer or sell the travel insurance or travel protection plan on an individual or group basis by using a negative option or an opt out provision.
 - (b) For purposes of Subsection (5)(a), a negative option or opt out provision occurs when a consumer is required to take an affirmative action to deselect coverage, including unchecking a box on an electronic form, when the consumer purchases a trip.

Enacted by Chapter 364, 2022 General Session

31A-23a-910 Travel administrators.

- (1) A person may not act as or represent that the person is a travel administrator for travel insurance unless the person:
 - (a) is an insurance producer acting within the scope of the producer's license;
 - (b) is licensed as a managing general agent in accordance with Part 6, Managing General Agents; or
 - (c) is licensed as a third party administrator in accordance with Chapter 25, Third Party Administrators.
- (2) An insurer is responsible for:
 - (a) an act of a travel administrator administering travel insurance the insurer underwrites; and
 - (b) ensuring that the travel administrator maintains all books and records relevant to the insurer.
- (3) A travel administrator shall make the books and records described in Subsection (2)(b) available to the commissioner upon the commissioner's request.

Enacted by Chapter 364, 2022 General Session

31A-23a-911 Classification of travel insurance -- Standards -- Status.

- (1) An insurer shall classify and file travel insurance under an inland marine line of insurance.
- (2) An insurer may:
 - (a) issue travel insurance as an individual, group, or blanket policy; or
 - (b) develop eligibility and underwriting standards for travel insurance based on travel protection plans designed for individual or identified marketing or distribution channels, if the standards also meet underwriting standards for inland marine insurance.
- (3) Under this part, the following are not insurance:
 - (a) a cancellation fee waiver; and
 - (b) a travel assistance service.

Enacted by Chapter 364, 2022 General Session

31A-23a-912 Rulemaking.

The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the provisions of this part.

Enacted by Chapter 364, 2022 General Session

Part 10 Affiliated Business in Title Insurance

31A-23a-1001 Definitions.

As used in this part:

- (1) "Affiliated business" means the gross transaction revenue of a title entity's title insurance business in the state that is the result of an affiliated business arrangement.
- (2) "Affiliated business arrangement" means the same as that term is defined in 12 U.S.C. Sec. 2602, except the services that are the subject of the arrangement do not need to involve a federally related mortgage loan.
- (3) "Applicable percentage" means:
 - (a) on February 1, 2020, through January 31, 2021, 0.5%;
 - (b) on February 1, 2021, through January 31, 2022, 1%;
 - (c) on February 1, 2022, through January 31, 2023, 1.5%;
 - (d) on February 1, 2023, through January 31, 2024, 2%;
 - (e) on February 1, 2024, through January 31, 2025, 2.5%;
 - (f) on February 1, 2025, through January 31, 2026, 3%;
 - (g) on February 1, 2026, through January 31, 2027, 3.5%;
 - (h) on February 1, 2027, through January 31, 2028, 4%; and
 - (i) on February 1, 2028, through January 31, 2029, 4.5%.
- (4) "Associate" means the same as that term is defined in 12 U.S.C. Sec. 2602.
- (5) "Division" means the Division of Real Estate created in Section 61-2-201.
- (6) "Essential function" means:
 - (a) examining and evaluating, based on relevant law and title insurance underwriting principles and guidelines, title evidence to determine the insurability of a title and which items to include or exclude in a title commitment or title insurance policy to be issued;
 - (b) preparing and issuing a title commitment or other document that:
 - (i) discloses the status of the title as the title is proposed to be insured;

- (ii) identifies the conditions that must be met before a title insurance policy will be issued; and
- (iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)(ii) are met;
- (c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the issuance of a title insurance policy;
- (d) preparing the issuance of a title insurance policy; or
- (e) handling the closing or settlement of a real estate transaction when:
 - (i) it is customary for a title entity to handle the closing or settlement; and
 - (ii) the title entity's compensation for handling the closing or settlement is customarily part of the payment or retention from the insurer.
- (7) "New or newly affiliated title entity" means a title entity that:
 - (a) is licensed as a title entity for the first time on or after May 14, 2019; or
 - (b)
 - (i) is licensed as a title entity before May 14, 2019; and
 - (ii) enters into an affiliated business arrangement for the first time on or after May 14, 2019.
- (8) "Producer" means the same as the term "person who is in a position to refer settlement service business" is defined in 12 C.F.R. Sec. 1024.15(c).
- (9) "RESPA" means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.
- (10) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.
- (11) "Sufficient capital and net worth" means:
 - (a) for a new or newly affiliated title entity:
 - (i) \$100,000 for the first five years after becoming a new or newly affiliated title entity; or
 - (ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:
 - (A) \$50,000; or
 - (B) on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or
 - (b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:
 - (i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:
 - (A) an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage first applies; or
 - (B) \$150,000; and
 - (ii) beginning on February 1, 2029, the greater of:
 - (A) \$50,000; or
 - (B) an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.
- (12) "Title entity" means:
 - (a) a title licensee as defined in Section 31A-2-402; or
 - (b) a title insurer as defined in Section 31A-23a-415.
- (13)
 - (a) "Title evidence" means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records relevant to the history and current condition of a title to be insured.
 - (b) "Title evidence" does not include a pro forma commitment.

Amended by Chapter 448, 2020 General Session

31A-23a-1002 Regulation of affiliated business -- Applicable law.

- (1) Except as provided in this part, for purposes of state law, Section 8 of RESPA governs an affiliated business arrangement involving a title entity.
- (2) The division shall enforce the provisions of this part, including Section 8 of RESPA.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to implement the provisions of this part.

Enacted by Chapter 475, 2019 General Session

31A-23a-1003 Affiliated business arrangements.

- (1) An affiliated business arrangement between a person and a title entity violates Section 8 of RESPA for purposes of state law if:
 - (a) the title entity does not have sufficient capital and net worth in a reserve account in the title entity's name; or
 - (b) more than 70% of the title entity's annual title insurance business is affiliated business on or after the later of:
 - (i) two years after the title entity begins an affiliated business arrangement; or
 - (ii) June 1, 2021.
- (2) In addition to Subsection (1), the division may find that an affiliated business arrangement between a person and a title entity violates Section 8 of RESPA after evaluating and weighing the following factors in light of the specific facts before the division:
 - (a) whether the title entity:
 - (i) is staffed with the title entity's own employees to conduct title insurance business;
 - (ii) manages the title entity's own business affairs;
 - (iii) has a physical office for business that is separate from any producer's or associate's office and pays market rent;
 - (iv) provides the essential functions of title insurance business for a fee, including incurring the risks and receiving the rewards of any comparable title entity; and
 - (v) performs the essential functions of title insurance business itself;
 - (b) if the title entity contracts with another person to perform a portion of the title entity's title insurance business, whether the contract:
 - (i) is with an independent third party; and
 - (ii) provides payment for the services that bears a reasonable relationship to the value of the services or goods received; and
 - (c) whether the person from whom the title entity receives referrals under the affiliated business arrangement also sends title insurance business to other title entities.

Amended by Chapter 448, 2020 General Session

31A-23a-1004 Annual affiliated business report.

Before March 1 each year, each new or newly affiliated title entity shall submit a report to the division that:

- (1) contains the following for the preceding calendar year:
 - (a) the name and address of any producer or associate that owns a financial interest in the new or newly affiliated title entity;

- (b) for each producer and associate identified under Subsection (1)(a), the percentage of the new or newly affiliated title entity's affiliated business that is the result of an affiliated business arrangement with the producer or associate;
 - (c) a description of any affiliated business arrangement the new or newly affiliated title entity has with a person other than a producer or associate identified under Subsection (1)(a);
 - (d) the percentage of the new or newly affiliated title entity's annual title insurance business that is affiliated business;
 - (e) proof of sufficient capital and net worth; and
 - (f) any other information required by the division by rule; and
- (2) is certified by an officer of the new or newly affiliated title entity that the information contained in the report is true to the best of the officer's knowledge, information, and belief.

Amended by Chapter 448, 2020 General Session

31A-23a-1005 Investigations.

- (1) To enforce the provisions of this part, including Section 8 of RESPA, the division may conduct a public or private investigation within or outside of the state as the division considers necessary to determine whether a person has violated a provision of this part, including Section 8 of RESPA.
- (2) For the purpose of an investigation described in Subsection (1), the division may:
 - (a) administer an oath or affirmation;
 - (b) issue a subpoena that requires:
 - (i) the attendance and testimony of a witness; or
 - (ii) the production of evidence;
 - (c) take evidence;
 - (d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and
 - (e) serve a subpoena by certified mail.
- (3)
 - (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.
 - (b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

Enacted by Chapter 475, 2019 General Session

31A-23a-1006 Disciplinary action.

- (1) Subject to the requirements of Section 31A-23a-1007, the division may impose a sanction described in Subsection (2) against a person if the person is:
 - (a) a title entity or a person previously licensed as a title entity for an act the person committed while licensed; and
 - (b) violates a provision of this part, including Section 8 of RESPA.
- (2) The division may, against a person described in Subsection (1):
 - (a) impose an educational requirement;
 - (b) impose a civil penalty in an amount not to exceed \$5,000 for each violation;
 - (c) do any of the following to a title entity:
 - (i) suspend;
 - (ii) revoke; or

- (iii) place on probation;
 - (d) issue a cease and desist order; or
 - (e) impose any combination of sanctions described in this Subsection (2).
- (3)
- (a) If the presiding officer in a disciplinary action under this part issues an order that orders a fine as part of a disciplinary action against a person, including a stipulation and order, the presiding officer shall state in the order the deadline, that is no more than one year after the day on which the presiding officer issues the order, by which the person shall comply with the fine.
 - (b) If a person fails to comply with a stated deadline:
 - (i) the person's license is automatically suspended:
 - (A) beginning the day specified in the order as the deadline for compliance; and
 - (B) ending the day on which the person complies in full with the order; and
 - (ii) if the person fails to pay a fine required by an order, the division may begin a collection process:
 - (A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- (4) The division may delegate to an administrative law judge the authority to conduct a hearing under this part.

Amended by Chapter 448, 2020 General Session

31A-23a-1007 Adjudicative proceedings -- Review -- Coordination with department.

- (1)
- (a) Before an action described in Section 31A-23a-1006 may be taken, the division shall:
 - (i) give notice to the person against whom the action is brought; and
 - (ii) commence an adjudicative proceeding.
 - (b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the presiding officer determines that a title entity has violated a provision of this part, including Section 8 of RESPA, the division may take an action described in Section 31A-23a-1006 by written order.
- (2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, a person against whom action is taken under this part may seek review of the action by the executive director of the Department of Commerce.
- (3) If a person prevails in a judicial appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to that individual or entity as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.
- (4)
- (a) An order issued under this section takes effect 30 days after the service of the order unless otherwise provided in the order.
 - (b) If a person appeals an order issued under this section, the division may stay enforcement of the order in accordance with Section 63G-4-405.
- (5)
- (a) Except as provided in Subsection (5)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:
 - (i) four years after the day on which the violation is reported to the division; or
 - (ii) 10 years after the day on which the violation occurred.

- (b) The division may commence a disciplinary action under this part after the time period described in Subsection (5)(a) expires if:
 - (i)
 - (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and
 - (B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or
 - (ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (5)(a).
- (6)
 - (a) Within two business days after the day on which a presiding officer issues an order under this part that suspends or revokes a title entity's license, the division shall deliver written notice to the department that states the action the presiding officer ordered against the title entity's license.
 - (b) Upon receipt of the notice described in Subsection (6)(a), the department shall implement the action ordered against the title entity's license.

Amended by Chapter 448, 2020 General Session