

Part 2

Licensing and Registration of Insurance Adjusters

31A-26-201 Requirement of license.

- (1) Except as provided in Subsection (2):
 - (a) a person may not perform, offer to perform, or solicit the opportunity to perform an act of insurance adjusting without a valid license under Section 31A-26-203; and
 - (b) a person may not use the insurance adjusting services of another if the person knows or should know that the one providing these services does not have a license as required by law.
- (2) The following are exempt from the license requirement of Subsection (1), when acting in the indicated capacity:
 - (a) an individual engaged in insurance adjusting as a regular salaried employee of, and not an independent contractor for, an insurer;
 - (b) an arbitrator or an umpire selected by the claimant and insurer to decide, alone or with others, whether a claim should be paid and how much should be paid;
 - (c) an attorney at law acting in an attorney-client relationship;
 - (d) an insurance producer, but only as to:
 - (i) a class of insurance for which the insurance producer is licensed under Section 31A-23a-106; and
 - (ii) a claim adjusted on the request of an insurer for which the insurance producer is a producer;
 - (e) a regular salaried employee of, and not an independent contractor for, a policyholder or claimant under an insurance policy;
 - (f) an employee of a licensed insurance adjuster who provides only administrative or clerical assistance;
 - (g) an individual who does not do insurance adjusting under Section 31A-26-102, but who is specially employed to obtain facts about a loss for or furnish technical assistance to a licensed adjuster or a company adjuster, including:
 - (i) a photographer;
 - (ii) an estimator;
 - (iii) an appraiser;
 - (iv) a marine surveyor;
 - (v) a private detective;
 - (vi) an engineer; and
 - (vii) a handwriting expert;
 - (h) a holder of a group insurance policy, with respect to administrative activities in connection with that insurance policy, who receives no compensation for the policyholder's services beyond the actual expenses estimated on a reasonable basis;
 - (i) an individual engaged in insurance adjusting as a regular salaried employee of, and not an independent contractor for, an administrator licensed under Chapter 25, Third Party Administrators; or
 - (j) a person who gives advice or assistance without compensation or expectation of compensation, direct or indirect.
- (3) A claim settlement between an insurer and an insured or a claimant under an insurance policy may not be considered invalid as a result of a violation of this section.

Amended by Chapter 10, 2010 General Session

31A-26-202 Application for license.

- (1)
 - (a) The application for a license as an independent adjuster or public adjuster shall be:
 - (i) made to the commissioner on forms and in a manner the commissioner prescribes; and
 - (ii) except as provided in Subsection (4), accompanied by the applicable fee, which is not refunded if the application is denied.
 - (b) The application shall provide:
 - (i) information about the applicant's identity, including:
 - (A) the applicant's:
 - (I) Social Security number; or
 - (II) federal employer identification number;
 - (B) the applicant's personal history, experience, education, and business record;
 - (C) if the applicant is a natural person, whether the applicant is 18 years of age or older; and
 - (D) whether the applicant has committed an act that is a ground for denial, suspension, or revocation as set forth in Section 31A-25-208; and
 - (ii) any other information as the commissioner reasonably requires.
- (2) The commissioner may require documents reasonably necessary to verify the information contained in the application.
- (3) An applicant's Social Security number contained in an application filed under this section is a private record under Section 63G-2-302.
- (4) 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 while the individual 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 462, 2018 General Session

31A-26-203 Adjuster's license required.

- (1) The commissioner shall issue a license to act as an independent adjuster or public adjuster to a person who, as to the license classification applied for under Section 31A-26-204:
 - (a) satisfies the character requirements under Section 31A-26-205;
 - (b) satisfies the applicable continuing education requirements under Section 31A-26-206;
 - (c) satisfies the applicable examination requirements under Section 31A-26-207;
 - (d) has not committed an act that is a ground for denial, suspension, or revocation provided for in Section 31A-26-213;
 - (e) if a nonresident, complies with Section 31A-26-208; and
 - (f) pays the applicable fees under Section 31A-3-103.
- (2)

- (a) This Subsection (2) applies to the following persons:
 - (i) an applicant for:
 - (A) an independent adjuster's license; or
 - (B) a public adjuster's license;
 - (ii) a licensed independent adjuster; or
 - (iii) a licensed public adjuster.
 - (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; and
 - (ii) a criminal prosecution taken against the person in any jurisdiction.
 - (c) The report required by Subsection (2)(b) shall:
 - (i) be filed:
 - (A) at the time the person applies for an adjustor's license; and
 - (B) if an action or prosecution occurs on or after the day on which the person applies for an adjustor's license:
 - (I) for an administrative action, within 30 days of the final disposition of the administrative action; or
 - (II) for a criminal prosecution, 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 a person 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 a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request concerning a person applying for an independent or public adjuster's license:
 - (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) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:
 - (i) determining if a person satisfies the character requirements under Section 31A-26-205 for issuance or renewal of a license;
 - (ii) determining if a person has failed to maintain the character requirements under Section 31A-26-205; and
 - (iii) preventing a person 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 person 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) The commissioner may deny a license application to act as an independent adjuster or public adjuster to a person who, as to the license classification applied for under Section 31A-26-204:
- (a) fails to satisfy the requirements in this section; or
 - (b) commits an act that is a ground for denial, suspension, or revocation provided for in Section 31A-26-213.
- (5) Notwithstanding the other provisions of this section, the commissioner may:
- (a) issue a license to an applicant for a license for a title insurance classification only with the concurrence of the Title and Escrow Commission; or
 - (b) renew a license for a title insurance classification only with the concurrence of the Title and Escrow Commission.

Amended by Chapter 253, 2012 General Session

31A-26-204 License classifications.

A resident or nonresident license issued under this chapter shall be issued under the classifications described under Subsections (1), (2), and (3). A classification describes the matters to be considered under a prerequisite education or examination required of license applicants under Sections 31A-26-206 and 31A-26-207.

- (1) Independent adjuster license classifications include:
- (a) accident and health insurance, including related service insurance under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (b) property and casualty insurance, including a surety or other bond;
 - (c) crop insurance; and
 - (d) workers' compensation insurance.
- (2) Public adjuster license classifications include:
- (a) accident and health insurance, including related service insurance under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - (b) property and casualty insurance, including a surety or other bond;
 - (c) crop insurance; and
 - (d) workers' compensation insurance.
- (3)
- (a) The commissioner may by rule:
 - (i) recognize other independent adjuster or public adjuster license classifications as to other kinds of insurance not listed under Subsection (1); and
 - (ii) create license classifications that grant only part of the authority arising under another license class.
 - (b) Notwithstanding Subsection (3)(a), for purpose of title insurance, the Title and Escrow Commission may make the rules provided for in Subsection (3)(a), subject to Section 31A-2-404.

Amended by Chapter 349, 2009 General Session

31A-26-205 Character requirements.

Each applicant for a license under this chapter shall show to the commissioner that:

- (1) the applicant has the good faith intent to engage in the type of business the license or licenses applied for would permit;
- (2)
 - (a) if a natural person, the applicant is:
 - (i) competent; and
 - (ii) trustworthy; or
 - (b) if an organization, all the partners, directors, principal officers, or persons in fact having comparable powers are trustworthy, and that the applicant will transact business in such a way that all acts that may only be performed by a licensed adjuster are performed exclusively by natural persons who are licensed under this chapter to transact that business and listed on the organization's license under Section 31A-26-209; and
- (3) if a natural person, the applicant is at least 18 years of age.

Amended by Chapter 319, 2018 General Session

31A-26-206 Continuing education requirements.

- (1) Pursuant to this section, the commissioner shall by rule prescribe continuing education requirements for each class of license under Section 31A-26-204.
- (2)
 - (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 (2).
 - (b)
 - (i) Except as otherwise 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 (2)(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) A continuing education hour completed in accordance with Subsection (2)(b)(i) may be obtained through:
 - (A) classroom attendance;
 - (B) home study;
 - (C) watching a video recording;
 - (D) experience credit; or
 - (E) other methods provided by rule.
 - (iii) Notwithstanding Subsections (2)(b)(i)(A) and (B), a title insurance adjuster 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.
 - (c) A licensee may obtain continuing education hours at any time during the two-year licensing period.
 - (d)
 - (i) A licensee is exempt from the continuing education requirements of 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 (2)(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 (2)(b); and
 - (ii) authorize a professional adjuster association to:
 - (A) offer a qualified program for a classification of license on a geographically accessible basis; and
 - (B) collect a reasonable fee for funding and administration of a qualified program, subject to the review and approval of the commissioner.
- (f)
- (i) A fee permitted under Subsection (2)(e)(ii)(B) that is charged to fund and administer a qualified program shall reasonably relate to the cost of administering the qualified program.
 - (ii) Nothing in this section shall prohibit a provider of a continuing education program or course from charging a fee for attendance at a course offered for continuing education credit.
 - (iii) A fee permitted under Subsection (2)(e)(ii)(B) that is charged for attendance at an 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.
- (3) The continuing education requirements of this section apply only to a licensee who is an individual.
- (4) The continuing education requirements of this section do not apply to a member of the Utah State Bar.
- (5) The commissioner shall designate a course that satisfies the requirements of this section, including a course presented by an insurer.
- (6) A nonresident adjuster is considered to have satisfied this state's continuing education requirements if:
- (a) the nonresident adjuster satisfies the nonresident home state's continuing education requirements for a licensed insurance adjuster; and
 - (b) on the same basis the nonresident adjuster's home state considers satisfaction of Utah's continuing education requirements for an adjuster as satisfying the continuing education requirements of the home state.
- (7) A licensee 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 requirement applies.

Amended by Chapter 32, 2020 General Session

31A-26-207 Examination requirements.

- (1) The commissioner may require applicants for a particular class of license under Section 31A-26-204 to pass an examination as a requirement to receiving a license. The examination

shall reasonably relate to the specific license class for which it is prescribed. The examinations may be administered by the commissioner or as specified by rule.

- (2) The commissioner shall waive the requirement of an examination for a nonresident applicant who:
 - (a) applies for an insurance adjuster license 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)
 - (a) To become a resident licensee in accordance with Sections 31A-26-202 and 31A-26-203, a person licensed as an insurance producer in another state who moves to this state shall make application within 90 days of establishing legal residence in this state.
 - (b) A person who becomes a resident licensee under Subsection (3)(a) may not be required to meet prelicensing education or examination requirements to obtain any line of authority previously held in the prior state unless:
 - (i) the prior state would require a prior resident of this state to meet the prior state's prelicensing education or examination requirements to become a resident licensee; or
 - (ii) the commissioner imposes the requirements by rule.
- (4) The requirements of this section only apply to an applicant who is a natural person.
- (5) The requirements of this section do not apply to:
 - (a) a member of the Utah State Bar; or
 - (b) an applicant for the crop insurance license class who has satisfactorily completed:
 - (i) a national crop adjuster program, as adopted by the commissioner by rule; or
 - (ii) the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement through the Risk Management Agency of the United States Department of Agriculture.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-26-208 Nonresident jurisdictional agreement.

- (1)
 - (a) If a nonresident license applicant has a valid 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 any license requirement for a license under this chapter; and
 - (ii) issue the nonresident license applicant a nonresident adjuster's 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 adjuster 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;
 - (ii) the nonresident license applicant's license in the applicant's home state or designated home state is in good standing; and
 - (iii) the nonresident license applicant's home state or designated home state awards nonresident adjuster licenses to residents of this state on the same basis as this state awards licenses to residents of that home state or designated home state.
- (2) A nonresident applicant shall execute in a form acceptable to the commissioner an agreement to be subject to the jurisdiction of the commissioner and courts of this state on any matter related to the adjuster'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) other service authorized under the Utah Rules of Civil Procedure or Section 78B-3-206.
- (3) The commissioner may verify an adjuster's licensing status through the 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 based solely on the fact that the person does not reside in this state.

Amended by Chapter 319, 2018 General Session

31A-26-209 Form and contents of license.

- (1) Licenses issued under this chapter shall be in the form the commissioner prescribes and shall set forth:
- (a) the name, address, and the one or more telephone numbers of the licensee;
 - (b) the license classifications under Section 31A-26-204;
 - (c) the date of license issuance; and
 - (d) any other information the commissioner considers advisable.
- (2) An adjuster doing business under any other name than the adjuster's legal name shall notify the commissioner prior to using the assumed name in this state.
- (3)
- (a) An organization shall be licensed as an agency if the organization acts as:
 - (i) an independent adjuster; or
 - (ii) a public adjuster.
 - (b) The agency license issued under Subsection (3)(a) shall set forth the names of all natural persons licensed under this chapter who are authorized to act in those capacities for the organization in this state.

Amended by Chapter 168, 2017 General Session

31A-26-210 Reports from organizations licensed as adjusters.

- (1) An organization licensed as an adjuster under Section 31A-26-203 shall designate an individual who has an individual adjuster license to act on the organization's behalf in order for the licensee to do business for the organization in this state.
- (2) An organization licensed under this chapter 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 organization licensed under this chapter shall notify an individual licensee that the individual's designation has been terminated by the organization and of the reason for the 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 organization 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-26-213(5)(b); or
 - (ii) the organization has knowledge that the individual licensee is found to have engaged in an activity described in Subsection 31A-26-213(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 organization is immune from civil action, civil penalty, or damages if the organization 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 organization is not immune from an action or resulting penalty imposed on the reporting organization as a result of a proceeding 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 organization 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 organization licensed under this chapter shall designate and report promptly to the commissioner the name of the designated responsible licensed individual who has authority to act on behalf of the organization in all 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 a report 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 organization, both the organization itself and an individual contracted or designated under the license shall, for purposes of this section, be considered to be the holders of the organization license.
 - (b) If an individual designated under the organization license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the organization license, the commissioner may assess a forfeiture against, suspend, revoke, or limit the license of, or take a combination of these actions against:

- (i) that individual;
- (ii) the organization, if the organization:
 - (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 organization, if the organization meets the requirements of Subsection (8)(b)(ii).

Amended by Chapter 168, 2017 General Session

31A-26-211 Claims liaison.

Authorized insurers with employees engaged in insurance adjusting may be required by the commissioner to designate one or more natural persons to whom the commissioner or his staff may direct inquiries concerning the insurer's claims adjustments. Insurers shall report to the commissioner the name, title, business address, telephone number of, and any changes in its designees under this section.

Amended by Chapter 204, 1986 General Session

31A-26-212 Emergency license.

In the event of a catastrophe or emergency which arises out of a disaster, act of God, riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, upon application, issue emergency licenses to persons who are not licensed adjusters. An emergency license shall be applied for within a week of beginning claims adjustment. It may remain in force for not more than 90 days, unless extended by the commissioner before it expires for an additional period of not more than 90 additional days. The insurer who contracts with an independent adjuster who is so licensed is responsible for all his claims practices while so engaged, as if he were a regular salaried employee. The fee for an emergency license is the same as the fee required of other licensed adjusters, unless the commissioner waives the fee.

Enacted by Chapter 242, 1985 General Session

31A-26-213 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-26-214.5; 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 it 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 license classification issued under this chapter remains in force until:
 - (a) the qualifications pertaining to a license classification are no longer met by the licensee; or
 - (b) the supporting license type:
 - (i) is revoked or suspended under Subsection (5); or
 - (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.
- (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 license classification;
 - (ii) suspend for a specified period of 12 months or less:
 - (A) a license; or
 - (B) a license classification;
 - (iii) limit in whole or in part:
 - (A) a license; or
 - (B) a license classification;
 - (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 license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;
 - (ii) has violated:
 - (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) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;
 - (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 adjuster that transacts business in this state without a license;

- (vii) refuses:
 - (A) to be examined; or
 - (B) to produce its accounts, records, and files for examination;
- (viii) has an officer who refuses to:
 - (A) give information with respect to the insurance adjuster'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) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
- (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- (xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;
- (xiii) has intentionally misrepresented the terms of an actual or proposed:
 - (A) insurance contract; or
 - (B) application for insurance;
- (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) has admitted or been found to have committed an insurance unfair trade practice or fraud;
- (xvi) in the conduct of business in this state or elsewhere has:
 - (A) used fraudulent, coercive, or dishonest practices; or
 - (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- (xvii) has had an insurance license or other professional or occupational license or registration, or equivalent, denied, suspended, revoked, or surrendered to resolve an administrative action;
- (xviii) has forged another's name to:
 - (A) an application for insurance; or
 - (B) a document related to an insurance transaction;
- (xix) has improperly used notes or any other reference material to complete an examination for an insurance license;
- (xx) has knowingly accepted insurance business from an individual who is not licensed;
- (xxi) has failed to comply with an administrative or court order imposing a child support obligation;
- (xxii) has failed to:
 - (A) pay state income tax; or
 - (B) comply with an administrative or court order directing payment of state income tax;
- (xxiii) has been convicted of a violation of the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business;
- (xxiv) has engaged in methods and practices in the conduct of business that endanger 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 in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business.
- (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 participated 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 conducting an insurance business 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 any other state, the District of Columbia, or a territory of the United States;
 - (b) the imposition of a disciplinary sanction imposed on that person by any other 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; or
 - (iv) a violation of an insurance law or rule.
- (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 the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.
- (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

- (10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 194, 2023 General Session

31A-26-214 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 any circumstances that would justify a suspension under Section 31A-26-213; or
 - (b) at the issuance of a new license:
 - (i) with an admitted violation under 18 U.S.C. Sec. 1033; or
 - (ii) with a response to a background information question on any new license application indicating that:
 - (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 was withheld;
 - (C) the person has been involved in an administrative proceeding regarding any professional or occupational license; or
 - (D) any business in which the person is or was an owner, partner, officer, or director has been involved in an administrative proceeding regarding any professional or occupational license.
- (2) The commissioner may put a licensee on probation for a specified period no longer than 24 months if the licensee has admitted to violations under 18 U.S.C. Sec. 1033.
- (3) A probation order under this section 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 any 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-26-214.5 License lapse and voluntary surrender.

- (1)
- (a) A license issued under this chapter 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-26-206 before submitting the license renewal application;
 - (iii) submit a completed renewal application as required by Section 31A-26-202;
 - (iv) submit additional documentation required to complete the licensing process as related to a specific license type or license classification; or
 - (v) maintain an active license in the licensee's home state if the licensee is a nonresident licensee.
 - (b)

- (i) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(ii):
 - (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, such as long-term medical disability.
- (ii) A licensee described in Subsection (1)(b)(i) may request:
 - (A) reinstatement of the license 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 issued under this chapter is voluntarily surrendered, the license may be reinstated:
 - (a) during the license period in which it is voluntarily surrendered; and
 - (b) no later than one year after the day on which the license is voluntarily surrendered.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-26-215 Temporary license -- Appointment of trustee for terminated licensee's business.

- (1)
 - (a) The commissioner may issue a temporary insurance adjuster 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 are being serviced 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 insurance producer license in accordance with Subsection (1)(a) to:
 - (i) the surviving spouse or court-appointed personal representative of a licensed insurance adjuster who dies or acquires a mental or physical disability to allow adequate time for:
 - (A) the sale of the insurance business owned by the adjuster;
 - (B) recovery or return of the adjuster to the business; or
 - (C) the training and licensing of new personnel to operate the adjuster's business;
 - (ii) to a member or employee of a business entity licensed as an insurance adjuster 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 insurance adjuster entering active service in the armed forces of the United States of America.
- (2) If a person's license is terminated under Section 31A-26-213, 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 or disabled adjuster has not owned or does not own an ownership interest in the accounts and associated expiration lists that were previously serviced by the adjuster.
- (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 licensed producer; 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 receive the trustee's appointment and perform the trustee's duties subject to the conditions listed in Subsections (4)(b)(i) through (xv).
 - (i) A trustee appointed under this section shall be licensed under this chapter to perform the services required by the trustor's clients.
 - (ii) When possible, the commissioner shall appoint a trustee who is no longer actively engaged on the trustee's own behalf in business as an adjuster.
 - (iii) The commissioner shall only select a person to act as trustee who is trustworthy and competent to perform the necessary services.
 - (iv) If the deceased, disabled, or unlicensed person for whom the trustee is acting is an associated adjuster, the insurers through or with which the former adjuster's business was associated shall cooperate with the trustee in allowing the trustee to service the claims associated with or through the insurer.
 - (v) The trustee shall abide by the terms of any agreement between the former adjuster and the associated insurer, except that terms in those agreements terminating the agreement upon the death, disability, or license termination of the former agent do not bar the trustee from continuing to act under the agreement.
 - (vi) The commissioner shall set the trustee's compensation which:
 - (A) may be stated in terms of a percentage of commissions;
 - (B) shall be equitable; and
 - (C) paid exclusively from:
 - (I) the commissions generated by the former adjuster's accounts serviced by the trustee; and
 - (II) other funds the former adjuster or the former adjuster's successor in interest agree to pay.
 - (vii) The trustee has no special priority to commissions over the former adjuster's creditors.
 - (viii) The following may not be held liable for errors or omissions of the former adjuster or the trustee:
 - (A) the commissioner; or
 - (B) the state.

- (ix) The trustee may not be held liable for errors and omissions that were caused in any material way by the negligence of the former adjuster.
 - (x) The trustee may be held liable for errors and omissions that arise solely from the trustee's negligence.
 - (xi) The trustee's compensation level shall be sufficient to allow the trustee to purchase errors and omissions coverage, if that coverage is not provided to the trustee by:
 - (A) the former adjuster; or
 - (B) the former adjuster's successor in interest.
 - (xii) It is a breach of the trustee's fiduciary duty to capture the accounts of trustor's clients, either directly or indirectly.
 - (xiii) The trustee may not purchase the accounts or expiration lists of the former adjuster, unless the commissioner expressly ratifies the terms of the sale.
 - (xiv) The commissioner may adopt rules that:
 - (A) further define the trustee's fiduciary duties; and
 - (B) explain how the trustee is to carry out the trustee's responsibilities.
 - (xv) The trust may be terminated by:
 - (A) the commissioner; or
 - (B) the person that requested the trust be established.
- (c) A person described in Subsection (4)(b)(xv)(B) shall terminate the trust by sending written notice to:
- (i) the trustee; and
 - (ii) the commissioner.
- (5)
- (a) The commissioner may by order limit the authority of any temporary licensee or trustee in any way considered necessary to protect:
 - (i) persons being serviced; and
 - (ii) the public.
 - (b) The commissioner may by order revoke a temporary license or trustee's appointment if the interest of persons being serviced or the public are endangered.
 - (c) 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-26-216 Portable electronics adjusting.

- (1) As used in this section, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of a portable electronics insurance claim that:
- (a) may only be used by a Utah licensed independent adjuster, a Utah licensed producer, or an individual supervised as provided in this section;
 - (b) complies with the claims payment requirements of this title; and
 - (c) is certified as compliant with this section by a Utah licensed independent adjuster that is an officer of an organization licensed under this chapter.
- (2) An individual is exempt from licensure as an adjuster, if the individual for purposes of a portable electronics insurance claim:
- (a) collects claim information from, or furnishes claim information to, insureds or claimants;
 - (b) conducts data entry, including entering data into an automated claims adjudication system;
 - (c) is an employee of a licensed independent adjuster or its affiliate; and

(d) is one of no more than 25 individuals who are under the supervision of:

(i) a Utah licensed independent adjuster; or

(ii) a Utah licensed producer who is exempt from licensure pursuant to Section 31A-26-201.

Enacted by Chapter 151, 2012 General Session