



28           **31A-12-103**, as last amended by Chapter 212, Laws of Utah 1993  
29           **31A-33-107**, as last amended by Chapter 107, Laws of Utah 1998  
30           **31A-33-111**, as renumbered and amended by Chapter 240, Laws of Utah 1996  
31           **34A-2-202**, as last amended by Chapters 112, 330 and renumbered and amended by  
32 Chapter 375, Laws of Utah 1997  
33           **53-1-106**, as last amended by Chapters 36 and 242, Laws of Utah 1996

34 ENACTS:

35           **31A-19a-210**, Utah Code Annotated 1953  
36           **31A-19a-213**, Utah Code Annotated 1953  
37           **31A-19a-214**, Utah Code Annotated 1953  
38           **31A-19a-215**, Utah Code Annotated 1953  
39           **31A-19a-216**, Utah Code Annotated 1953  
40           **31A-19a-306**, Utah Code Annotated 1953  
41           **31A-19a-307**, Utah Code Annotated 1953  
42           **31A-19a-308**, Utah Code Annotated 1953  
43           **31A-19a-407**, Utah Code Annotated 1953

44 RENUMBERS AND AMENDS:

45           **31A-19a-101**, (Renumbered from 31A-19-101, as last amended by Chapter 204, Laws of  
46 Utah 1986)  
47           **31A-19a-102**, (Renumbered from 31A-19-102, as last amended by Chapter 204, Laws of  
48 Utah 1986)  
49           **31A-19a-103**, (Renumbered from 31A-19-103, as enacted by Chapter 242, Laws of Utah  
50 1985)  
51           **31A-19a-201**, (Renumbered from 31A-19-201, as enacted by Chapter 242, Laws of Utah  
52 1985)  
53           **31A-19a-202**, (Renumbered from 31A-19-202, as enacted by Chapter 242, Laws of Utah  
54 1985)  
55           **31A-19a-203**, (Renumbered from 31A-19-203, as last amended by Chapter 261, Laws of  
56 Utah 1989)  
57           **31A-19a-204**, (Renumbered from 31A-19-204, as enacted by Chapter 242, Laws of Utah  
58 1985)

- 59           **31A-19a-205**, (Renumbered from 31A-19-205, as enacted by Chapter 242, Laws of Utah  
60 1985)
- 61           **31A-19a-206**, (Renumbered from 31A-19-207, as last amended by Chapter 74, Laws of  
62 Utah 1991)
- 63           **31A-19a-207**, (Renumbered from 31A-19-206, as last amended by Chapter 204, Laws of  
64 Utah 1986)
- 65           **31A-19a-208**, (Renumbered from 31A-19-208, as enacted by Chapter 242, Laws of Utah  
66 1985)
- 67           **31A-19a-209**, (Renumbered from 31A-19-209, as enacted by Chapter 242, Laws of Utah  
68 1985)
- 69           **31A-19a-211**, (Renumbered from 31A-19-210, as last amended by Chapter 234, Laws of  
70 Utah 1993)
- 71           **31A-19a-212**, (Renumbered from 31A-19-211, as enacted by Chapter 359, Laws of Utah  
72 1998)
- 73           **31A-19a-217**, (Renumbered from 31A-19-418, as enacted by Chapter 205, Laws of Utah  
74 1992)
- 75           **31A-19a-218**, (Renumbered from 31A-19-419, as enacted by Chapter 205, Laws of Utah  
76 1992)
- 77           **31A-19a-301**, (Renumbered from 31A-19-301, as enacted by Chapter 242, Laws of Utah  
78 1985)
- 79           **31A-19a-302**, (Renumbered from 31A-19-302, as last amended by Chapter 10, Laws of  
80 Utah 1988, Second Special Session)
- 81           **31A-19a-303**, (Renumbered from 31A-19-303, as enacted by Chapter 242, Laws of Utah  
82 1985)
- 83           **31A-19a-304**, (Renumbered from 31A-19-304, as last amended by Chapter 344, Laws of  
84 Utah 1995)
- 85           **31A-19a-305**, (Renumbered from 31A-19-305, as last amended by Chapter 204, Laws of  
86 Utah 1986)
- 87           **31A-19a-309**, (Renumbered from 31A-19-306, as enacted by Chapter 242, Laws of Utah  
88 1985)
- 89           **31A-19a-401**, (Renumbered from 31A-19-401, as last amended by Chapter 91, Laws of

90 Utah 1987)

91 **31A-19a-402**, (Renumbered from 31A-19-402, as last amended by Chapter 205, Laws of  
92 Utah 1992)

93 **31A-19a-403**, (Renumbered from 31A-19-403, as repealed and reenacted by Chapter 205,  
94 Laws of Utah 1992)

95 **31A-19a-404**, (Renumbered from 31A-19-407, as repealed and reenacted by Chapter 205,  
96 Laws of Utah 1992)

97 **31A-19a-405**, (Renumbered from 31A-19-408, as repealed and reenacted by Chapter 205,  
98 Laws of Utah 1992)

99 **31A-19a-406**, (Renumbered from 31A-19-414, as repealed and reenacted by Chapter 205,  
100 Laws of Utah 1992)

101 **REPEALS:**

102 **31A-19-404**, as last amended by Chapter 205, Laws of Utah 1992

103 **31A-19-405**, as last amended by Chapter 185, Laws of Utah 1997

104 **31A-19-406**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

105 **31A-19-409**, as enacted by Chapter 242, Laws of Utah 1985

106 **31A-19-410**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

107 **31A-19-411**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

108 **31A-19-412**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

109 **31A-19-413**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

110 **31A-19-415**, as repealed and reenacted by Chapter 205, Laws of Utah 1992

111 **31A-19-416**, as enacted by Chapter 205, Laws of Utah 1992

112 **31A-19-417**, as enacted by Chapter 205, Laws of Utah 1992

113 **31A-19-420**, as enacted by Chapter 205, Laws of Utah 1992

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

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

116 **31A-1-301. Definitions.**

117 As used in this title, unless otherwise specified:

118 (0.5) "Administrator" is defined in Subsection (77).

119 (1) "Adult" means a natural person who has attained the age of at least 18 years.

120 (2) "Affiliate" means any person who controls, is controlled by, or is under common

121 control with, another person. A corporation is an affiliate of another corporation, regardless of  
122 ownership, if substantially the same group of natural persons manages the corporations.

123 (3) "Alien insurer" means an insurer domiciled outside the United States.

124 (4) "Annuities" means all agreements to make periodical payments for a period certain or  
125 over the lifetime of one or more natural persons if the making or continuance of all or some of the  
126 series of the payments, or the amount of the payment, is dependent upon the continuance of human  
127 life.

128 (5) "Articles" or "articles of incorporation" means the original articles, special laws,  
129 charters, amendments, restated articles, articles of merger or consolidation, trust instruments, and  
130 other constitutive documents for trusts and other entities that are not corporations, and  
131 amendments to any of these. Refer also to "bylaws" in this section and Section 31A-5-203.

132 (6) "Bail bond insurance" means a guarantee that a person will attend court when required,  
133 or will obey the orders or judgment of the court, as a condition to the release of that person from  
134 confinement.

135 (7) "Binder" is defined in Section 31A-21-102.

136 (8) "Board," "board of trustees," or "board of directors" means the group of persons with  
137 responsibility over, or management of, a corporation, however designated. Refer also to "trustee"  
138 in this section.

139 (9) "Business of insurance" is defined in Subsection (44).

140 (10) "Business plan" means the information required to be supplied to the commissioner  
141 under Subsections 31A-5-204(2)(i) and (j), including the information required when these  
142 subsections are applicable by reference under Section 31A-7-201, Section 31A-8-205, or  
143 Subsection 31A-9-205(2).

144 (11) "Bylaws" means the rules adopted for the regulation or management of a corporation's  
145 affairs, however designated. It includes comparable rules for trusts and other entities that are not  
146 corporations. Refer also to "articles" and Section 31A-5-203.

147 (12) "Casualty insurance" means liability insurance as defined in Subsection (50).

148 (13) "Certificate" means the evidence of insurance given to an insured under a group  
149 policy.

150 (14) "Certificate of authority" is included within the term "license."

151 (14.5) "Claim," unless the context otherwise requires, means a request or demand on an

152 insurer for payment of benefits according to the terms of an insurance policy.

153 (14.6) "Claims-made coverage" means any insurance contract or provision limiting  
154 coverage under a policy insuring against legal liability to claims that are first made against the  
155 insured while the policy is in force.

156 (15) "Commissioner" or "commissioner of insurance" means Utah's insurance  
157 commissioner. Where appropriate, these terms apply to the equivalent supervisory official of  
158 another jurisdiction.

159 (16) "Control," "controlling," "controlled," or "under common control" means the direct  
160 or indirect possession of the power to direct or cause the direction of the management and policies  
161 of a person. This control may be by contract, by common management, through the ownership of  
162 voting securities, or otherwise. There is no presumption that an individual holding an official  
163 position with another person controls that person solely by reason of the position. A person having  
164 a contract or arrangement giving control is considered to have control despite the illegality or  
165 invalidity of the contract or arrangement. There is a rebuttable presumption of control in a person  
166 who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote  
167 10% or more of the voting securities of another person. Refer also to "affiliate" in this section.

168 (17) (a) "Corporation" means insurance corporation, except where referring under Chapter  
169 23, Insurance Marketing - Licensing Agents, Brokers [and], Consultants, and Reinsurance  
170 Intermediaries, and Chapter 26, Insurance Adjusters, to corporations doing business as insurance  
171 agents, brokers, consultants, or adjusters, or where referring under Chapter 16, Insurance Holding  
172 Companies, to a noninsurer which is part of a holding company system.

173 (b) "Stock corporation" means stock insurance corporation.

174 (c) "Mutual" or "mutual corporation" means mutual insurance corporation.

175 (18) "Credit disability insurance" means insurance on a debtor to provide indemnity for  
176 payments coming due on a specific loan or other credit transaction while the debtor is disabled.  
177 Refer also to Subsection 31A-22-802(1).

178 (19) "Credit insurance" means surety insurance under which mortgagees and other  
179 creditors are indemnified against losses caused by the default of debtors.

180 (20) "Credit life insurance" means insurance on the life of a debtor in connection with a  
181 loan or other credit transaction. Refer also to Subsection 31A-22-802(2).

182 (21) "Creditor" means a person, including an insured, having any claim, whether matured,

183 unmatured, liquidated, unliquidated, secured, unsecured, absolute, fixed, or contingent.

184 (22) "Deemer clause" means a provision under this title under which upon the occurrence  
185 of a condition precedent, the commissioner is deemed to have taken a specific action. If the statute  
186 so provides, the condition precedent may be the commissioner's failure to take a specific action.

187 Refer also to Section 31A-2-302.

188 (23) "Degree of relationship" means the number of steps between two persons determined  
189 by counting the generations separating one person from a common ancestor and then counting the  
190 generations to the other person.

191 (24) "Department" means the Insurance Department.

192 (25) "Director" means a member of the board of directors of a corporation.

193 (26) "Disability insurance" means insurance written to indemnify for losses and expenses  
194 resulting from accident or sickness, to provide payments to replace income lost from accident or  
195 sickness, and to pay for services resulting directly from accident or sickness, including medical,  
196 surgical, hospital, and other ancillary expenses.

197 (27) "Domestic insurer" means an insurer organized under the laws of this state.

198 (28) "Domiciliary state" means the state in which an insurer is incorporated or organized  
199 or, in the case of an alien insurer, the state of entry into the United States.

200 (29) "Employee benefits" means one or more benefits or services provided employees or  
201 their dependents.

202 (30) "Employee welfare fund" means a fund established or maintained by one or more  
203 employers, one or more labor organizations, or a combination of employers and labor  
204 organizations, whether directly or through trustees. This fund is to provide employee benefits paid  
205 or contracted to be paid, other than income from investments of the fund, by or on behalf of an  
206 employer doing business in this state or for the benefit of any person employed in this state. It  
207 includes plans funded or subsidized by user fees or tax revenues.

208 (31) "Excludes" is not exhaustive and does not mean that other things are not also  
209 excluded. The items listed are representative examples for use in interpretation of this title.

210 (31.5) "Fidelity insurance" means insurance guaranteeing the fidelity of persons holding  
211 positions of public or private trust.

212 (31.7) "First party insurance" means an insurance policy or contract in which the insurer  
213 agrees to pay claims submitted to it by the insured for the insured's losses.

214 (32) "Foreign insurer" means an insurer domiciled outside of this state, including an alien  
215 insurer.

216 (33) "Form" means a policy, certificate, or application prepared for general use. It does  
217 not include one specially prepared for use in an individual case. Refer also to "policy" in this  
218 section.

219 (34) "Franchise insurance" means individual insurance policies provided through a mass  
220 marketing arrangement involving a defined class of persons related in some way other than through  
221 the purchase of insurance.

222 (35) "Health care insurance" or "health insurance" means disability insurance providing  
223 benefits solely of medical, surgical, hospital, or other ancillary services or payment of medical,  
224 surgical, hospital, or other ancillary expenses incurred. "Health care insurance" or "health  
225 insurance" does not include disability insurance providing benefits for:

226 (a) replacement of income;

227 (b) short-term accident;

228 (c) fixed indemnity;

229 (d) credit disability;

230 (e) supplements to liability;

231 (f) workers' compensation;

232 (g) automobile medical payment;

233 (h) no-fault automobile;

234 (i) equivalent self-insurance; or

235 (j) any type of disability insurance coverage that is a part of or attached to another type of  
236 policy.

237 (35.5) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

238 (36) "Independent adjuster" means an insurance adjuster required to be licensed under  
239 Section 31A-26-201 who engages in insurance adjusting as a representative of insurers. Refer also  
240 to Section 31A-26-102.

241 (37) "Independently procured insurance" means insurance procured under Section  
242 31A-15-104.

243 (37.5) "Individual" means a natural person.

244 (38) "Inland marine insurance" includes insurance covering:



- 245 (a) property in transit on or over land;  
246 (b) property in transit over water by means other than boat or ship;  
247 (c) bailee liability;  
248 (d) fixed transportation property such as bridges, electric transmission systems, radio and  
249 television transmission towers and tunnels; and  
250 (e) personal and commercial property floaters.

251 (39) "Insolvency" means that:

- 252 (a) an insurer is unable to pay its debts or meet its obligations as they mature;  
253 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC  
254 under Subsection 31A-17-601(7)(c); or  
255 (c) an insurer is determined to be hazardous under this title.

256 (40) "Insurance" means any arrangement, contract, or plan for the transfer of a risk or risks  
257 from one or more persons to one or more other persons, or any arrangement, contract, or plan for  
258 the distribution of a risk or risks among a group of persons that includes the person seeking to  
259 distribute his risk. "Insurance" includes:

- 260 (a) risk distributing arrangements providing for compensation or replacement for damages  
261 or loss through the provision of services or benefits in kind;  
262 (b) contracts of guaranty or suretyship entered into by the guarantor or surety as a business  
263 and not as merely incidental to a business transaction; and  
264 (c) plans in which the risk does not rest upon the person who makes the arrangements, but  
265 with a class of persons who have agreed to share it.

266 (41) "Insurance adjuster" means a person who directs the investigation, negotiation, or  
267 settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf  
268 of an insurer, policyholder, or a claimant under an insurance policy. Refer also to Section  
269 31A-26-102.

270 (41.5) "Interinsurance exchange" is defined in Subsection (69).

271 (42) "Insurance agent" or "agent" means a person who represents insurers in soliciting,  
272 negotiating, or placing insurance. Refer to Subsection 31A-23-102(2) for exceptions to this  
273 definition.

274 (43) "Insurance broker" or "broker" means a person who acts in procuring insurance on  
275 behalf of an applicant for insurance or an insured, and does not act on behalf of the insurer except

276 by collecting premiums or performing other ministerial acts. Refer to Subsection 31A-23-102(2)  
277 for exceptions to this definition.

278 (44) "Insurance business" or "business of insurance" includes:

279 (a) providing health care insurance, as defined in Subsection (35), by organizations that  
280 are or should be licensed under this title;

281 (b) providing benefits to employees in the event of contingencies not within the control  
282 of the employees, in which the employees are entitled to the benefits as a right, which benefits may  
283 be provided either by single employers or by multiple employer groups through trusts, associations,  
284 or other entities;

285 (c) providing annuities, including those issued in return for gifts, except those provided  
286 by persons specified in Subsections 31A-22-1305(2) and (3);

287 (d) providing the characteristic services of motor clubs as outlined in Subsection (56);

288 (e) providing other persons with insurance as defined in Subsection (40);

289 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or  
290 surety, any contract or policy of title insurance;

291 (g) transacting or proposing to transact any phase of title insurance, including solicitation,  
292 negotiation preliminary to execution, execution of a contract of title insurance, insuring, and  
293 transacting matters subsequent to the execution of the contract and arising out of it, including  
294 reinsurance; and

295 (h) doing, or proposing to do, any business in substance equivalent to Subsections (44)(a)  
296 through (g) in a manner designed to evade the provisions of this title.

297 (45) "Insurance consultant" or "consultant" means a person who advises other persons  
298 about insurance needs and coverages, is compensated by the person advised on a basis not directly  
299 related to the insurance placed, and is not compensated directly or indirectly by an insurer, agent,  
300 or broker for advice given. Refer to Subsection 31A-23-102(2) for exceptions to this definition.

301 (46) "Insurance holding company system" means a group of two or more affiliated persons,  
302 at least one of whom is an insurer.

303 (47) "Insured" means a person to whom or for whose benefit an insurer makes a promise  
304 in an insurance policy. The term includes policyholders, subscribers, members, and beneficiaries.  
305 This definition applies only to the provisions of this title and does not define the meaning of this  
306 word as used in insurance policies or certificates.

307 (48) (a) "Insurer" means any person doing an insurance business as a principal, including  
308 fraternal benefit societies, issuers of gift annuities other than those specified in Subsections  
309 31A-22-1305(2) and (3), motor clubs, employee welfare plans, and any person purporting or  
310 intending to do an insurance business as a principal on his own account. It does not include a  
311 governmental entity, as defined in Section 63-30-2, to the extent it is engaged in the activities  
312 described in Section 31A-12-107.

313 (b) "Admitted insurer" is defined in Subsection (80)(b).

314 (c) "Alien insurer" is defined in Subsection (3).

315 (d) "Authorized insurer" is defined in Subsection (80)(b).

316 (e) "Domestic insurer" is defined in Subsection (27).

317 (f) "Foreign insurer" is defined in Subsection (32).

318 (g) "Nonadmitted insurer" is defined in Subsection (80)(a).

319 (h) "Unauthorized insurer" is defined in Subsection (80)(a).

320 (49) "Legal expense insurance" means insurance written to indemnify or pay for specified  
321 legal expenses. It includes arrangements that create reasonable expectations of enforceable rights,  
322 but it does not include the provision of, or reimbursement for, legal services incidental to other  
323 insurance coverages. Refer to Section 31A-1-103 for a list of exemptions.

324 (50) (a) "Liability insurance" means insurance against liability:

325 (i) for death, injury, or disability of any human being, or for damage to property, exclusive  
326 of the coverages under Subsection (53) for medical malpractice insurance, Subsection (66) for  
327 professional liability insurance, and Subsection (83) for workers' compensation insurance;

328 (ii) for medical, hospital, surgical, and funeral benefits to persons other than the insured  
329 who are injured, irrespective of legal liability of the insured, when issued with or supplemental to  
330 insurance against legal liability for the death, injury, or disability of human beings, exclusive of  
331 the coverages under Subsection (53) for medical malpractice insurance, Subsection (66) for  
332 professional liability insurance, and Subsection (83) for workers' compensation insurance;

333 (iii) for loss or damage to property resulting from accidents to or explosions of boilers,  
334 pipes, pressure containers, machinery, or apparatus;

335 (iv) for loss or damage to any property caused by the breakage or leakage of sprinklers,  
336 water pipes and containers, or by water entering through leaks or openings in buildings; or

337 (v) for other loss or damage properly the subject of insurance not within any other kind

338 or kinds of insurance as defined in this chapter, if such insurance is not contrary to law or public  
339 policy.

340 (b) "Liability insurance" includes vehicle liability insurance as defined in Subsection (81),  
341 residential dwelling liability insurance as defined in Subsection (70.3), and also includes making  
342 inspection of, and issuing certificates of inspection upon, elevators, boilers, machinery, and  
343 apparatus of any kind when done in connection with insurance on them.

344 (51) "License" means the authorization issued by the insurance commissioner under this  
345 title to engage in some activity that is part of or related to the insurance business. It includes  
346 certificates of authority issued to insurers.

347 (52) "Life insurance" means insurance on human lives and insurances pertaining to or  
348 connected with human life. The business of life insurance includes granting annuity benefits,  
349 granting endowment benefits, granting additional benefits in the event of death by accident or  
350 accidental means, granting additional benefits in the event of the total and permanent disability of  
351 the insured, and providing optional methods of settlement of proceeds.

352 (53) "Medical malpractice insurance" means insurance against legal liability incident to  
353 the practice and provision of medical services other than the practice and provision of dental  
354 services.

355 (54) "Member" means a person having membership rights in an insurance corporation.  
356 Refer also to "insured" in Subsection (47).

357 (55) "Minimum capital" or "minimum required capital" means the capital that must be  
358 constantly maintained by a stock insurance corporation as required by statute. Refer also to  
359 "permanent surplus" under Subsection (76)(a) and Sections 31A-5-211, 31A-8-209, and  
360 31A-9-209.

361 (56) "Motor club" means a person licensed under Chapter 5, Domestic Stock and Mutual  
362 Insurance Corporations, Chapter 11, Motor Clubs, or Chapter 14, Foreign Insurers, that promises  
363 for an advance consideration to provide legal services under Subsection 31A-11-102(1)(b), bail  
364 services under Subsection 31A-11-102(1)(c), trip reimbursement, towing services, emergency road  
365 services, stolen automobile services, a combination of these services, or any other services given  
366 in Subsections 31A-11-102(1)(b) through (f) for a stated period of time.

367 (57) "Mutual" means mutual insurance corporation.

368 (57.5) "Nonparticipating" means a plan of insurance under which the insured is not entitled

369 to receive dividends representing shares of the surplus of the insurer.

370 (58) "Ocean marine insurance" means insurance against loss of or damage to:

371 (a) ships or hulls of ships;

372 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys,  
373 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests,  
374 or other cargoes in or awaiting transit over the oceans or inland waterways;

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

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

380 (59) "Order" means an order of the commissioner.

381 (59.5) "Participating" means a plan of insurance under which the insured is entitled to  
382 receive dividends representing shares of the surplus of the insurer.

383 (60) "Person" includes an individual, partnership, corporation, incorporated or  
384 unincorporated association, joint stock company, trust, reciprocal, syndicate, or any similar entity  
385 or combination of entities acting in concert.

386 (61) (a) "Policy" means any document, including attached endorsements and riders,  
387 purporting to be an enforceable contract, which memorializes in writing some or all of the terms  
388 of an insurance contract. Service contracts issued by motor clubs under Chapter 11, Motor Clubs,  
389 and by corporations licensed under Chapter 7, Nonprofit Health Service Insurance Corporations,  
390 or Chapter 8, Health Maintenance Organizations and Limited Health Plans, are policies. A  
391 certificate under a group insurance contract is not a policy. A document which does not purport  
392 to have legal effect is not a policy.

393 (b) "Group insurance policy" means a policy covering a group of persons that is issued to  
394 a policyholder on behalf of the group, for the benefit of group members who are selected under  
395 procedures defined in the policy or in agreements which are collateral to the policy. This type of  
396 policy may, but is not required to, include members of the policyholder's family or dependents.

397 (c) "Blanket insurance policy" means a group policy covering classes of persons without  
398 individual underwriting, where the persons insured are determined by definition of the class with  
399 or without designating the persons covered.

400 (62) "Policyholder" means the person who controls a policy, binder, or oral contract by  
401 ownership, premium payment, or otherwise. Refer also to "insured" in Subsection (47).

402 (63) "Premium" means the monetary consideration for an insurance policy, and includes  
403 assessments, membership fees, required contributions, or monetary consideration, however  
404 designated. Consideration paid to third party administrators for their services is not "premium,"  
405 though amounts paid by third party administrators to insurers for insurance on the risks  
406 administered by the third party administrators are "premium."

407 (64) "Principal officers" of a corporation means the officers designated under Subsection  
408 31A-5-203(3).

409 (65) "Proceedings" includes actions and special statutory proceedings.

410 (66) "Professional liability insurance" means insurance against legal liability incident to  
411 the practice of a profession and provision of any professional services.

412 (67) "Property insurance" means insurance against loss or damage to real or personal  
413 property of every kind and any interest in that property, from all hazards or causes, and against loss  
414 consequential upon the loss or damage including vehicle comprehensive and vehicle physical  
415 damage coverages, but excluding inland marine insurance and ocean marine insurance as defined  
416 under Subsections (38) and (58).

417 (67.5) "Public agency insurance mutual" means any entity formed by joint venture or  
418 interlocal cooperation agreement by two or more political subdivisions or public agencies of the  
419 state for the purpose of providing insurance coverage for the political subdivisions or public  
420 agencies. Any public agency insurance mutual created under this title and Title 11, Chapter 13,  
421 Interlocal Cooperation Act, is considered to be a governmental entity and political subdivision of  
422 the state with all of the rights, privileges, and immunities of a governmental entity or political  
423 subdivision of the state.

424 (68) (a) Except as provided in Subsection (68)(b), "rate service organization" means any  
425 person who assists insurers in rate making or filing by:

426 (i) collecting, compiling, and furnishing loss or expense statistics;

427 (ii) recommending, making, or filing rates or supplementary rate information; or

428 (iii) advising about rate questions, except as an attorney giving legal advice. [Refer also  
429 to Subsection 31A-19-102(2).]

430 (b) "Rate service organization" does not mean an employee of an insurer, a single insurer

431 or group of insurers under common control, a joint underwriting group, or a natural person serving  
432 as an actuarial or legal consultant.

433 (69) "Reciprocal" or "interinsurance exchange" means any unincorporated association of  
434 persons operating through an attorney-in-fact common to all of them and exchanging insurance  
435 contracts with one another that provide insurance coverage on each other.

436 (70) "Reinsurance" means an insurance transaction where an insurer, for consideration,  
437 transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance  
438 transactions, this title sometimes refers to the insurer transferring the risk as the "ceding insurer,"  
439 and to the insurer assuming the risk as the "assuming insurer" or the "assuming reinsurer."

440 (70.3) "Residential dwelling liability insurance" means insurance against liability resulting  
441 from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached  
442 single family residence or multifamily residence up to four units.

443 (71) "Retrocession" means reinsurance with another insurer of a liability assumed under  
444 a reinsurance contract. A reinsurer "retrocedes" when it reinsures with another insurer part of a  
445 liability assumed under a reinsurance contract.

446 (72) (a) "Security" means any:

447 (i) note;

448 (ii) stock;

449 (iii) bond;

450 (iv) debenture;

451 (v) evidence of indebtedness;

452 (vi) certificate of interest or participation in any profit-sharing agreement;

453 (vii) collateral-trust certificate;

454 (viii) preorganization certificate or subscription;

455 (ix) transferable share;

456 (x) investment contract;

457 (xi) voting trust certificate;

458 (xii) certificate of deposit for a security;

459 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in  
460 payments out of production under such a title or lease;

461 (xiv) commodity contract or commodity option;

462 (xv) any certificate of interest or participation in, temporary or interim certificate for,  
463 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in  
464 Subsections (72)(a)(i) through (xiv); or

465 (xvi) any other interest or instrument commonly known as a security.

466 (b) "Security" does not include:

467 (i) any insurance or endowment policy or annuity contract under which an insurance  
468 company promises to pay money in a specific lump sum or periodically for life or some other  
469 specified period; or

470 (ii) a burial certificate or burial contract.

471 (73) "Self-insurance" means any arrangement under which a person provides for spreading  
472 its own risks by a systematic plan.

473 (a) Except as provided in this subsection, self-insurance does not include an arrangement  
474 under which a number of persons spread their risks among themselves.

475 (b) Self-insurance does include an arrangement by which a governmental entity, as defined  
476 in Section 63-30-2, undertakes to indemnify its employees for liability arising out of the  
477 employees' employment.

478 (c) Self-insurance does include an arrangement by which a person with a managed  
479 program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries,  
480 directors, officers, or employees for liability or risk which is related to the relationship or  
481 employment. Self-insurance does not include any arrangement with independent contractors.

482 (74) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly  
483 or indirectly through one or more affiliates or intermediaries.

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

487 (75) Subject to Subsection (40)(b), "surety insurance" includes:

488 (a) a guarantee against loss or damage resulting from failure of principals to pay or  
489 perform their obligations to a creditor or other obligee;

490 (b) bail bond insurance; and

491 (c) fidelity insurance.

492 (76) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.



493 (b) "Permanent surplus" means the surplus of a mutual insurer that has been designated  
494 by the insurer as permanent. Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and  
495 31A-14-209 require that mutuals doing business in this state maintain specified minimum levels  
496 of permanent surplus. Except for assessable mutuals, the minimum permanent surplus requirement  
497 is essentially the same as the minimum required capital requirement that applies to stock insurers.  
498 Refer also to Subsection (55) on "minimum capital."

499 (c) "Excess surplus" means:

500 (i) for life or disability insurers, as defined in Subsection 31A-17-601(3), and property and  
501 casualty insurers, as defined in Subsection 31A-17-601(4), the lesser of:

502 (A) that amount of an insurer's total adjusted capital, as defined in Subsection (78.5), that  
503 exceeds the product of 2.5 and the sum of the insurer's minimum capital or permanent surplus  
504 required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

505 (B) that amount of an insurer's total adjusted capital, as defined in Subsection (78.5), that  
506 exceeds the product of 3.0 and the authorized control level RBC as defined in Subsection  
507 31A-17-601(7)(a); and

508 (ii) for monoline mortgage guaranty insurers, financial guaranty insurers, and title insurers,  
509 that amount of an insurer's paid-in-capital and surplus that exceeds the product of 1.5 and the  
510 insurer's total adjusted capital required by Subsection 31A-17-609(1).

511 (77) "Third party administrator" or "administrator" means any person who collects charges  
512 or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in  
513 connection with life or disability insurance coverage, annuities, or service insurance coverage,  
514 except:

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

516 (b) a person exempt as a trust under Section 514 of the federal Employee Retirement  
517 Income Security Act of 1974;

518 (c) an employer on behalf of his employees or the employees of one or more of the  
519 subsidiary or affiliated corporations of the employer;

520 (d) an insurer licensed under Chapter 5, 7, 8, 9, or 14, but only with respect to insurance  
521 issued by the insurer; or

522 (e) a person licensed or exempt from licensing under Chapter 23 or 26 whose activities are  
523 limited to those authorized under the license the person holds or for which the person is exempt.

524 Refer also to Section 31A-25-101.

525 (78) "Title insurance" means the insuring, guaranteeing, or indemnifying of owners of real  
526 or personal property or the holders of liens or encumbrances on that property, or others interested  
527 in the property against loss or damage suffered by reason of liens or encumbrances upon, defects  
528 in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens  
529 or encumbrances on the property.

530 (78.5) "Total adjusted capital" means the sum of an insurer's statutory capital and surplus  
531 as determined in accordance with:

532 (a) the statutory accounting applicable to the annual financial statements required to be  
533 filed under Section 31A-4-113; and

534 (b) any other items provided by the RBC instructions, as RBC instructions is defined in  
535 Subsection 31A-17-601(6).

536 (79) (a) "Trustee" means "director" when referring to the board of directors of a  
537 corporation.

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

542 (80) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an  
543 insurer not holding a valid certificate of authority to do an insurance business in this state, or an  
544 insurer transacting business not authorized by a valid certificate.

545 (b) "Admitted insurer" or "authorized insurer" means an insurer holding a valid certificate  
546 of authority to do an insurance business in this state and transacting business as authorized by a  
547 valid certificate.

548 (81) "Vehicle liability insurance" means insurance against liability resulting from or  
549 incident to ownership, maintenance, or use of any land vehicle or aircraft, exclusive of vehicle  
550 comprehensive and vehicle physical damage coverages under Subsection (67).

551 (82) "Voting security" means a security with voting rights, and includes any security  
552 convertible into a security with a voting right associated with it.

553 (83) [~~"Workers"~~] "Workers compensation insurance" means:

554 (a) insurance for indemnification of employers against liability for compensation:

- 555 (i) based upon compensable accidental injuries; and  
556 (ii) based on occupational disease disability;  
557 (b) employer's liability insurance incidental to workers' compensation insurance and  
558 written in connection with it; and  
559 (c) insurance assuring to the persons entitled to workers' compensation benefits the  
560 compensation provided by law.

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

562 **31A-2-308. Enforcement penalties and procedures.**

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

566 (b) (i) The commissioner may order an individual agent, broker, adjuster, or insurance  
567 consultant who violates an insurance statute or rule to forfeit to the state not more than \$2,500 for  
568 each violation.

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

571 (c) (i) The commissioner may order an individual agent, broker, adjuster, or insurance  
572 consultant who violates an order issued under Subsection 31A-2-201(4) to forfeit to the state not  
573 more than \$2,500 for each violation. Each day the violation continues is a separate violation.

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

577 (d) The commissioner may accept or compromise any forfeiture under this subsection until  
578 after a complaint is filed under Subsection (2). After the filing of the complaint, only the attorney  
579 general may compromise the forfeiture.

580 (2) Whenever a person fails to comply with an order issued under Subsection  
581 31A-2-201(4), including a forfeiture order, the commissioner may file an action in any court of  
582 competent jurisdiction or obtain a court order or judgment:

583 (a) enforcing the commissioner's order;

584 (b) directing compliance with the commissioner's order and restraining further violation  
585 of the order, subjecting the person ordered to the procedures and sanctions available to the court

586 for punishing contempt if the failure to comply continues; or

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

589 (3) The Utah Rules of Civil Procedure govern actions brought under Subsection (2), except  
590 that the commissioner may file a complaint seeking a court-ordered forfeiture under Subsection  
591 (2)(c) no sooner than two weeks after giving written notice of his intention to proceed under  
592 Subsection (2)(c). The commissioner's order issued under Subsection 31A-2-201(4) may contain  
593 a notice of intention to seek a court-ordered forfeiture if the commissioner's order is disobeyed.

594 (4) If, after a court order is issued under Subsection (2), the person fails to comply with  
595 the commissioner's order or judgment, the commissioner may certify the fact of the failure to the  
596 court by affidavit, and the court may, after a hearing following at least five days written notice to  
597 the parties subject to the order or judgment, amend the order or judgment to add the forfeiture or  
598 forfeitures, as prescribed in Subsection (2)(c), until the person complies.

599 (5) The proceeds of all forfeitures under this section, including collection expenses, shall  
600 be paid into the General Fund. The expenses of collection shall be credited to the Insurance  
601 Department's budget. The attorney general's budget shall be credited to the extent the Insurance  
602 Department reimburses the attorney general's office for its collection expenses under this section.

603 (6) Forfeitures and judgments under this section bear interest at the rate then charged by  
604 the United States Internal Revenue Service for past due taxes. Interest accrues from the later of the  
605 date of entry of the commissioner's order under Subsection (1) or the date of judgment under  
606 Subsection (2) until the forfeiture and accrued interest are fully paid.

607 (7) No forfeiture may be imposed under Subsection (2)(c) if, at the time the forfeiture  
608 action is commenced, the person was in compliance with the commissioner's order, or if the  
609 violation of the order occurred during the order's suspension.

610 (8) The commissioner may seek an injunction as an alternative to issuing an order under  
611 Subsection 31A-2-201(4).

612 (9) A person who intentionally violates, intentionally permits any person over whom he  
613 has authority to violate, or intentionally aids any person in violating any insurance statute or rule  
614 of this state or any effective order issued under Subsection 31A-2-201(4) is guilty of a class B  
615 misdemeanor. Unless a specific criminal penalty is provided elsewhere in this title, the person may  
616 be fined not more than \$10,000 if a corporation or not more than \$5,000 if a person other than a

617 corporation. If the person is an individual, the person may, in addition, be imprisoned for up to  
618 one year. As used in this Subsection (9), "intentionally" has the same meaning as under Subsection  
619 76-2-103(1).

620 (10) When a licensee of the Insurance Department, other than a domestic insurer,  
621 persistently or substantially violates the insurance law or violates an order of the commissioner  
622 under Subsection 31A-2-201(4), if there are grounds for delinquency proceedings against the  
623 licensee under Section 31A-27-301 or Section 31A-27-307, or if the licensee's methods and  
624 practices in the conduct of his business endanger, or his financial resources are inadequate to  
625 safeguard, the legitimate interests of his customers and the public, the commissioner may, after a  
626 hearing, in whole or in part, revoke, suspend, place on probation, limit, or refuse to renew the  
627 licensee's license or certificate of authority. Additional license termination or probation provisions  
628 for licensees other than insurers are set forth in Sections [~~31A-19-303, 31A-19-304,~~] 31A-19a-303,  
629 31A-19a-304, 31A-23-216, 31A-23-217, 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214,  
630 31A-35-501, and 31A-35-503.

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

633 Section 3. Section **31A-6a-103** is amended to read:

634 **31A-6a-103. Requirements for doing business.**

635 (1) Service contracts may not be issued, sold, or offered for sale in this state unless the  
636 service contract is insured under a service contract reimbursement insurance policy issued by an  
637 insurer authorized to do business in this state, or a recognized surplus lines carrier.

638 (2) (a) Service contracts may not be issued, sold, or offered for sale unless a true and  
639 correct copy of the service contract and the provider's reimbursement insurance policy have been  
640 filed with the commissioner. Copies of contracts and policies must be filed no less than 30 days  
641 prior to the issuance, sale offering for sale, or use of the service contract or reimbursement  
642 insurance policy in this state.

643 (b) Each modification of the terms of any service contract or reimbursement insurance  
644 policy must also be filed 30 days prior to its use in this state. Each filing must be accompanied by  
645 a filing fee as required under Subsection 31A-3-103, or the filing shall be rejected.

646 (c) Persons complying with this chapter are not required to comply with:

647 (i) Subsections 31A-21-201(1) and 31A-23-302(3)[,]; or

648 (ii) Chapter [19] 19a, Utah Rate Regulation Act.

649 (3) (a) Premiums collected on service contracts are not subject to premium taxes.

650 (b) Premiums collected by issuers of reimbursement insurance policies are subject to  
651 premium taxes.

652 (4) Persons marketing, selling, or offering to sell service contracts for service contract  
653 providers that comply with this chapter are exempt from the licensing requirements of this title.

654 (5) Service contract providers complying with this chapter are not required to comply with:

655 (a) Chapter 5, Domestic Stock and Mutual Insurance Corporations[;];

656 (b) Chapter 7, Nonprofit Health Service Insurance Corporations[;];

657 (c) Chapter 8, Health Maintenance Organizations and Limited Health Plans[;];

658 (d) Chapter 9, Insurance Fraternal[;];

659 (e) Chapter 10, Annuities[;];

660 (f) Chapter 11, Motor Clubs[;];

661 (g) Chapter 12, State Risk Management Fund[;];

662 (h) Chapter 13, Employee Welfare Funds and Plans[;];

663 (i) Chapter 14, Foreign Insurers[;];

664 (j) Chapter [19] 19a, Utah Rate Regulation[;] Act;

665 (k) Chapter 25, Third Party Administrators[;]; and

666 (l) Chapter 28, Guaranty Associations.

667 Section 4. Section **31A-11-103** is amended to read:

668 **31A-11-103. Rates.**

669 (1) Rates charged to holders of motor club service contracts may not be inadequate,  
670 excessive, or unfairly discriminatory.

671 (2) If, after a hearing, the commissioner finds a motor club's rates in violation of this  
672 section, [he] the commissioner may issue an order to the club to make a filing under Section  
673 [~~31A-19-203~~] 31A-19a-203. After issuance of such an order, the commissioner and the club shall  
674 proceed under Chapter [19] 19a until the commissioner determines that the club's rates conform  
675 to the requirements of this section. Chapter [19] 19a is then inapplicable to the club until the  
676 issuance of another order under this section.

677 Section 5. Section **31A-12-103** is amended to read:

678 **31A-12-103. Rates charged to school districts.**

679 The rates charged to school districts for policies issued under Section 63A-4-204 are not  
 680 subject to Chapter [19] 19a, except for the filing requirement of Subsection [31A-19-203]  
 681 31A-19a-203(1) and the public availability requirement of Section [31A-19-204] 31A-19a-204.  
 682 Rate filing fees under Section 31A-3-103 shall be paid to the department by the Risk Management  
 683 Fund.

684 Section 6. Section **31A-19a-101**, which is renumbered from Section 31A-19-101 is  
 685 renumbered and amended to read:

## 686 CHAPTER 19a. UTAH RATE REGULATION ACT

### 687 Part 1. General Provisions

688 ~~[31A-19-101].~~ **31A-19a-101. Title -- Scope and purposes.**

689 (1) This chapter is known as the "Utah Rate Regulation Act."

690 ~~[(1)]~~ (2) (a) (i) [This] Except as provided in Subsection (2)(a)(ii), this chapter applies to  
 691 all kinds and lines of direct insurance written on risks or operations in this state by an insurer  
 692 authorized to do business in this state[, except:].

693 (ii) This chapter does not apply to:

694 ~~[(i)]~~ (A) life insurance other than credit life insurance;

695 ~~[(ii)]~~ (B) variable and fixed annuities;

696 ~~[(iii)]~~ (C) health and disability insurance other than credit disability insurance; and

697 ~~[(iv)]~~ (D) reinsurance[; and].

698 ~~[(v) workers' compensation insurance, except that Sections 31A-19-301 through~~  
 699 ~~31A-19-304 and Part IV apply to workers' compensation insurance.]~~

700 (b) This chapter applies to all insurers authorized to do any line of business, except those  
 701 specified in ~~[Subsections (1) (a) (i) through (v)]~~ Subsection (2)(a)(ii).

702 ~~[(2)]~~ (3) It is the purpose of this chapter to:

703 (a) protect policyholders and the public against the adverse effects of excessive,  
 704 inadequate, or unfairly discriminatory rates;

705 (b) encourage independent action by and reasonable price competition among insurers so  
 706 that rates are responsive to competitive market conditions;

707 (c) provide formal regulatory controls for use if independent action and price competition  
 708 fail;

709 (d) provide regulatory procedures for the maintenance of appropriate data reporting

710 systems;

711           [(d)] (e) authorize cooperative action among insurers in the rate-making process, and  
712 regulate that cooperation to prevent practices that bring about a monopoly or lessen or destroy  
713 competition;

714           [(e)] (f) encourage the most efficient and economic marketing practices; and

715           [(f)] (g) regulate the business of insurance in a manner that, under the McCarran-Ferguson  
716 Act, 15 U.S.C. Secs. 1011 through 1015, will preclude application of federal antitrust laws.

717           [(3)] (4) Rate filings made prior to July 1, 1986, under former Title 31, Chapter 18, are  
718 continued. Rate filings made after July 1, 1986, are subject to the requirements of this chapter.

719           Section 7. Section **31A-19a-102**, which is renumbered from Section 31A-19-102 is  
720 renumbered and amended to read:

721           ~~[31A-19-102].~~           **31A-19a-102. Definitions.**

722           As used in this chapter:

723           [(1) "Market segment" means any geographical area that can reasonably be considered an  
724 economic unit with respect to the marketing of insurance or any line or kind of insurance or, if it  
725 is described in general terms, any subdivision of this economic unit, line, or kind of insurance, or  
726 any class of risks or combination of classes. It may be formed from any combination of these  
727 variables having independent economic significance.]

728           [(2) (a) Except as provided in Subsection (2) (b), "rate service organization" means any  
729 person who assists insurers in rate making or filing by:]

730           [(i) collecting, compiling, and furnishing loss or expense statistics;]

731           [(ii) recommending, making, or filing rates or supplementary rate information; or]

732           [(iii) advising about rate questions, except as an attorney giving legal advice.]

733           (1) "Classification system" or "classification" means the process of grouping risks with  
734 similar risk characteristics so that differences in anticipated costs may be recognized.

735           (2) (a) "Developed losses" means losses adjusted using standard actuarial techniques to  
736 eliminate the effect of differences between:

737           (i) current payment or reserve estimates; and

738           (ii) payments or reserve estimates that are anticipated to provide actual ultimate loss  
739 payments.

740           (b) For purposes of Subsection (2)(a), losses includes loss adjustment expense.



741 (3) "Dividend" means money paid to a policyholder from the remaining portion of the  
742 premium paid for a policy:

743 (a) based on the participating class of business; and

744 (b) after the insurer has made deductions for:

745 (i) losses;

746 (ii) expenses;

747 (iii) additions to reserves; and

748 (iv) profit and contingencies.

749 (4) "Expenses" means that portion of a rate attributable to:

750 (a) acquisition;

751 (b) field supervision;

752 (c) collection expenses;

753 (d) general expenses;

754 (e) taxes;

755 (f) licenses; and

756 (g) fees.

757 (5) "Experience rating" means a rating procedure that:

758 (a) uses the past insurance experience of an individual policyholder to forecast the future  
759 losses of the policyholder by measuring the policyholder's loss experience against the loss  
760 experience of policyholders in the same classification; and

761 (b) produces a prospective premium credit, debit, or unity modification.

762 (6) "Joint underwriting" means a voluntary arrangement established to provide insurance  
763 coverage for a risk pursuant to which two or more insurers jointly contract with the insured at a  
764 price and under policy terms agreed upon between the insurers.

765 (7) "Loss adjustment expense" means the expenses incurred by the insurer in the course  
766 of settling claims.

767 (8) (a) "Market" means the interaction between buyers and sellers consisting of a:

768 (i) product component; and

769 (ii) geographic component.

770 (b) A product component consists of identical or readily substitutable products if the  
771 products are compared as to factors including:

- 772 (i) coverage;  
773 (ii) policy terms;  
774 (iii) rate classifications; and  
775 (iv) underwriting.  
776 (c) A geographic component is a geographical area in which buyers seek access to the  
777 insurance product through sales outlets and other distribution mechanisms or patterns.  
778 (9) "Mass marketed plan" means a method of selling insurance when:  
779 (a) the insurance is offered to:  
780 (i) employees of a particular employer;  
781 (ii) members of a particular association or organization; or  
782 (iii) persons grouped in a manner other than described in Subsection (8)(a)(i) or (ii), except  
783 groupings formed principally for the purpose of obtaining insurance; and  
784 (b) the employer, association, or other organization, if any, has agreed to, or otherwise  
785 affiliated itself with, the sale of insurance to its employees or members.  
786 (10) "Prospective loss costs" means the same as pure premium rate.  
787 (11) "Pure premium rate" means that portion of a rate that:  
788 (a) does not include provisions for profit or expenses, other than loss adjustment expenses;  
789 and  
790 (b) is based on historical aggregate losses and loss adjustment expenses that are:  
791 (i) adjusted through development to their ultimate value; and  
792 (ii) projected through trending to a future point in time.  
793 (12) (a) "Rate" means that cost of insurance per exposure unit either expressed as:  
794 (i) a single number; or  
795 (ii) as a pure premium rate adjusted before any application of individual risk variations  
796 based on loss or expense considerations to account for the treatment of:  
797 (A) expenses;  
798 (B) profit; and  
799 (C) individual insurer variation in loss experience.  
800 (b) "Rate" does not include a minimum premium.  
801 ~~[(b) "Rate service organization" does not mean an employee of an insurer, a single insurer~~  
802 ~~or group of insurers under common control, a joint underwriting group, or a natural person serving~~

803 as an actuarial or legal consultant.]

804 (13) "Rating tiers" means an underwriting and rating plan designed to categorize insurance  
805 risks that have common characteristics related to potential insurance loss into broad groups for the  
806 purpose of establishing a set of rating levels that reflect definable levels of potential hazard or risk.

807 [~~(3)~~] (14) "Riskiness" means the variability of results around the average expected result.

808 [~~(4)~~] (15) "Supplementary rate information" includes [any] one or more of the following  
809 needed to determine the applicable rate in effect or to be in effect:

810 (a) a manual or plan of rates[;];

811 (b) a statistical plan[;];

812 (c) a classification[;];

813 (d) a rating schedule[;];

814 (e) a minimum premium[;];

815 (f) a policy fee[;];

816 (g) a rating rule[;];

817 (h) a rate-related underwriting rule[, and];

818 (i) a rate modification plan; or

819 (j) any other similar information prescribed by rule of the commissioner as supplementary  
820 rate information.

821 (16) "Supporting information" includes one or more of the following:

822 (a) data demonstrating actuarial justification for the basic rate factors, classifications,  
823 expenses, and profit factors used by the filer;

824 (b) the experience and judgment of the filer;

825 (c) the experience or data of other insurers or rate service organizations relied upon by the  
826 filer;

827 (d) the interpretation of any other data relied upon by the filer;

828 (e) descriptions of methods used in making the rates; or

829 (f) any other information defined by rule as supporting information that is required to be  
830 filed.

831 (17) "Trending" means any procedure for projecting, for the period during which the  
832 policies are to be effective:

833 (a) losses to the average date of loss; or

834 (b) premiums or exposures to the average date of writing.

835 Section 8. Section **31A-19a-103**, which is renumbered from Section 31A-19-103 is  
836 renumbered and amended to read:

837 ~~[31A-19-103].~~ **31A-19a-103. Exemptions.**

838 (1) The commissioner may by rule exempt from any or all of the provisions of this chapter:

839 (a) any person[;];

840 (b) a class of persons[;]; or

841 (c) a market segment [from any or all of the provisions of this chapter. This].

842 (2) The exemption described in Subsection (1) shall be given only if and to the extent that  
843 the commissioner finds the application of the provisions of this chapter to that person or group is  
844 unnecessary to achieve the purposes of this chapter.

845 Section 9. Section **31A-19a-201**, which is renumbered from Section 31A-19-201 is  
846 renumbered and amended to read:

847 **Part 2. General Rate Regulation**

848 ~~[31A-19-201].~~ **31A-19a-201. Rate standards.**

849 (1) Rates may not be excessive, inadequate, or unfairly discriminatory[; nor may an insurer  
850 charge any rate which, if continued, may have the effect of destroying competition or creating a  
851 monopoly].

852 (2) (a) Rates are not excessive if a reasonable degree of price competition exists at the  
853 consumer level with respect to the class of business to which they apply. In determining whether  
854 a reasonable degree of price competition exists, the commissioner shall consider [all]:

855 (i) relevant tests [including:] of workable competition pertaining to:

856 (A) market structure;

857 (B) market performance; and

858 (C) market conduct; and

859 (ii) the practical opportunities available to consumers in the market to:

860 (A) acquire pricing and other consumer information; and

861 (B) compare and obtain insurance from competing insurers.

862 (b) The tests described in Subsection (2)(a) include:

863 (i) the size and number of insurers actively engaged in the market and class of business;

864 (ii) [their] the market shares of insurers actively engaged in the market and changes in

865 market shares;

866 (iii) the existence of rate differentials in that class of business;

867 (iv) ease of entry and latent competition of insurers capable of easy entry[-];

868 (v) whether the profitability of companies generally in the market segment is unreasonably

869 high;

870 (vi) availability of consumer information concerning the product and sales outlets or other

871 sales mechanisms; and

872 (vii) efforts of insurers to provide consumer information.

873 [(b)] (c) If reasonable price competition does not exist, rates are excessive if [they]:

874 (i) rates are likely to produce a long-term profit that is unreasonably high in relation to the

875 riskiness of the class of business[-]; or [if]

876 (ii) expenses are unreasonably high in relation to the services rendered.

877 (3) Rates are inadequate if:

878 (a) they are clearly insufficient, when combined with the investment income attributable

879 to them, to sustain the projected losses and expenses in the class of business to which they apply[-];

880 and

881 (b) the use of such rates has or, if continued, will have:

882 (i) the effect of substantially lessening competition; or

883 (ii) the tendency to create a monopoly in any market.

884 (4) (a) A rate is unfairly discriminatory [in relation to another rate in the same class if it

885 clearly fails] if price differentials fail to equitably reflect the differences in expected losses and

886 expenses[- Rates are] after allowing for practical limitations.

887 (b) A rate is not unfairly discriminatory [because different premiums result for

888 policyholders with similar loss exposures but different expense factors, or similar expense factors

889 but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.-

890 Rates are not unfairly discriminatory if they are] if it is averaged broadly among persons insured

891 under a:

892 (i) group, franchise, or blanket policy; or

893 (ii) mass marketed plan.

894 Section 10. Section ~~31A-19a-202~~, which is renumbered from Section 31A-19-202 is

895 renumbered and amended to read:

896 ~~[31A-19-202].~~ 31A-19a-202. Rating methods.

897 (1) To determine whether rates comply with the standards under Section ~~[31A-19-201]~~

898 31A-19a-201, the [following] commissioner shall consider the:

899 (a) criteria ~~[shall be considered:] listed in Subsection (2);~~

900 (b) classifications, if any, permitted under Subsection (3);

901 (c) expenses described in Subsection (4); and

902 (d) profits described in Subsection (5).

903 (2) In determining rates the commissioner shall consider within and outside of Utah:

904 ~~[(1) The] (a) past and prospective loss [and expense] experience [within and outside of~~  
905 ~~Utah,];~~

906 (b) catastrophe hazards ~~[and contingencies,];~~

907 (c) trends ~~[within and outside of Utah,];~~

908 (d) loadings for leveling premium rates over time~~[, dividends or savings];~~

909 (e) reasonable margin for profit and contingencies;

910 (f) dividends, savings, or unabsorbed premium deposits allowed or returned by insurers  
911 to their policyholders~~[, members, or subscribers,];~~ and ~~[all]~~

912 (g) other relevant factors~~[, including the judgment of technical personnel shall be taken~~  
913 into consideration in determining whether rates are excessive, inadequate, or unfairly  
914 discriminating].

915 ~~[(2)] (3) (a) Risks may be [classified in any reasonable way] grouped by classifications for~~  
916 the establishment of rates and minimum premiums~~[, except that no classifications may be based~~  
917 on].

918 (b) (i) A classification rate may be modified to produce rates for individual risks in  
919 accordance with rating plans or schedules that establish reasonable standards for measuring  
920 probable variations in hazards or expense provisions.

921 (ii) The standards described in Subsection (3)(b)(i) may measure any differences among  
922 risks that can be demonstrated to have a probable effect upon losses or expenses.

923 (c) Notwithstanding Subsection (3)(b), risk classification may not be based upon race,  
924 color, creed, [or] national origin, or the religion of the insured. ~~[These classified rates may be~~  
925 ~~modified for individual risks in accordance with rating plans or schedules which establish~~  
926 ~~reasonable standards for measuring probable variations in hazards, expenses, or both. Rates may~~

927 also be modified for individual risks under Subsection 31A-19-203 (3).]

928 ~~[(3)]~~ (4) The expense provisions included in the rates to be used by an insurer [may] shall  
929 reflect;

930 (a) the operating methods of the insurer; and~~[, so far as it is credible, its own expense~~  
931 ~~experience]~~

932 (b) its anticipated expenses.

933 ~~[(4)]~~ (5) The rates may contain provision for contingencies and an allowance permitting  
934 a profit that is not unreasonable in relation to the riskiness of the class of business. In determining  
935 the reasonableness of the profit, consideration may be given to investment income.

936 Section 11. Section **31A-19a-203**, which is renumbered from Section 31A-19-203 is  
937 renumbered and amended to read:

938 ~~[31A-19-203].~~ **31A-19a-203. Rate filings.**

939 (1) (a) Except as provided in Subsections ~~[(2)]~~ (4) and ~~[(3)]~~ (5), every authorized insurer  
940 and every rate service organization licensed under Section ~~[31A-19-301]~~ 31A-19a-301 that has  
941 been designated by any insurer for the filing of pure premium rates under Subsection ~~[31A-19-205]~~  
942 31A-19a-205(2), shall file with the commissioner the following for use in this state:

943 (i) all rates ~~[and]~~;

944 (ii) all supplementary information; and

945 (iii) all changes and amendments to ~~[them that are made by it for use in this state]~~ rates  
946 and supplementary information.

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

948 (i) its final rates; or

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

951 (A) a multiplier; or

952 (B) (I) a multiplier; and

953 (II) an expense constant adjustment.

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

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

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

957 ~~[(b) This]~~ (d) Except for workers compensation rates filed under Sections 31A-19a-405

958 and 31A-19a-406, each filing shall be within 30 days after the rates and supplementary  
959 information, changes, and amendments are effective.

960 (e) A rate filing is considered filed when it has been received by the commissioner:

961 (i) with the applicable filing fee as prescribed under Section 31A-3-103; and

962 (ii) pursuant to procedures established by the commissioner.

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

965 (2) (a) To show compliance with Section 31A-19a-201, at the same time as the filing of  
966 the rate and supplementary rate information, an insurer shall file all supporting information to be  
967 used in support of or in conjunction with a rate.

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

971 (c) If the commissioner determines that the insurer did not file sufficient supporting  
972 information, the commissioner shall inform the insurer in writing of the lack of sufficient  
973 supporting information.

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

977 (i) considered incomplete and unfiled; and

978 (ii) returned to the insurer as not filed and not available for use.

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

981 (f) If a rate filing is returned to an insurer as not filed and not available for use under  
982 Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or  
983 after 30 calendar days from the date the rate filing was returned.

984 (3) At the request of the commissioner, an insurer using the services of a rate service  
985 organization shall provide a description of the rationale for using the services of the rate service  
986 organization, including the insurer's own information and method of use of the rate service  
987 organization's information.

988 (4) (a) An insurer may not make or issue a contract or policy except in accordance with



989 the rate filings that are in effect for the insurer as provided in this chapter.

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

992 [(2)] (5) Subsection (1) does not apply to inland marine risks, which, by general custom,  
993 are not written according to standardized manual rules or rating plans.

994 [(3)] (6) (a) The insurer may file a written application, stating the insurer's reasons for  
995 using a higher rate than that otherwise applicable to a specific risk.

996 (b) If [this] the application described in Subsection (6)(a) is filed with and not disapproved  
997 by the commissioner within ten days after filing, the higher rate may be applied to the specific risk.

998 (c) The rate may be disapproved without a hearing.

999 (d) If disapproved, the rate otherwise applicable applies from the effective date of the  
1000 policy, but the insurer may cancel the policy pro rata on ten days' notice to the policyholder.

1001 (e) If the insurer does not cancel the policy, the insurer shall refund any excess premium  
1002 from the effective date of the policy.

1003 [(4)] (7) (a) Agreements may be made between insurers on the use of reasonable rate  
1004 modifications for insurance provided under Section 31A-22-310.

1005 (b) These rate modifications shall be filed with the commissioner immediately upon  
1006 agreement by the insurers.

1007 Section 12. Section **31A-19a-204**, which is renumbered from Section 31A-19-204 is  
1008 renumbered and amended to read:

1009 ~~[31A-19-204].~~ **31A-19a-204. Rates open to inspection.**

1010 ~~[Each filing and any supporting]~~

1011 (1) Rates and supplementary rate information filed under this chapter shall~~[-when filed,]~~  
1012 be open to public inspection at any reasonable time.

1013 (2) The commissioner shall supply copies to any person on;

1014 (a) request; and [on]

1015 (b) payment of a reasonable charge.

1016 Section 13. Section **31A-19a-205**, which is renumbered from Section 31A-19-205 is  
1017 renumbered and amended to read:

1018 ~~[31A-19-205].~~ **31A-19a-205. Delegation of rate making and rate filing**  
1019 **obligation.**

1020 (1) An insurer may:

1021 (a) itself establish rates and supplementary rate information for any market segment based

1022 on the factors in Section ~~[31A-19-202,]~~ 31A-19a-202; or [it may]

1023 (b) use rates, pure premium rates, and supplementary rate information prepared by a rate

1024 service organization that the insurer selects, with:

1025 (i) average expense factors determined by the rate service organization; or [with]

1026 (ii) any modification for its own expense and loss experience as the credibility of that

1027 experience allows.

1028 (2) An insurer may discharge its obligation under Subsection ~~[31A-19-203]~~

1029 31A-19a-203(1) by ~~[giving notice to]~~ filing with the commissioner:

1030 (a) notification that [it] the insurer uses pure premium rates and supplementary rate

1031 information prepared by a ~~[designated]~~ licensed rate service organization~~[-together with]~~ that the

1032 insurer selects; and

1033 (b) any information about modifications [it] the insurer has made to those rates or that

1034 information as is necessary fully to inform the commissioner. ~~[The]~~

1035 (3) ~~If an insurer has discharged its obligation in accordance with Subsection (2), the~~

1036 ~~insurer's rates and supplementary rate information shall be those, including any amendments, filed~~

1037 ~~at intervals by the rate service organization, subject to any modifications filed by the insurer.~~

1038 Section 14. Section **31A-19a-206**, which is renumbered from Section 31A-19-207 is

1039 renumbered and amended to read:

1040 ~~[31A-19-207].~~ **31A-19a-206. Disapproval of rates.**

1041 ~~[(1) If the commissioner finds after a proceeding authorized under Title 63, Chapter 46b,~~

1042 ~~Administrative Procedures Act, that a rate is not in compliance with Section 31A-19-201, the~~

1043 ~~commissioner shall order that its use be discontinued for any policy issued or renewed after a date~~

1044 ~~given in the order.]~~

1045 ~~[(2) The order under Subsection (1) shall be issued within 30 days after the close of any~~

1046 ~~proceeding or within a reasonable time extension the commissioner fixes before the expiration of~~

1047 ~~the 30 days.]~~

1048 ~~[(3) Within one year after the effective date of an order under Subsection (1), no rate~~

1049 ~~adopted to replace a disapproved one may be used until it has been filed with the commissioner~~

1050 ~~and not disapproved within 30 days after the filing.]~~

1051 (1) (a) Except for a conflict with the requirements of Section 31A-19a-201 or  
1052 31A-19a-202, the commissioner may disapprove a rate at any time that the rate directly conflicts  
1053 with:

1054 (i) this title; or

1055 (ii) any rule made under this title.

1056 (b) The disapproval under Subsection (1)(a) shall:

1057 (i) be in writing;

1058 (ii) specify the statute or rule with which the filing conflicts; and

1059 (iii) state when the rule is no longer effective.

1060 (c) (i) If an insurer or rate service organization's rate filing is disapproved under Subsection  
1061 (1)(a), the insurer or rate organization may request a hearing on the disapproval within 30 calendar  
1062 days of the date on which the order described in Subsection (1)(a) is issued.

1063 (ii) If a hearing is requested under Subsection (1)(c)(i), the commissioner shall schedule  
1064 the hearing within 30 calendar days of the date on which the commissioner receives the request  
1065 for a hearing.

1066 (iii) After the hearing, the commissioner shall issue an order:

1067 (A) approving the rate filing; or

1068 (B) disapproving the rate filing.

1069 (2) (a) If within 90 calendar days of the date on which a rate filing is filed the  
1070 commissioner finds that the rate filing does not meet the requirements of Section 31A-19a-201 or  
1071 31A-19a-202, the commissioner shall send a written order disapproving the rate filing to the  
1072 insurer or rate organization that made the filing.

1073 (b) The order described in Subsection (2)(a) shall specify how the rate filing fails to meet  
1074 the requirements of Section 31A-19a-201 or 31A-19a-202.

1075 (c) (i) If an insurer's or rate service organization's rate filing is disapproved under  
1076 Subsection (2)(a), the insurer or rate organization may request a hearing on the disapproval within  
1077 30 calendar days of the date on which the order described in Subsection (2)(a) is issued.

1078 (ii) If a hearing is requested under Subsection (2)(c)(i), the commissioner shall schedule  
1079 the hearing within 30 calendar days of the date on which the commissioner receives the request  
1080 for a hearing.

1081 (iii) After the hearing, the commissioner shall issue an order:

- 1082 (A) approving the rate filing; or  
1083 (B) (I) disapproving the rate filing; and  
1084 (II) stating when, within a reasonable time from the date on which the order is issued, the  
1085 rate is no longer effective.
- 1086 (d) In a hearing held under this Subsection (2), the insurer or rate organization bears the  
1087 burden of proving compliance with the requirements of Section 31A-19a-201 or 31A-19a-202.
- 1088 (3) (a) If the order described in Subsection (2)(a) is issued after the implementation of the  
1089 rate filing, the commissioner may order that use of the rate filing be discontinued for any policy  
1090 issued or renewed on or after a date not less than 30 calendar days from the date the order was  
1091 issued.
- 1092 (b) If an insurer or rate service organization requests a hearing under Subsection (2), the  
1093 order to discontinue use of the rate filing is stayed:
- 1094 (i) beginning on the date the insurer or rate service organization requests a hearing; and  
1095 (ii) ending on the date the commissioner issues an order after the hearing that addresses  
1096 the stay.
- 1097 (4) If the order described in Subsection (2)(a) is issued before the implementation of the  
1098 rate filing:
- 1099 (a) an insurer or rate service organization may not implement the rate filing; and  
1100 (b) the rates of the insurer or rate service organization at the time of disapproval continue  
1101 to be in effect.
- 1102 (5) (a) If after a hearing the commissioner finds that a rate that has been previously filed  
1103 and has been in effect for more than 90 calendar days no longer meets the requirements of Section  
1104 31A-19a-201 or 31A-19a-202, the commissioner may order that use of the rate by any insurer or  
1105 rate service organization be discontinued.
- 1106 (b) The commissioner shall give any insurer that will be affected by an order that may be  
1107 issued under Subsection (5)(a) notice of the hearing at least ten business days prior to the hearing.
- 1108 (c) The order issued under Subsection (5)(a) shall:
- 1109 (i) be in writing;  
1110 (ii) state the grounds for the order; and  
1111 (iii) state when, within a reasonable time from the date on which the order is issued, the  
1112 rate is no longer effective.

1113 (d) The order issued under Subsection (5)(a) shall not affect any contract or policy made  
1114 or issued prior to the expiration of the period set forth in the order.

1115 (e) The order issued under Subsection (5)(a) may include a provision for a premium  
1116 adjustment for contracts or policies made or issued after the effective date of the order.

1117 ~~[(4) Whenever]~~ (6) (a) When an insurer has no legally effective rates as a result of the  
1118 commissioner's disapproval of rates or other act, the commissioner shall, on the insurer's request,  
1119 specify interim rates for the insurer. [These]

1120 (b) An interim [rates] rate described in Subsection (6)(a):

1121 (i) shall be high enough to protect the interests of all parties; and

1122 (ii) may, when necessary to protect the policyholders, order that a specified portion of the  
1123 premiums be placed in an escrow account approved by the commissioner. [The commissioner may  
1124 not order the use of an escrow account unless there is reason to be concerned about the financial  
1125 solidity of the insurer.]

1126 (c) When the new rates become effective, the commissioner shall order the escrowed funds  
1127 or any overcharge in the interim rates to be distributed appropriately, except that minimal refunds  
1128 to policyholders need not be distributed.

1129 Section 15. Section **31A-19a-207**, which is renumbered from Section 31A-19-206 is  
1130 renumbered and amended to read:

1131 ~~[31A-19-206].~~ **31A-19a-207. Delayed effect of rates.**

1132 (1) ~~[If]~~ (a) The commissioner may by rule require that insurers in a market segment file  
1133 with the commissioner any changes in rates or supplementary rate information at least 30 calendar  
1134 days before they become effective if the commissioner finds, after a hearing, that in [any] that  
1135 market segment[;];

1136 (i) competition is not an effective regulator of the rates charged[;];

1137 (ii) that a substantial number of companies are competing irresponsibly through the rates  
1138 charged[;]; or

1139 (iii) that there are widespread violations of this chapter[; the commissioner may adopt a  
1140 rule requiring that in the market segment comprehended by the finding, any subsequent changes  
1141 in the rates or supplementary rate information be filed with the commissioner at least 15 days  
1142 before they become effective].

1143 (b) The commissioner may extend the waiting period under Subsection (1)(a) for not to

1144 exceed ~~[15]~~ 30 additional calendar days by written notice to the filer before the first ~~[15-day]~~  
1145 30-day period expires.

1146 ~~(c)~~ In determining whether competition is an effective regulator of the rates charged, the  
1147 commissioner shall consider, as to the particular market segment:

1148 ~~[(a)]~~ (i) the number of insurers actively engaged in providing coverage;

1149 ~~[(b)]~~ (ii) the respective market shares of insurers providing coverage;

1150 ~~[(c)]~~ (iii) the volatility of market share fluctuations;

1151 ~~[(d)]~~ (iv) the ease of entry into the market; and

1152 ~~[(e)]~~ (v) any other known relevant factors.

1153 ~~[(2) By rule, the commissioner may require the filing of supporting data in any market~~  
1154 ~~segment if he considers it necessary for the proper functioning of the rate monitoring and~~  
1155 ~~regulating process. The supporting data shall include:]~~

1156 ~~[(a) the experience and reasoned explanation of the filer, and, to the extent it wishes or the~~  
1157 ~~commissioner requires, of other insurers or rate service organizations;]~~

1158 ~~[(b) its interpretation of any statistical data relied upon;]~~

1159 ~~[(c) descriptions of the actuarial and statistical methods employed in setting the rates; and]~~

1160 ~~[(d) any other relevant matters required by the commissioner.]~~

1161 ~~[(3) A rule adopted under Subsection (1) expires no later than one year after its issuance.~~  
1162 ~~The commissioner may renew the rule after a hearing and appropriate findings under Subsection~~  
1163 ~~(1).]~~

1164 ~~[(4) Whenever a filing is not accompanied by the information required by Subsection (2),~~  
1165 ~~the commissioner may inform the insurer of the lack of required information. The filing is~~  
1166 ~~considered to be made when the information is furnished.]~~

1167 ~~[(5)]~~ (2) (a) If the commissioner finds that a market segment is noncompetitive under  
1168 Subsection (1), all rates previously filed and in use may continue to be used until disapproved.  
1169 [However, upon this]

1170 (b) After a finding of a noncompetitive market under Subsection (1), for purposes of  
1171 disapproval, the commissioner shall treat the filing of existing rates [for purposes of disapproval]  
1172 as having been filed as of the date of the rule under Subsection (1). [Section 31A-19-207 then  
1173 applies.]

1174 ~~[(6)]~~ (3) A competitive market is presumed to exist, unless the commissioner makes a

1175 contrary finding under Subsection (1).

1176 (4) (a) A rule issued under Subsection (1) expires no later than one year [after it] from the  
1177 date on which the rule was adopted, unless the commissioner, after a hearing, renews the rule.

1178 [Renewal hearings]

1179 (b) A renewal hearing for a rule issued under Subsection (1) may not be held earlier than  
1180 nine months after the date on which the rule was issued or last renewed.

1181 Section 16. Section **31A-19a-208**, which is renumbered from Section 31A-19-208 is  
1182 renumbered and amended to read:

1183 ~~[31A-19-208].~~ **31A-19a-208. Special restrictions on individual insurers.**

1184 (1) The commissioner may require by order that a particular insurer file any or all of its  
1185 rates and supplementary rate information [~~15~~] 30 calendar days prior to their effective date, if [he]  
1186 the commissioner finds, after a hearing, that [~~in order~~] to protect the interests of the insurer's  
1187 insureds and the public in Utah, the commissioner must exercise closer supervision of the insurer's  
1188 rates, because of the insurer's financial condition or rating practices.

1189 (2) The commissioner may extend the waiting period described in Subsection (1) for any  
1190 filing for not to exceed [~~15~~] 30 additional calendar days, by written notice to the insurer before the  
1191 first [~~15-day~~] 30-day period expires.

1192 (3) A filing [~~which~~] that has not been disapproved before the expiration of the waiting  
1193 period is considered to meet the requirements of this chapter, subject to the possibility of  
1194 subsequent disapproval under Section [~~31A-19-207~~] 31A-19a-206.

1195 Section 17. Section **31A-19a-209**, which is renumbered from Section 31A-19-209 is  
1196 renumbered and amended to read:

1197 ~~[31A-19-209].~~ **31A-19a-209. Special provisions for title insurance.**

1198 [~~(1) Title insurance is governed by the provisions of this chapter relating to insurance rates~~  
1199 ~~and rate filing.~~]

1200 [~~(2) A title insurance agent, who gives written notice to his title insurance company and~~  
1201 ~~receives the title insurance company's written acceptance, may file rates which deviate from those~~  
1202 ~~filed by its title insurance company, if the filing is in compliance with this chapter and any rules~~  
1203 ~~adopted under it.~~]

1204 [~~(3)~~] (1) In addition to the considerations in determining compliance with rate standards  
1205 and rating methods as set forth in [~~Section 31A-19-202~~] Sections 31A-19a-201 and 31A-19a-202,

1206 the commissioner shall also consider the ~~[cost]~~ costs and ~~[expense]~~ expenses incurred by title  
1207 insurance companies ~~[and agents in connection with the maintenance of a title plant and other~~  
1208 ~~fixed expenses]~~, agencies, and agents peculiar to the business of title insurance~~[-, including title~~  
1209 ~~searches and examination of records required to be performed in the title insurance writing~~  
1210 ~~process.]~~ including:

1211 (a) the maintenance of title plants; and

1212 (b) the searching and examining of public records to determine insurability of title to real  
1213 property.

1214 ~~[(4) No title insurance company or agent may, in fulfilling the requirements of this chapter,~~  
1215 ~~file or use any rate or other charges relating to the business of title insurance which would require~~  
1216 ~~the title insurance company or agent to operate at less than the cost of doing business or adequately~~  
1217 ~~underwriting the title insurance policies.]~~

1218 ~~[(5)]~~ (2) (a) Every title insurance company, agency, and title insurance agent shall file with  
1219 the commissioner a schedule of the escrow, settlement, and closing charges ~~[which]~~ that it  
1220 proposes to use in this state for services performed in connection with the issuance of policies of  
1221 title insurance.

1222 (b) The filing required by Subsection (2)(a) shall state the effective date of this schedule,  
1223 which may not be less than 30 calendar days after the date of filing.

1224 (3) A title insurance company, agency, or agent may not file or use any rate or other charge  
1225 relating to the business of title insurance, including rates or charges filed for escrow, settlement,  
1226 and closing charges that would cause the title insurance company, agency, or agent to:

1227 (a) operate at less than the cost of doing:

1228 (i) the insurance business; or

1229 (ii) the escrow, settlement, and closing business; or

1230 (b) fail to adequately underwrite a title insurance policy.

1231 ~~[(6)]~~ (4) (a) All or any of the schedule of rates or schedule of charges including the  
1232 schedule of escrow, settlement, and closing charges, may be changed or amended at any time,  
1233 subject to the limitations in this ~~[subsection]~~ Subsection (4).

1234 (b) Each change or amendment shall:

1235 (i) be filed with the commissioner~~[-];~~ and ~~[shall]~~

1236 (ii) state the effective date of the change or amendment, which may not be less than 30



1237 calendar days after the date of filing.

1238 (c) Any change or amendment remains in force for a period of at least 90 calendar days  
1239 from its effective date.

1240 [(7)] (5) While the schedule of rates and schedule of charges are effective, a copy of each  
1241 shall be:

1242 (a) retained in each of the offices of:

1243 (i) the insurance company in this state; and

1244 (ii) its agents in this state[-]; and[-]

1245 (iii) upon request, [~~shall be~~] furnished to the public.

1246 [(8)] (6) [~~No~~] Except in accordance with the schedules of rates and charges filed with the  
1247 commissioner, a title insurance company [or title insurance], agency, or agent may not make or  
1248 impose any premium or other charge:

1249 (a) in connection with the issuance of a policy of title insurance[-]; or

1250 (b) for escrow, settlement, or closing services performed in connection with the issuance  
1251 of a policy of title insurance[-, ~~except in accordance with the schedules of charges filed with the~~  
1252 ~~commissioner~~].

1253 Section 18. Section **31A-19a-210** is enacted to read:

1254 **31A-19a-210. Dividend and participating plans.**

1255 (1) (a) This part does not prohibit the distribution by an insurer to a policyholder of any  
1256 of the following allowed or returned by the insurer:

1257 (i) dividends;

1258 (ii) savings; or

1259 (iii) unabsorbed premium deposits.

1260 (b) Notwithstanding Subsection (1)(a), an insurer may not distribute dividends, savings,  
1261 or unabsorbed premium deposits to an entity that has no insurable interest in the insurance.

1262 (2) An insurer may not unfairly discriminate between policyholders in the payment of  
1263 dividends, savings, or unabsorbed premium deposits.

1264 (3) (a) A declaration of dividends or schedule explaining the basis for the distribution of  
1265 dividends, savings, or unabsorbed premium deposits allowed or returned by an insurer to its  
1266 policyholders is not a rating plan or system if the insurer:

1267 (i) determines and declares the declaration or schedule after a specified policy accounting

1268 period; and

1269 (ii) files the declaration or schedule pursuant to Section 31A-21-310.

1270 (b) A declaration or schedule described under Subsection (3)(a) is not required to be filed  
1271 with the commissioner under this chapter.

1272 (4) (a) A dividend or participating plan developed by insurers establishing given criteria  
1273 for eligibility and the general basis for distribution for a dividend, if declared, is considered a rating  
1274 plan if the plan is to be applicable to an insurance policy from its inception.

1275 (b) A plan described in Subsection (4)(a) shall be filed with the commissioner pursuant  
1276 to this part.

1277 (5) An insurer may not make the distribution of a dividend or any portion of a dividend  
1278 conditioned upon renewal of the policy or contract.

1279 Section 19. Section **31A-19a-211**, which is renumbered from Section 31A-19-210 is  
1280 renumbered and amended to read:

1281 **[31A-19-210]. 31A-19a-211. Premium rate reduction for seniors -- Motor**  
1282 **vehicle accident prevention course -- Curriculum -- Certificate -- Exception.**

1283 (1) (a) Each rate, rating schedule, and rating manual for the liability, personal injury  
1284 protection, and collision coverages of private passenger motor vehicle insurance policies submitted  
1285 to or filed with the commissioner shall provide for an appropriate reduction in premium charges  
1286 for those coverages if the principal operator of the covered vehicle;

1287 (i) is a named insured who is 55 years of age or older; and

1288 (ii) has successfully completed a motor vehicle accident prevention course as outlined in  
1289 Subsection (2).

1290 (b) Any premium reduction provided by an insurer under this section is presumed to be  
1291 appropriate unless credible data demonstrates otherwise.

1292 (2) (a) The curriculum for a motor vehicle accident prevention course under this section  
1293 shall include:

1294 (i) how impairment of visual and audio perception affects driving performance and how  
1295 to compensate for that impairment;

1296 (ii) the effects of fatigue, medications, and alcohol on driving performance, when  
1297 experienced alone or in combination, and precautionary measures to prevent or offset ill effects;

1298 (iii) updates on rules of the road and equipment, including safety belts and safe, efficient

1299 driving techniques under present day road and traffic conditions;

1300 (iv) how to plan travel time and select routes for safety and efficiency; and

1301 (v) how to make crucial decisions in dangerous, hazardous, and unforeseen situations.

1302 (b) (i) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1303 Department of Public Safety may make rules to establish and clarify standards pertaining to the  
1304 curriculum and teaching methods of a course under this section.

1305 (ii) These rules may include provisions allowing the department to conduct on-site visits  
1306 to ensure compliance with agency rules and this chapter.

1307 (iii) These rules shall be specific as to time and manner of visits and provide for methods  
1308 to prohibit or remedy forcible visits.

1309 (3) (a) The premium reduction required by this section shall be effective for a named  
1310 insured for a three-year period after successful completion of the course outlined in Subsection (2).

1311 (b) The insurer may require, as a condition of maintaining the premium reduction, that the  
1312 named insured not be convicted or plead guilty or nolo contendere to a moving traffic violation  
1313 for which points may be assessed against the named insured's driver license except for a violation  
1314 under Subsection 53-3-221(11).

1315 (4) Each person who successfully completes the course outlined in Subsection (2) shall  
1316 be issued a certificate by the organization offering the course. The certificate qualifies the person  
1317 for the premium reduction required by this section.

1318 (5) This section does not apply if the approved course outlined in Subsection (2) is  
1319 attended as a penalty imposed by a court or other governmental entity for a moving traffic  
1320 violation.

1321 Section 20. Section **31A-19a-212**, which is renumbered from Section 31A-19-211 is  
1322 renumbered and amended to read:

1323 ~~[31A-19-211].~~ **31A-19a-212. Premium increases prohibited for certain claims**  
1324 **or inquiries.**

1325 (1) Each rate, rating schedule, and rating manual filed with the commissioner for insurance  
1326 covering a vehicle or the operation of a vehicle may not permit a premium increase due to:

1327 (a) a telephone [calls] call or other [inquiries] inquiry that [do] does not result in the  
1328 payment of a claim; or

1329 (b) a claim resulting from any incident, including acts of vandalism, in which the person

1330 named in the policy or any other person using the insured motor vehicle with the express or  
1331 implied permission of the named insured is not at fault[ ~~as defined in Section 78-27-37~~].

1332 (2) This section is an exception to [the provisions of] Section [~~31A-19-201~~] 31A-19a-201.

1333 Section 21. Section **31A-19a-213** is enacted to read:

1334 **31A-19a-213. Joint underwriting.**

1335 Notwithstanding Subsection 31A-19a-306(2)(a), insurers participating in joint underwriting  
1336 associations or joint reinsurance pursuant to Section 31A-20-102 or other arrangements for risk  
1337 sharing may in connection with such activity act in cooperation with each other in the making of  
1338 one or more of the following:

1339 (1) rates;

1340 (2) rating systems;

1341 (3) policy forms;

1342 (4) underwriting rules;

1343 (5) surveys;

1344 (6) inspections and investigations;

1345 (7) the furnishing of loss and expense statistics or other information; or

1346 (8) research.

1347 Section 22. Section **31A-19a-214** is enacted to read:

1348 **31A-19a-214. Rating tiers.**

1349 (1) An insurer may file with the commissioner a rate filing that provides for a program  
1350 with more than one rate level in the same company or group of companies if:

1351 (a) the program is based, to the extent feasible, upon mutually exclusive underwriting rules  
1352 per tier;

1353 (b) the underwriting rules are based on clear, objective criteria that would lead to a logical  
1354 distinguishing of potential risk; and

1355 (c) in filing to establish tiers, the insurer provides supporting information that evidences  
1356 a clear distinction between the expected losses and expenses for each tier.

1357 (2) A rating tier may not be continued if premium, loss, and expense data fail to show a  
1358 continued clear distinction between the tiers.

1359 Section 23. Section **31A-19a-215** is enacted to read:

1360 **31A-19a-215. False or misleading information.**

1361 A person or organization may not:

1362 (1) willfully withhold from the commissioner, any rate organization, or any insurer  
1363 information that will affect the rates or premiums chargeable under this chapter; or

1364 (2) knowingly give false or misleading information to the commissioner, any rate service  
1365 organization, or any insurer.

1366 Section 24. Section **31A-19a-216** is enacted to read:

1367 **31A-19a-216. Charging of rates.**

1368 An authorized insurer, licensed insurance agent, employee, other representative of an  
1369 authorized insurer, or licensed insurance broker may not knowingly:

1370 (1) charge or demand a rate or receive a premium that departs from the rates, rating plans,  
1371 classifications, schedules, rules, and standards in effect on behalf of the insurer; or

1372 (2) issue or make any policy or contract involving a violation of Subsection (1).

1373 Section 25. Section **31A-19a-217**, which is renumbered from Section 31A-19-418 is  
1374 renumbered and amended to read:

1375 ~~[31A-19-418].~~ **31A-19a-217. Grievance procedures.**

1376 (1) ~~[Any]~~ (a) An insured affected by a rate may submit a written request for information  
1377 to the rate service organization or insurer that made the rate.

1378 (b) The rate service organization or insurer shall answer [the] a request made under  
1379 Subsection (1)(a) within [a reasonable time] 45 calendar days from the date it received the request  
1380 by furnishing all pertinent rating information to:

1381 (i) the insured; or [to his]

1382 (ii) the insured's authorized representative.

1383 (2) ~~[Any]~~ (a) A person aggrieved by the manner in which a rate service organization or  
1384 an insurer has applied its rating system in connection with the insurance afforded to ~~[him]~~ that  
1385 person may submit a written request for review to the rate service organization or insurer. ~~[The]~~

1386 (b) If a request for review is filed under Subsection (2)(a), the rate service organization or  
1387 insurer shall provide a reasonable review procedure within Utah.

1388 (c) The [subject of] review shall [be] examine the application of the rating system in  
1389 connection with the insurance afforded the [applicant] person that requested review.

1390 (d) The [applicant] person that requested review may be heard in person or through an  
1391 authorized representative.

1392           ~~[(3)]~~ (e) If the rate service organization or insurer fails to grant the request for review  
1393 within 30 calendar days ~~[after it]~~ from the date the request is made, the applicant may appeal in  
1394 writing to the commissioner. ~~[The]~~

1395           (f) If an appeal is filed under Subsection (2)(e), the commissioner may order the rate  
1396 service organization or insurer ~~[concerned]~~ to provide the review in accordance with this  
1397 Subsection (2).

1398           ~~[(4) Following]~~ (3) After a review under Subsection (2), the ~~[applicant]~~ person that  
1399 requested review may request the commissioner to confirm that the insurance afforded was rated  
1400 according to filed rates and rating plans.

1401           Section 26. Section **31A-19a-218**, which is renumbered from Section 31A-19-419 is  
1402 renumbered and amended to read:

1403           ~~[31A-19-419].~~           **31A-19a-218. Appeal from filing.**

1404           (1) ~~[Any]~~ (a) A person ~~[or organization]~~ aggrieved by a filing that is in effect may apply  
1405 to the commissioner in writing for a hearing.

1406           (b) The application described under Subsection (1)(a) shall:

1407           (i) specify the grounds upon which the applicant intends to rely to establish the grievance;  
1408 and ~~[shall]~~

1409           (ii) state why the filing does not meet the requirements of law.

1410           (2) ~~[The]~~ On receipt of an application for hearing under Subsection (1), the commissioner  
1411 shall grant the requested hearing if ~~[he]~~ the commissioner finds that:

1412           (a) the application was made in good faith;

1413           (b) the grievance is justified, assuming the applicant's grounds can be established; and

1414           (c) the grounds otherwise justify holding such a hearing.

1415           (3) ~~[The]~~ A hearing granted under Subsection (2) shall be held:

1416           (a) within 30 calendar days ~~[after]~~ from the date of receipt of the application; and

1417           (b) not less than ten days after written notice to:

1418           (i) the applicant ~~[and to]~~;

1419           (ii) each insurer ~~[and]~~ that made the filing; and

1420           (iii) each rate service organization that made the filing.

1421           (4) (a) If after the hearing the commissioner finds that the filing is defective, ~~[he]~~ the  
1422 commissioner shall issue an order:



1454 (d) a statement explaining in what capacity it plans to function and showing its technical  
1455 qualifications for acting in the capacity for which it seeks a license; [and]

1456 (e) biographical information, as defined by the department, of the officers and directors  
1457 of the organization; and

1458 [(e)] (f) any other relevant information and documents that the commissioner requires.

1459 (2) [Every] A rate service organization [which has applied] that applies for a license under  
1460 Subsection (1) shall promptly notify the commissioner of every material change in the facts or in  
1461 the documents on which its application was based.

1462 (3) [If] (a) The commissioner shall issue a license specifying the authorized activity of an  
1463 applicant, if the commissioner finds that:

1464 (i) the applicant and the natural persons through whom it acts are competent, trustworthy,  
1465 and technically qualified to provide the services proposed[.]; and [that]

1466 (ii) all the requirements of law are met[.]; ~~he shall issue a license specifying the authorized~~  
1467 ~~activity of the applicant].~~

1468 (b) The commissioner may not issue a license if the proposed activity would tend to:

1469 (i) create a monopoly; or [to]

1470 (ii) lessen or ~~destroy price~~ substantially lessen the competition in any market.

1471 (4) (a) Any license issued under this chapter shall be subject to annual renewal.

1472 (b) A fee shall be charged for the initial license and for renewal. The fee shall be set by the  
1473 Legislature under Section 31A-3-103.

1474 (5) Any amendment to a document filed under Subsection (1)(a) shall be filed within at  
1475 least 30 calendar days [before] after the day the document becomes effective. Failure to comply  
1476 with this [subsection] Subsection (5) is a ground for revocation of the license granted under  
1477 Subsection (3).

1478 (6) The license of each rate service organization licensed under former Title 31, Chapter  
1479 18, is continued under this chapter.

1480 Section 29. Section **31A-19a-303**, which is renumbered from Section 31A-19-303 is  
1481 renumbered and amended to read:

1482 ~~[31A-19-303].~~ **31A-19a-303. Termination of license.**

1483 (1) A license issued under this chapter remains in force until:

1484 (a) revoked, suspended, or limited under Subsection (2);



- 1485 (b) lapsed under Subsection (3); or  
1486 (c) surrendered to and accepted by the commissioner.
- 1487 (2) (a) After a hearing, the commissioner may revoke, suspend, or limit in whole or in part,  
1488 the license of any person licensed under this part, if:
- 1489 (i) the licensee is found to be unqualified [~~or to~~];  
1490 (ii) the licensee is found to have violated:
- 1491 (A) an insurance statute[~~;~~];  
1492 (B) a valid rule under Subsection 31A-2-201(3)[~~;~~]; or  
1493 (C) a valid order under Subsection 31A-2-201(4)[~~;~~]; or [if]  
1494 (iii) the licensee's methods and practices in the conduct of business endanger the legitimate  
1495 interests of policyholders, insurers, or the public. [~~Every~~]
- 1496 (b) An order suspending a license issued under this chapter shall specify the period of  
1497 suspension, but in no event may the suspension period exceed 12 months.
- 1498 (3) (a) Any license issued under this chapter shall lapse if the licensee fails to pay a fee  
1499 when due.
- 1500 (b) A license [~~lapsing~~] that lapses under this [~~subsection~~] Subsection (3) may be reinstated  
1501 if the licensee, within 90 calendar days [~~after~~] from the day the license [~~has~~] lapsed, pays twice the  
1502 usual license renewal fee.
- 1503 (4) A licensee whose license is suspended or revoked, but who continues to act as a  
1504 licensee is subject to the penalties applicable to violating Subsection [~~31A-19-301~~]  
1505 31A-19a-301(1).
- 1506 (5) (a) An order revoking a license under Subsection (2) may specify a time, not to exceed  
1507 five years, within which the former licensee may not apply for a new license.
- 1508 (b) If under Subsection (5)(a) no time is specified, the former licensee may not apply for  
1509 five years, without the express approval of the commissioner.
- 1510 (6) (a) Any person whose license is suspended or revoked shall, when the suspension ends  
1511 or a new license is issued, pay all fees that would have been payable if the license had not been  
1512 suspended or revoked, unless the commissioner, by order, waives the payment of the interim fees.
- 1513 (b) If a new license is issued more than three years after the revocation of a similar license,  
1514 [~~this subsection shall apply~~] Subsection (6)(a) applies only to the fees that would have accrued  
1515 during the three years immediately following the revocation.

1516 Section 30. Section **31A-19a-304**, which is renumbered from Section 31A-19-304 is  
1517 renumbered and amended to read:

1518 ~~[31A-19-304].~~ **31A-19a-304. Probation.**

1519 (1) (a) In any circumstances that would justify a suspension under Section ~~[31A-19-303]~~  
1520 31A-19a-303, instead of a suspension, the commissioner may, after a hearing, put the licensee on  
1521 probation for a specified period ~~[no longer than]~~ not to exceed 12 months from the date of  
1522 probation.

1523 (b) The probation order shall state the conditions for retention of the license, which shall  
1524 be reasonable.

1525 (2) Violation of the probation constitutes grounds for revocation pursuant to a proceeding  
1526 authorized under Title 63, Chapter 46b, Administrative Procedures Act.

1527 Section 31. Section **31A-19a-305**, which is renumbered from Section 31A-19-305 is  
1528 renumbered and amended to read:

1529 ~~[31A-19-305].~~ **31A-19a-305. Anti-competitive agreements prohibited.**

1530 ~~[No]~~ (1) (a) An insurer may not assume any obligation to any person other than a  
1531 policyholder or other ~~[companies]~~ company under common control, to use or adhere to certain  
1532 rates or rating procedures~~[, and no other]~~.

1533 (b) Except for a policyholder or other company under common control, a person may not  
1534 impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates  
1535 or rating procedures.

1536 (2) This section does not apply to rates used:

1537 (a) by a joint underwriting group~~[-]~~;

1538 (b) by ~~[pools;]~~ a pool;

1539 (c) under quota share reinsurance treaties~~[-]~~; or

1540 (d) by a residual market ~~[mechanisms]~~ mechanism.

1541 Section 32. Section **31A-19a-306** is enacted to read:

1542 **31A-19a-306. Insurers and rate service organizations -- Prohibited activity.**

1543 (1) An insurer or rate service organization may not:

1544 (a) attempt to monopolize, or combine or conspire with any other person to monopolize  
1545 an insurance market; or

1546 (b) engage in a boycott of an insurance market on a concerted basis.

- 1547           (2) (a) Except as provided in Subsection (2)(c), an insurer may not agree with any other  
1548 insurer or with a rate service organization to mandate adherence to or to mandate use of any:
- 1549           (i) rate;
  - 1550           (ii) prospective loss cost;
  - 1551           (iii) rating plan;
  - 1552           (iv) rating schedule;
  - 1553           (v) rating rule;
  - 1554           (vi) policy or bond form;
  - 1555           (vii) rate classification;
  - 1556           (viii) rate territory;
  - 1557           (ix) underwriting rule;
  - 1558           (x) survey;
  - 1559           (xi) inspection: or
  - 1560           (xii) material similar to those described in Subsections (2)(a)(i) through (xi).
- 1561           (b) The fact that two or more insurers, whether or not members or subscribers of a rate  
1562 service organization, use consistently or intermittently the same materials described in Subsection  
1563 (2)(a) is not sufficient in itself to support a finding that an agreement exists.
- 1564           (c) An insurer may enter into an agreement prohibited by Subsection (2)(a):
- 1565           (i) to the extent needed to facilitate the reporting of statistics to:
  - 1566           (A) a rate service organization;
  - 1567           (B) a statistical agent; or
  - 1568           (C) the commissioner; or
  - 1569           (ii) as provided in Part 4.
- 1570           (3) Two or more insurers having a common ownership or operating in this state under  
1571 common management or control may act in concert between or among themselves with respect to  
1572 any matters pertaining to those activities authorized in this section as if they constituted a single  
1573 insurer.
- 1574           (4) An insurer or rate service organization may not make any arrangement with any other  
1575 insurer, rate service organization, or other person that has the purpose or effect of unreasonably  
1576 restraining trade or unreasonably lessening competition in the business of insurance.
- 1577           Section 33. Section **31A-19a-307** is enacted to read:

- 1578           **31A-19a-307. Rate service organizations -- Permitted activity.**
- 1579           A rate service organization may on behalf of its members and subscribers:
- 1580           (1) develop statistical plans including territorial and class definitions;
- 1581           (2) collect statistical data from:
- 1582           (a) members;
- 1583           (b) subscribers; or
- 1584           (c) any other source;
- 1585           (3) prepare, file, and distribute prospective loss costs which may include provisions for
- 1586 special assessments;
- 1587           (4) prepare, file, and distribute:
- 1588           (a) factors;
- 1589           (b) calculations;
- 1590           (c) formulas pertaining to classification; or
- 1591           (d) territory, increased limits, and other variables;
- 1592           (5) prepare, file, and distribute supplementary rating information;
- 1593           (6) distribute information that is required or directed to be filed with the commissioner;
- 1594           (7) conduct research and on-site inspections to prepare classifications of public fire
- 1595 defenses;
- 1596           (8) consult with public officials regarding public fire protection as it would affect
- 1597 members, subscribers, and others;
- 1598           (9) conduct research and onsite inspections to discover, identify, and classify information
- 1599 relating to causes or prevention of losses;
- 1600           (10) conduct research relating to the impact of statutory changes upon prospective loss
- 1601 costs;
- 1602           (11) prepare, file, and distribute policy forms and endorsements;
- 1603           (12) consult with members, subscribers, and others concerning use and application of the
- 1604 policy forms and endorsements described in Subsection (11);
- 1605           (13) conduct research and on-site inspections for the purpose of providing risk information
- 1606 relating to individual structures;
- 1607           (14) conduct on-site inspections to determine rating classifications for individual insureds;
- 1608           (15) collect, compile, and publish past and current prices of individual insurers, provided

1609 the information is also made available to the general public at a reasonable cost;

1610 (16) collect and compile exposure and loss experience for the purpose of individual risk  
1611 experience ratings;

1612 (17) furnish any other services, as approved or directed by the commissioner, related to  
1613 those enumerated in this section; and

1614 (18) engage in any other activity not prohibited by this title.

1615 Section 34. Section **31A-19a-308** is enacted to read:

1616 **31A-19a-308. Rate service organizations -- Filing requirements.**

1617 (1) A rate service organization shall file with the commissioner any of the following that  
1618 is used in this state:

1619 (a) any statistical plan;

1620 (b) all prospective loss costs;

1621 (c) provisions for special assessments;

1622 (d) all supplementary rating information; and

1623 (e) any change, amendment, or modification of an item described in Subsections (1)(a)  
1624 through (d).

1625 (2) The filings required under Subsection (1) shall be subject to Sections 31A-19a-203 and  
1626 31A-19a-206 and other provisions of this chapter relating to filings made by insurers.

1627 Section 35. Section **31A-19a-309**, which is renumbered from Section 31A-19-306 is  
1628 renumbered and amended to read:

1629 **[31A-19-306]. 31A-19a-309. Recording and reporting of experience.**

1630 (1) (a) The commissioner may adopt rules for the development of statistical plans, for use  
1631 by all insurers in recording and reporting their loss and expense experience, in order that the  
1632 experience of those insurers may be made available to the commissioner.

1633 (b) The rules provided for in Subsection (1) may include:

1634 (i) the data that must be reported by an insurer;

1635 (ii) definitions of data elements;

1636 (iii) the timing and frequency of data reporting by an insurer;

1637 (iv) data quality standards;

1638 (v) data edit and audit requirements;

1639 (vi) data retention requirements;

1640 (vii) reports to be generated; and

1641 (viii) the timing of reports to be generated.

1642 (c) Except for workers compensation insurance under Section 31A-19a-404, an insurer  
1643 may not be required to record or report its experience on a classification basis that is inconsistent  
1644 with its own rating system.

1645 (2) (a) The commissioner may designate one or more rate service organizations to assist  
1646 the commissioner in gathering that experience and making compilations of [them, which] the  
1647 experience.

1648 (b) The compilations developed under Subsection (2)(a) shall be made available to the  
1649 public. [No insurer may be required to record or report its experience on a classification basis  
1650 which is inconsistent with its own rating system.]

1651 (3) The commissioner may make rules and plans for the interchange of data necessary for  
1652 the application of rating plans.

1653 (4) To further uniform administration of rate regulatory laws, the commissioner and every  
1654 insurer and rate service organization may:

1655 (a) exchange information and experience data with insurance supervisory officials,  
1656 insurers, and rate service organizations in other states; and

1657 (b) consult with the persons described in Subsection (4)(a) with respect to the application  
1658 of rating systems and the reporting of statistical data.

1659 Section 36. Section **31A-19a-401**, which is renumbered from Section 31A-19-401 is  
1660 renumbered and amended to read:

1661 **Part 4. Workers Compensation Rates**

1662 **[31A-19-401]. 31A-19a-401. Scope of part.**

1663 (1) This part applies to [workers'] workers compensation insurance and employers' liability  
1664 insurance written in connection with it.

1665 (2) All insurers writing [workers'] workers compensation coverage, including the Workers'  
1666 Compensation Fund of Utah, are subject to this part.

1667 Section 37. Section **31A-19a-402**, which is renumbered from Section 31A-19-402 is  
1668 renumbered and amended to read:

1669 **[31A-19-402]. 31A-19a-402. Purpose.**

1670 It is the purpose of this part to:

1671 (1) establish ~~[the general bases and standards]~~ specific provisions for the ~~[making]~~ filing  
1672 of ~~[workers']~~ workers compensation rates in addition to those provided in Part 2;

1673 (2) provide for review by the department of workers' compensation rate-making and the  
1674 results of it; and

1675 (3) provide for a designated rate service organization to perform certain functions on  
1676 behalf of the commissioner.

1677 ~~[(3) protect policyholders and the public against the adverse effects of excessive,~~  
1678 ~~inadequate, or unfairly discriminatory rates;]~~

1679 ~~[(4) promote price competition among insurers to provide rates that are responsive to~~  
1680 ~~competitive market conditions;]~~

1681 ~~[(5) provide regulatory procedures for the maintenance of appropriate data reporting~~  
1682 ~~systems;]~~

1683 ~~[(6) improve availability, fairness, and reliability of insurance;]~~

1684 ~~[(7) authorize essential cooperation among insurers in the rate-making process and regulate~~  
1685 ~~this cooperation to prevent collusion or other practices that tend to diminish competition in any~~  
1686 ~~substantial way or create a monopoly; and]~~

1687 ~~[(8) encourage the most efficient and economic marketing practices.]~~

1688 Section 38. Section ~~31A-19a-403~~, which is renumbered from Section 31A-19-403 is  
1689 renumbered and amended to read:

1690 ~~[31A-19-403].~~ 31A-19a-403. Definitions.

1691 As used in this part:

1692 ~~[(1) "Classification system" or "classification" means the plan, system, or arrangement for~~  
1693 ~~recognizing differences in exposure to hazards among industries, occupations, or operations of~~  
1694 ~~insurance policyholders.]~~

1695 ~~[(2) "Expenses" means the portion of any rate attributable to acquisition, field supervision,~~  
1696 ~~collection expenses, general expenses, taxes, licenses, and fees.]~~

1697 ~~[(3) "Experience rating" means a rating procedure utilizing past insurance experience of~~  
1698 ~~the individual policyholder to forecast future losses by measuring the policyholder's loss~~  
1699 ~~experience against the loss experience of policyholders in the same classification to produce a~~  
1700 ~~prospective premium credit, debit, or unity modification.]~~

1701 ~~[(4) "Loss trending" means any procedure for projecting developed losses to average date~~

1702 of loss for the period during which the policies are to be effective.]  
1703 [~~(5) "Prospective loss costs" are the portion of a rate that:~~  
1704 [~~(a) does not include provisions for profit or expenses, other than loss adjustment~~  
1705 ~~expenses; and]~~  
1706 [~~(b) is based on historical aggregate losses and loss adjustment expenses adjusted through~~  
1707 ~~development to their ultimate value and projected through trending to a future point in time.]~~  
1708 [~~(6) (a) "Rate" means the cost of insurance per exposure base unit before any application~~  
1709 ~~of individual risk variations based on loss or expense considerations:]~~  
1710 [~~(b) "Rate" does not include minimum premiums:]~~  
1711 [~~(7) "Statistical plan" means the plan, system, or arrangement used in collecting data:]~~  
1712 [~~(8) "Supporting information" means:]~~  
1713 [~~(a) the experience and judgment of the filer;]~~  
1714 [~~(b) the experience or data of other insurers or organizations upon which the filer relies;]~~  
1715 [~~(c) the interpretation of any statistical data upon which the filer relies;]~~  
1716 [~~(d) descriptions of methods used in making the rates; and]~~  
1717 [~~(e) any other similar information the commissioner requires to be filed:]~~  
1718 (1) "Uniform classification plan," in addition to the definition of "classification system"  
1719 in Section 31A-19a-201, means a plan:  
1720 (a) that is consistent between all insurers of classification codes and descriptions; and  
1721 (b) by which like workers compensation exposures are grouped for the purposes of  
1722 underwriting, rating, and statistical reporting.  
1723 (2) "Uniform experience rating plan" means a plan that is consistent between all insurers  
1724 for experience rating entities insured for workers compensation insurance.  
1725 (3) "Uniform statistical plan" means a plan that is consistent between all insurers that is  
1726 used for the reporting of workers compensation insurance statistical data.  
1727 Section 39. Section **31A-19a-404**, which is renumbered from Section 31A-19-407 is  
1728 renumbered and amended to read:  
1729 **[~~31A-19-407~~. 31A-19a-404. Designated rate service organization.**  
1730 (1) [Each workers' compensation insurer shall adhere to a uniform classification system]  
1731 For purposes of workers compensation insurance, the commissioner shall designate one rate  
1732 service organization to:



1733 (a) develop and administer the uniform statistical plan, uniform classification plan, and  
1734 uniform experience rating plan filed with and approved by the commissioner [by the rate service  
1735 organization designated by the commissioner and subject to his disapproval.];

1736 ~~[(2) An insurer may develop subclassifications of the uniform classification system upon~~  
1737 ~~which a rate may be made. Any subclassifications shall be filed with the commissioner 30 days~~  
1738 ~~before their use. The commissioner shall disapprove subclassifications if the insurer fails to~~  
1739 ~~demonstrate that the data produced by the subclassifications can be reported consistently with the~~  
1740 ~~uniform statistical plan and classification system. (3) The commissioner shall designate a rate~~  
1741 ~~service organization to]~~

1742 (b) assist [him] the commissioner in gathering, compiling, and reporting relevant statistical  
1743 information[. Each workers' compensation insurer shall record and report its workers'  
1744 compensation experience to the designated rate service organization as set forth in the uniform  
1745 statistical plan approved by the commissioner. (4) The designated rate service organization shall]  
1746 on an aggregate basis;

1747 (c) develop and file manual rules, subject to the approval of the commissioner, that are  
1748 reasonably related to the recording and reporting of data pursuant to the uniform statistical plan,  
1749 uniform experience rating plan, and the uniform classification [system. Each workers'  
1750 compensation insurer shall adhere to the approved manual rules and] plan; and

1751 (d) develop and file the prospective loss costs pursuant to Section 31A-19a-406.

1752 (2) The uniform experience rating plan [in writing and reporting its business. An insurer  
1753 may not agree with any other insurer or with a rate service organization to adhere to manual rules  
1754 that are not reasonably related to] shall:

1755 (a) contain reasonable eligibility standards;

1756 (b) provide adequate incentives for loss prevention; and

1757 (c) provide for sufficient premium differentials so as to encourage safety.

1758 (3) Each workers compensation insurer, directly or through its selected rate service  
1759 organization, shall:

1760 (a) record and report its workers compensation experience to the designated rate service  
1761 organization as set forth in the uniform statistical plan approved by the commissioner;

1762 (b) adhere to a uniform classification plan and uniform experience rating plan filed with  
1763 the commissioner by the rate service organization designated by the commissioner; and

- 1764 (c) adhere to the prospective loss costs filed by the designated rate service organization.  
1765 (4) The commissioner may adopt rules for:  
1766 (a) the development and administration by the designated rate service organization of the:  
1767 (i) uniform statistical plan;  
1768 (ii) uniform experience rating plan; and  
1769 (iii) uniform classification plan;  
1770 (b) the recording and reporting of statistical data [pursuant to the uniform classification  
1771 system or the uniform statistical plan] and experience rating data by the various insurers writing  
1772 workers compensation insurance; and  
1773 (c) the selection, retention, and termination of the designated rate service organization.  
1774 (5) (a) Notwithstanding Subsection (3), an insurer may develop directly or through its  
1775 selected rate service organization subclassifications of the uniform classification system upon  
1776 which a rate may be made.  
1777 (b) A subclassification shall be filed with the commissioner 30 days before its use.  
1778 (c) The commissioner shall disapprove subclassifications if the insurer fails to demonstrate  
1779 that the data produced by the subclassifications can be reported consistently with the uniform  
1780 statistical plan and uniform classification plan.  
1781 (6) Notwithstanding Subsection (3), an insurer may, directly or though its selected rate  
1782 service organization, develop its own experience modifications based on the uniform statistical  
1783 plan, uniform classification plan, and uniform rating plan filed by the rate service organization  
1784 designated by the commissioner under Subsection (1).
- 1785 Section 40. Section **31A-19a-405**, which is renumbered from Section 31A-19-408 is  
1786 renumbered and amended to read:
- 1787 **[31A-19-408]. 31A-19a-405. Filing of rates and other rating information.**
- 1788 (1) (a) [Each insurer shall file with the commissioner all] All workers compensation rates  
1789 [and], supplementary rate information [that are to be used in this state, except as provided in  
1790 Section 31A-19-407. Rates, supplementary rate information as defined in Section 31A-19-102],  
1791 and supporting information [required by the commissioner] shall be filed at least 30 days before  
1792 the effective date[. Upon] of the rate or information.
- 1793 (b) Notwithstanding Subsection (1)(a), on application by the filer, the commissioner may  
1794 authorize an earlier effective date.

1795 (2) The loss and loss adjustment expense factors included in the rates filed under  
1796 Subsection (1) shall be the prospective loss costs filed by the designated rate service organization  
1797 under Section ~~[31A-19-414]~~ 31A-19a-406.

1798 ~~[(3) Rates filed under this section shall be filed in a form and manner prescribed by the~~  
1799 ~~commissioner. If a filing is submitted without the supporting information required by the~~  
1800 ~~commissioner under this section, the commissioner shall inform the insurer of the omission as~~  
1801 ~~soon as possible. The filing is not considered to be made until this information is furnished.]~~

1802 ~~[(4) All rates, supplementary rate information, and any supporting information for risks~~  
1803 ~~filed under this part shall, as soon as filed, be open to public inspection at any reasonable time.~~  
1804 ~~Copies of these documents may be obtained by any person on request and upon payment of a~~  
1805 ~~reasonable charge.]~~

1806 Section 41. Section **31A-19a-406**, which is renumbered from Section 31A-19-414 is  
1807 renumbered and amended to read:

1808 ~~[31A-19-414].~~ **31A-19a-406. Filing requirements for designated rate service**  
1809 **organization.**

1810 (1) The rate service organization designated ~~[by the commissioner under this part]~~ under  
1811 Section 31A-19a-404 shall file with the commissioner the following items proposed for use in this  
1812 state at least 30 calendar days before the date they are distributed to members, subscribers, or  
1813 others:

1814 (a) each prospective loss cost with its supporting information;

1815 (b) ~~[each manual of]~~ the uniform classification plan and rating [rules] manual;

1816 (c) ~~[each]~~ the uniform experience rating [schedule; and] plan manual;

1817 (d) the uniform statistical plan manual; and

1818 ~~[(d)]~~ (e) each change, amendment, or modification of any of [these] the items listed in  
1819 Subsections (1)(a) through (d).

1820 (2) (a) If the commissioner believes that prospective loss costs filed violate the excessive,  
1821 inadequate, or unfair discriminatory standard in Section ~~[31A-19-404]~~ 31A-19a-201 or any other  
1822 applicable requirement of this part, ~~[he]~~ the commissioner may require that the rate service  
1823 organization file additional supporting information.

1824 (b) If, after reviewing the supporting information, the commissioner determines that the  
1825 prospective loss costs violate these requirements, ~~[he]~~ the commissioner may:

1826 (i) require that adjustments to the prospective loss costs be made~~[- He may also]; or~~  
1827 (ii) call a hearing for any purpose regarding the filing.

1828 Section 42. Section **31A-19a-407** is enacted to read:

1829 **31A-19a-407. Cooperation among rating organizations and insurers.**

1830 (1) Notwithstanding Section 31A-19a-305, rate service organizations and insurers may  
1831 cooperate with each other in rate-making or in other matters within the scope of this part.

1832 (2) (a) The commissioner may review the cooperative activities and practices permitted  
1833 under Subsection (1).

1834 (b) If, after a hearing, the commissioner finds any of the cooperative activities or practices  
1835 permitted under Subsection (1) to be unfair, unreasonable, or otherwise inconsistent with the law,  
1836 the commissioner may issue an order:

1837 (i) specifying in what respects the activity or practice is unfair, unreasonable, or otherwise  
1838 inconsistent with the law; and

1839 (ii) requiring the persons or entities involved to discontinue the activity or practice.

1840 Section 43. Section **31A-33-107** is amended to read:

1841 **31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint**  
1842 **enterprises.**

1843 (1) The board shall:

1844 (a) appoint a chief executive officer to administer the Workers' Compensation Fund;

1845 (b) receive and act upon financial, management, and actuarial reports covering the  
1846 operations of the Workers' Compensation Fund;

1847 (c) ensure that the Workers' Compensation Fund is administered according to law;

1848 (d) examine and approve an annual operating budget for the Workers' Compensation Fund;

1849 (e) serve as investment trustees and fiduciaries of the Injury Fund;

1850 (f) receive and act upon recommendations of the chief executive officer;

1851 (g) develop broad policy for the long-term operation of the Workers' Compensation Fund,  
1852 consistent with its mission and fiduciary responsibility;

1853 (h) subject to Chapter [19] 19a, Part [IV, ~~Workers'~~] 4, Workers Compensation  
1854 [Ratemaking] Rates, approve any rating plans that would modify a policyholder's premium;

1855 (i) subject to Chapter [19] 19a, Part [IV, ~~Workers'~~] 4, Workers Compensation  
1856 [Ratemaking] Rates, approve the amount of deviation, if any, from standard insurance rates;

1857 (j) approve the amount of the dividends, if any, to be returned to policyholders;

1858 (k) adopt a procurement policy consistent with the provisions of Title 63, Chapter 56, Utah  
1859 Procurement Code;

1860 (l) develop and publish an annual report to policyholders, the governor, the Legislature,  
1861 and interested parties that describes the financial condition of the Injury Fund, including a  
1862 statement of expenses and income and what measures were taken or will be necessary to keep the  
1863 Injury Fund actuarially sound;

1864 (m) establish a fiscal year;

1865 (n) determine and establish an actuarially sound price for insurance offered by the fund;

1866 (o) establish conflict of interest requirements that govern the board, officers, and  
1867 employees; and

1868 (p) perform all other acts necessary for the policymaking and oversight of the Workers'  
1869 Compensation Fund.

1870 (2) Subject to board review and its responsibilities under Subsection (1)(e), the board may  
1871 delegate authority to make daily investment decisions.

1872 (3) The fund may form or acquire a subsidiary or enter into a joint enterprise:

1873 (a) only if that action is approved by the board; and

1874 (b) subject to the limitations in Section 31A-33-103.5.

1875 Section 44. Section **31A-33-111** is amended to read:

1876 **31A-33-111. Adoption of rates.**

1877 (1) The Workers' Compensation Fund shall adopt the rates approved by the insurance  
1878 commissioner under Chapter [19] 19a, Part [IV] 4, Workers Compensation Rates.

1879 (2) The chief executive officer, with the approval of the board, may file with the insurance  
1880 commissioner a resolution to deviate from the rates approved by the insurance commissioner in  
1881 order to provide workers' compensation insurance at the lowest possible cost to policyholders  
1882 consistent with maintaining the actuarial soundness of the Injury Fund.

1883 Section 45. Section **34A-2-202** is amended to read:

1884 **34A-2-202. Assessment on employers and counties, cities, towns, or school districts**  
1885 **paying compensation direct.**

1886 (1) (a) An employer, including a county, city, town, or school district, who by authority  
1887 of the division under Section 34A-2-201 is authorized to pay compensation direct shall pay

1888 annually, on or before March 31, an assessment in accordance with this section and rules made by  
1889 the commission under this section.

1890 (b) The assessment required by Subsection (1)(a) is to be collected by the State Tax  
1891 Commission and paid by the State Tax Commission into the state treasury as provided in  
1892 Subsection 59-9-101(2).

1893 (c) The assessment under Subsection (1)(a) shall be based on a total calculated premium  
1894 multiplied by the premium assessment rate established pursuant to Subsection 59-9-101(2).

1895 (d) The total calculated premium, for purposes of calculating the assessment under  
1896 Subsection (1)(a), shall be calculated by:

1897 (i) multiplying the total of the standard premium for each class code calculated in  
1898 Subsection (1)(e) by the employer's experience modification factor; and

1899 (ii) multiplying the total under Subsection (1)(d)(i) by a safety factor determined under  
1900 Subsection (1)(g).

1901 (e) A standard premium shall be calculated by:

1902 (i) multiplying the prospective loss cost for the year being considered, as filed with the  
1903 insurance department pursuant to Section [~~31A-19-414~~] 31A-19a-406, for each applicable class  
1904 code by 1.10 to determine the manual rate for each class code; and

1905 (ii) multiplying the manual rate for each class code under Subsection (1)(e)(i) by each \$100  
1906 of the employer's covered payroll for each class code.

1907 (f) (i) Each employer paying compensation direct shall annually obtain the experience  
1908 modification factor required in Subsection (1)(d)(i) by using the rate service organization  
1909 designated by the insurance commissioner in [~~Subsection 31A-19-407(3)~~] Section 31A-19a-404.

1910 (ii) If an employer's experience modification factor under Subsection (1)(f)(i) is less than  
1911 0.50, the employer shall use an experience modification factor of 0.50 in determining the total  
1912 calculated premium.

1913 (g) To provide incentive for improved safety, the safety factor required in Subsection  
1914 (1)(d)(ii) shall be determined based on the employer's experience modification factor as follows:

|      |  |               |
|------|--|---------------|
| 1915 | EXPERIENCE                                       |               |
| 1916 | MODIFICATION FACTOR                              | SAFETY FACTOR |
| 1917 | Less than or equal to 0.90                       | 0.56          |
| 1918 | Greater than 0.90 but less than or equal to 1.00 | 0.78          |

1919 Greater than 1.00 but less than or equal to 1.10 1.00

1920 Greater than 1.10 but less than or equal to 1.20 1.22

1921 Greater than 1.20 1.44

1922 (h) (i) A premium or premium assessment modification other than a premium or premium  
1923 assessment modification under this section may not be allowed.

1924 (ii) If an employer paying compensation direct fails to obtain an experience modification  
1925 factor as required in Subsection (1)(f)(i) within the reasonable time period established by rule by  
1926 the State Tax Commission, the State Tax Commission shall use an experience modification factor  
1927 of 2.00 and a safety factor of 2.00 to calculate the total calculated premium for purposes of  
1928 determining the assessment.

1929 (iii) Prior to calculating the total calculated premium under Subsection (1)(h)(ii), the State  
1930 Tax Commission shall provide the employer with written notice that failure to obtain an  
1931 experience modification factor within a reasonable time period, as established by rule by the State  
1932 Tax Commission:

1933 (A) shall result in the State Tax Commission using an experience modification factor of  
1934 2.00 and a safety factor of 2.00 in calculating the total calculated premium for purposes of  
1935 determining the assessment; and

1936 (B) may result in the division revoking the employer's right to pay compensation direct.

1937 (i) The division may immediately revoke an employer's certificate issued under Section  
1938 34A-2-201 that permits the employer to pay compensation direct if the State Tax Commission  
1939 assigns an experience modification factor and a safety factor under Subsection (1)(h) because the  
1940 employer failed to obtain an experience modification factor.

1941 (2) Notwithstanding the annual payment requirement in Subsection (1)(a), an employer  
1942 whose total assessment obligation under Subsection (1)(a) for the preceding year was \$10,000 or  
1943 more shall pay the assessment in quarterly installments in the same manner provided in Section  
1944 59-9-104 and subject to the same penalty provided in Section 59-9-104 for not paying or  
1945 underpaying an installment.

1946 (3) (a) The State Tax Commission shall have access to all the records of the division for  
1947 the purpose of auditing and collecting any amounts described in this section.

1948 (b) Time periods for the State Tax Commission to allow a refund or make an assessment  
1949 shall be determined in accordance with Section 59-9-106.

1950 (4) (a) A review of appropriate use of job class assignment and calculation methodology  
1951 may be conducted as directed by the division at any reasonable time as a condition of the  
1952 employer's certification of paying compensation direct.

1953 (b) The State Tax Commission shall make any records necessary for the review available  
1954 to the commission.

1955 (c) The commission shall make the results of any review available to the State Tax  
1956 Commission.

1957 Section 46. Section **53-1-106** is amended to read:

1958 **53-1-106. Department duties -- Powers.**

1959 (1) In addition to the responsibilities contained in this title, the department shall:

1960 (a) make rules and perform the functions specified in Title 41, Chapter 6, Traffic Rules  
1961 and Regulations, including:

1962 (i) setting performance standards for towing companies to be used by the department, as  
1963 required by Section 41-6-102; and

1964 (ii) advising the Department of Transportation regarding the safe design and operation of  
1965 school buses, as required by Section 41-6-115;

1966 (b) make rules to establish and clarify standards pertaining to the curriculum and teaching  
1967 methods of a motor vehicle accident prevention course under Section [~~31A-19-210~~] 31A-19a-211;

1968 (c) aid in enforcement efforts to combat drug trafficking using funds appropriated under  
1969 Section 58-37-20;

1970 (d) as part of the annual budget hearings, provide the Executive Offices, Criminal Justice,  
1971 and Legislature Appropriations Subcommittee with a complete accounting of expenditures and  
1972 revenues from the funds under Section 58-37-20;

1973 (e) meet with the Department of Administrative Services to formulate contracts, establish  
1974 priorities, and develop funding mechanisms for dispatch and telecommunications operations, as  
1975 required by Section 63A-6-107;

1976 (f) provide assistance to the Crime Victims' Reparations Board and Reparations Office in  
1977 conducting research or monitoring victims' programs, as required by Section 63-25a-405;

1978 (g) develop sexual assault exam protocol standards in conjunction with the Utah Hospital  
1979 Association, as required by Section 63-25a-409; and

1980 (h) engage in emergency planning activities, including preparation of policy and procedure



1981 and rulemaking necessary for implementation of the federal Emergency Planning and Community  
1982 Right to Know Act of 1986, as required by Section 63-5-5.

1983 (2) (a) The department may establish a schedule of fees as required or allowed in this title  
1984 for services provided by the department.

1985 (b) The fees shall be established in accordance with Section 63-38-3.2.

1986 Section 47. **Repealer.**

1987 This act repeals:

1988 Section **31A-19-404, Rate standard.**

1989 Section **31A-19-405, Payment of dividends.**

1990 Section **31A-19-406, Rating criteria.**

1991 Section **31A-19-409, Excess rates.**

1992 Section **31A-19-410, Uniform experience rating plan.**

1993 Section **31A-19-411, Timing of rate disapproval.**

1994 Section **31A-19-412, Basis for rate disapproval.**

1995 Section **31A-19-413, Rate disapproval procedure.**

1996 Section **31A-19-415, Cooperation among rating organizations and insurers.**

1997 Section **31A-19-416, Rate service organization activities.**

1998 Section **31A-19-417, Rating organization committee membership.**

1999 Section **31A-19-420, Cooperation among rating organizations and insurers.**

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### Legislative Review Note

as of 1-27-99 5:22 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel