

Effective 5/12/2015

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) "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 (3)(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.
- (4) "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.
- (5) "License" is defined in Section 31A-1-301.
- (6)
 - (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 (6)(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.
- (7) "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.
- (8) "Reinsurance intermediary" means:
 - (a) a reinsurance intermediary-broker; or
 - (b) a reinsurance intermediary-manager.
- (9) "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.
- (10)
 - (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 (10)(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.
- (11) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (12) "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.
- (13) "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.
- (14) "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.
- (15) "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.
- (16) "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.
- (17) "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.
- (18) "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 244, 2015 General Session
Amended by Chapter 330, 2015 General Session