

1 **INSURANCE FRAUD AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: James A. Ferrin**

5

LONG TITLE

6 **General Description:**

7 This bill modifies provisions related to insurance fraud.

8 **Highlighted Provisions:**

9 This bill:

- 10
- 11 ▶ modifies definitions;
 - 12 ▶ prohibits employing, using, or acting as a runner to engage in fraudulent acts;
 - 13 ▶ clarifies the treatment of certain funds as nonlapsing;
 - 14 ▶ provides for civil penalties;
 - 15 ▶ requires disclosure of fraudulent title insurance acts;
 - 16 ▶ addresses criminal conduct; and
 - 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **31A-31-102**, as enacted by Chapter 243, Laws of Utah 1994

25 **31A-31-103**, as last amended by Chapter 252, Laws of Utah 2003

26 **31A-31-108**, as last amended by Chapter 252, Laws of Utah 2003

27 **76-6-521**, as last amended by Chapter 243, Laws of Utah 1994



28 **76-10-1602**, as last amended by Chapters 26 and 79, Laws of Utah 2003

29 **77-23a-8**, as last amended by Chapter 166, Laws of Utah 2002

30 ENACTS:

31 **31A-31-109**, Utah Code Annotated 1953

32 **31A-31-110**, Utah Code Annotated 1953

33 REPEALS:

34 **31A-23a-411**, as enacted by Chapter 298, Laws of Utah 2003



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

37 Section 1. Section **31A-31-102** is amended to read:

38 **31A-31-102. Definitions.**

39 As used in this chapter:

40 (1) "Authorized agency" means:

41 (a) the attorney general[;];

42 (b) the state fire marshal[;];

43 (c) any state law enforcement agency[;];

44 (d) any criminal investigative department or agency of the United States[;];

45 (e) a district attorney[;];

46 (f) the prosecuting attorney of any municipality or county[;];

47 (g) the department[;]; or

48 (h) the disciplinary section of an agency licensing a service provider [~~as defined by~~

49 ~~Subsection (6)~~].

50 (2) "Financial loss" includes:

51 (a) out-of-pocket expenses[;];

52 (b) reasonable attorney fees[;];

53 (c) repair and replacement costs[;]; or

54 (d) claims payments.

55 (3) "Insurer" means any person[~~, firm, corporation, limited liability company,~~

56 ~~association,~~] or aggregation of persons:

57 (a) doing insurance business, as defined in Section 31A-1-301[;]; or

58 (b) subject to the supervision of the commissioner under [~~Title 31A,~~];

- 59 (i) this title; or
- 60 (ii) any equivalent insurance supervisory official of another state.
- 61 (4) "Knowingly" has the same meaning as in Subsection 76-2-103(2).
- 62 (5) "Person" means an individual, firm, company, corporation, association, limited
- 63 liability company, partnership, organization, society, business trust, service provider, or any
- 64 other legal entity.
- 65 (6) (a) "Runner" means a person who procures clients at the direction of, or in
- 66 cooperation with a person who intends to:
- 67 (i) perform or obtain a service or benefit under a contract of insurance; or
- 68 (ii) assert a claim against an insured.
- 69 (b) "Runner" includes:
- 70 (i) a capper; or
- 71 (ii) a steerer.
- 72 ~~(6)~~ (7) "Service provider" means:
- 73 (a) an individual licensed to practice law ~~[or]~~;
- 74 (b) an individual licensed or certified by the state under:
- 75 (i) ~~[Title 31A, Insurance Code]~~ this title;
- 76 (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 77 (iii) Title 58, Occupations and Professions; or
- 78 (iv) Title 61, Securities Division - Real Estate Division;
- 79 ~~(b)~~ (c) an individual [similarly] licensed in another jurisdiction in a manner similar to
- 80 a license described in Subsection (7)(a) or (b);
- 81 ~~(c)~~ (d) an individual practicing any nonmedical treatment rendered in accordance
- 82 with a recognized religious method of healing; or
- 83 ~~(d)~~ (e) a hospital, health care facility, or person whose services are compensated
- 84 directly or indirectly by insurance.
- 85 ~~(7)~~ (8) "Statement" includes any:
- 86 (a) (i) notice[;];
- 87 (ii) statement[;];
- 88 (iii) proof of loss[;];
- 89 (iv) bill of lading[;];

- 90 (v) receipt for payment[;];
- 91 (vi) invoice[;];
- 92 (vii) account[;];
- 93 (viii) estimate of property damage[;];
- 94 (ix) bill for services[;];
- 95 (x) diagnosis[;];
- 96 (xi) prescription[;];
- 97 (xii) hospital or doctor record[;];
- 98 (xiii) x-ray[;];
- 99 (xiv) test result[;]; or
- 100 (xv) other evidence of loss, injury, or expense[~~including~~]; or
- 101 (b) item listed in Subsection (8)(a) that is a computer-generated document.

102 Section 2. Section **31A-31-103** is amended to read:

103 **31A-31-103. Insurance fraud.**

104 (1) A person commits a fraudulent insurance act if that person with intent to deceive or
105 defraud:

106 (a) knowingly presents or causes to be presented to an insurer any oral or written
107 statement or representation knowing that the statement or representation contains false,
108 incomplete, or misleading information concerning any fact material to an application for the
109 issuance or renewal of an insurance policy, certificate, or contract;

110 (b) knowingly presents or causes to be presented to an insurer any oral or written
111 statement or representation;

112 (i) (A) as part of, or in support of, a claim for payment or other benefit pursuant to an
113 insurance policy, certificate, or contract[;]; or

114 (B) in connection with any civil claim asserted for recovery of damages for personal or
115 bodily injuries or property damage[;]; and

116 (ii) knowing that the statement or representation contains false, incomplete, or
117 misleading information concerning any fact or thing material to the claim;

118 (c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance
119 act;

120 (d) assists, abets, solicits, or conspires with another to commit a fraudulent insurance

121 act;

122 (e) knowingly supplies false or fraudulent material information in any document or
123 statement required by the department; [~~or~~]

124 (f) knowingly fails to forward a premium to an insurer in violation of Section
125 31A-23a-411.1[~~;~~]; or

126 (g) knowingly employs, uses, or acts as a runner for the purpose of committing a
127 fraudulent insurance act.

128 (2) A service provider commits a fraudulent insurance act if that service provider with
129 intent to deceive or defraud:

130 (a) knowingly submits or causes to be submitted a bill or request for payment;

131 (i) containing charges or costs for an item or service that are substantially in excess of
132 customary charges or costs for the item or service; or

133 (ii) containing itemized or delineated fees for what would customarily be considered a
134 single procedure or service;

135 (b) knowingly furnishes or causes to be furnished an item or service to a person;

136 (i) substantially in excess of the needs of the person; or

137 (ii) of a quality that fails to meet professionally recognized standards;

138 (c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance
139 act; or

140 (d) assists, abets, solicits, or conspires with another to commit a fraudulent insurance
141 act.

142 (3) An insurer commits a fraudulent insurance act if that insurer with intent to deceive
143 or defraud:

144 (a) knowingly withholds information or provides false or misleading information with
145 respect to an application, coverage, benefits, or claims under a policy or certificate;

146 (b) assists, abets, solicits, or conspires with another to commit a fraudulent insurance
147 act;

148 (c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance
149 act; or

150 (d) knowingly supplies false or fraudulent material information in any document or
151 statement required by the department.

152 (4) An insurer or service provider is not liable for any fraudulent insurance act
153 committed by an employee without the authority of the insurer or service provider unless the
154 insurer or service provider knew or should have known of the fraudulent insurance act.

155 Section 3. Section **31A-31-108** is amended to read:

156 **31A-31-108. Assessment of insurers.**

157 (1) For purposes of this section:

158 (a) The commissioner shall by rule made in accordance with Title 63, Chapter 46a,
159 Utah Administrative Rulemaking Act, define:

- 160 (i) "annuity consideration";
- 161 (ii) "membership fees";
- 162 (iii) "other fees";
- 163 (iv) "deposit-type contract funds"; and
- 164 (v) "other considerations in Utah."

165 (b) "Utah consideration" means:

- 166 (i) the total premiums written for Utah risks;
- 167 (ii) annuity consideration;
- 168 (iii) membership fees collected by the insurer;
- 169 (iv) other fees collected by the insurer;
- 170 (v) deposit-type contract funds; and
- 171 (vi) other considerations in Utah.

172 (c) "Utah risks" means insurance coverage on the lives, health, or against the liability
173 of persons residing in Utah, or on property located in Utah, other than property temporarily in
174 transit through Utah.

175 (2) To implement this chapter, Section 34A-2-110, and Section 76-6-521, the
176 commissioner may assess each admitted insurer and each nonadmitted insurer transacting
177 insurance under Chapter 15, Parts 1 and 2, an annual fee as follows:

178 (a) \$150 for an insurer if the sum of the Utah consideration for that insurer is less than
179 or equal to \$1,000,000;

180 (b) \$400 for an insurer if the sum of the Utah consideration for that insurer is greater
181 than \$1,000,000 but is less than or equal to \$2,500,000;

182 (c) \$700 for an insurer if the sum of the Utah consideration for that insurer is greater

183 than \$2,500,000 but is less than or equal to \$5,000,000;

184 (d) \$1,350 for an insurer if the sum of the Utah consideration for that insurer is greater
185 than \$5,000,000 but less than or equal to \$10,000,000;

186 (e) \$5,150 for an insurer if the sum of the Utah consideration for that insurer is greater
187 than \$10,000,000 but less than \$50,000,000; and

188 (f) \$12,350 for an insurer if the sum of the Utah consideration for that insurer equals or
189 exceeds \$50,000,000.

190 (3) (a) All money received by the state under this section shall be deposited in the
191 General Fund as a [~~nonlapsing~~] dedicated credit of the [~~Insurance~~] department for the purpose
192 of providing funds to pay for any costs and expenses incurred by the [~~Insurance~~] department in
193 the administration, investigation, and enforcement of this chapter, Section 34A-2-110, and
194 Section 76-6-521.

195 (b) All monies received by the department to pay for the costs and expenses incurred
196 by the department in the administration, investigation, and enforcement of this chapter, Section
197 34A-2-110, and Section 76-6-521 shall be nonlapsing.

198 Section 4. Section **31A-31-109** is enacted to read:

199 **31A-31-109. Civil penalties.**

200 (1) In addition to other penalties provided by law, a person who violates this chapter:

201 (a) is subject to the following civil penalties:

202 (i) the person shall make full restitution; and

203 (ii) the person shall pay the costs of enforcement of this chapter for the case in which
204 the person is found to have violated this chapter:

205 (A) as determined by the one or more authorized agencies involved; and

206 (B) including costs of:

207 (I) investigators;

208 (II) attorneys; and

209 (III) other public employees; and

210 (b) in the discretion of the court, may be required to pay to the state a civil penalty not
211 to exceed three times that amount of value improperly sought or received from the fraudulent
212 insurance act.

213 (2) (a) Monies paid under Subsection (1)(a)(i) shall be paid to the person damaged by

214 the fraudulent insurance act.

215 (b) Monies paid under Subsection (1)(a)(ii) shall be paid to each applicable authorized
 216 agency in the following order:

217 (i) to the General Fund as a dedicated credit of the department for the costs of
 218 enforcement incurred by the department;

219 (ii) to the General Fund for the costs of enforcement incurred by a state agency other
 220 than the department;

221 (iii) to the applicable political subdivision for the costs of enforcement incurred by the
 222 political subdivision; and

223 (iv) to the applicable criminal investigative department or agency of the United States
 224 for the costs of enforcement incurred by the department or agency.

225 (c) Monies paid under Subsection (1)(b) shall be paid into the General Fund.

226 (d) Monies received by the department under this Subsection (2) are nonlapsing in
 227 accordance with Subsection 31A-31-108(3).

228 (3) (a) A civil penalty assessed under Subsection (1) shall be awarded by the court as
 229 part of its judgment in both criminal and civil actions.

230 (b) A criminal action need not be brought against a person in order for that person to be
 231 civilly liable under this section.

232 Section 5. Section 31A-31-110 is enacted to read:

233 **31A-31-110. Mandatory reporting of fraudulent title insurance acts -- Failure to**
 234 **report -- Criminal penalties.**

235 (1) § [A] AN AUDITOR THAT IS EMPLOYED BY A § Ĥ [person] TITLE INSURER ĥ § [having]
 235a **AND THAT HAS § knowledge Ĥ [or a reasonable belief] ĥ that a**
 235a **fraudulent insurance act is**

236 **being, will be, or has been committed related to title insurance shall report the fraudulent act to**
 237 **the commissioner in a writing that provides information in detail relating to:**

238 (a) the fraudulent insurance act; and

239 (b) the perpetrator of the fraudulent insurance act.

240 (2) (a) Any Ĥ [person] § [TITLE INSURER ĥ] AUDITOR § required to report a fraudulent
 240a **insurance act under**

240a **Subsection (1)**

241 **who willfully fails to comply with Subsection (1) is guilty of a class B misdemeanor.**

242 (b) An action for failure to comply with Subsection (1) shall be commenced within
 243 **four years from the date on which the Ĥ [person] § AUDITOR EMPLOYED BY THE § TITLE**
INSURER ĥ :

244 (i) had knowledge of the fraudulent insurance act; and

245 (ii) willfully failed to report the fraudulent insurance act.

246 Section 6. Section **76-6-521** is amended to read:

247 **76-6-521. Fraudulent insurance act.**

248 (1) A person commits a fraudulent insurance act if that person with intent to defraud:

249 (a) presents or causes to be presented any oral or written statement or representation
250 knowing that the statement or representation contains false or fraudulent information
251 concerning any fact material to an application for the issuance or renewal of an insurance
252 policy, certificate, or contract;

253 (b) presents, or causes to be presented, any oral or written statement or representation;

254 (i) (A) as part of or in support of a claim for payment or other benefit pursuant to an
255 insurance policy, certificate, or contract[-]; or

256 (B) in connection with any civil claim asserted for recovery of damages for personal or
257 bodily injuries or property damage[-]; and

258 (ii) knowing that the statement or representation contains false or fraudulent
259 information concerning any fact or thing material to the claim;

260 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

261 (d) intentionally, knowingly, or recklessly, devises a scheme or artifice to obtain fees
262 for professional services, or anything of value by means of false or fraudulent pretenses,
263 representations, promises, or material omissions[-];

264 (e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for
265 the purpose of committing a fraudulent insurance act;

266 (f) **§ KNOWINGLY** § assists, abets, solicits, or conspires with another to commit a fraudulent
266a insurance
267 act; or

268 (g) knowingly supplies false or fraudulent material information in any document or
269 statement required by the Department of Insurance.

270 (2) (a) A violation of Subsection (1)(a) is a class B misdemeanor.

271 (b) A violation of Subsections (1)(b) through (1)[~~(d)~~](g), is punishable as in the manner
272 prescribed by Section 76-10-1801 for communication fraud for property of like value.

273 (3) A corporation or association is guilty of the offense of insurance fraud under the
274 same conditions as those set forth in Section 76-2-204.

275 (4) The determination of the degree of any offense under Subsections (1)(b) through

276 (1)~~(d)~~(g) shall be measured by the total value of all property, money, or other things obtained
277 or sought to be obtained by the fraudulent insurance act or acts described in Subsections (1)(b)
278 through (1)~~(d)~~(g).

279 Section 7. Section **76-10-1602** is amended to read:

280 **76-10-1602. Definitions.**

281 As used in this part:

282 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
283 business trust, association, or other legal entity, and any union or group of individuals
284 associated in fact although not a legal entity, and includes illicit as well as licit entities.

285 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
286 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
287 have the same or similar purposes, results, participants, victims, or methods of commission, or
288 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
289 demonstrate continuing unlawful conduct and be related either to each other or to the
290 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
291 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
292 activity as defined by this part shall have occurred within five years of the commission of the
293 next preceding act alleged as part of the pattern.

294 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
295 interest in property, including state, county, and local governmental entities.

296 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
297 command, encourage, or intentionally aid another person to engage in conduct which would
298 constitute any offense described by the following crimes or categories of crimes, or to attempt
299 or conspire to engage in an act which would constitute any of those offenses, regardless of
300 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
301 or a felony:

302 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
303 Recording Practices Act;

304 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
305 Code, Sections 19-1-101 through 19-7-109;

306 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary

- 307 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife
- 308 Resources Code of Utah, or Section 23-20-4;
- 309 (d) false claims for medical benefits, kickbacks, and any other act prohibited by False
- 310 Claims Act, Sections 26-20-1 through 26-20-12;
- 311 (e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal
- 312 Offenses;
- 313 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
- 314 Land Sales Practices Act;
- 315 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
- 316 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
- 317 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
- 318 Clandestine Drug Lab Act;
- 319 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
- 320 Securities Act;
- 321 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah
- 322 Procurement Code;
- 323 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 324 (k) a terroristic threat, Section 76-5-107;
- 325 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 326 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 327 (n) sexual exploitation of a minor, Section 76-5a-3;
- 328 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 329 (p) causing a catastrophe, Section 76-6-105;
- 330 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 331 (r) burglary of a vehicle, Section 76-6-204;
- 332 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 333 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 334 (u) theft, Section 76-6-404;
- 335 (v) theft by deception, Section 76-6-405;
- 336 (w) theft by extortion, Section 76-6-406;
- 337 (x) receiving stolen property, Section 76-6-408;

- 338 (y) theft of services, Section 76-6-409;
- 339 (z) forgery, Section 76-6-501;
- 340 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 341 (bb) deceptive business practices, Section 76-6-507;
- 342 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
- 343 criticism of goods, Section 76-6-508;
- 344 (dd) bribery of a labor official, Section 76-6-509;
- 345 (ee) defrauding creditors, Section 76-6-511;
- 346 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 347 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- 348 (hh) bribery or threat to influence contest, Section 76-6-514;
- 349 (ii) making a false credit report, Section 76-6-517;
- 350 (jj) criminal simulation, Section 76-6-518;
- 351 (kk) criminal usury, Section 76-6-520;
- 352 (ll) [~~false or~~] fraudulent insurance [~~claim~~] act, Section 76-6-521;
- 353 (mm) computer crimes, Section 76-6-703;
- 354 (nn) identity fraud, Section 76-6-1102;
- 355 (oo) sale of a child, Section 76-7-203;
- 356 (pp) bribery to influence official or political actions, Section 76-8-103;
- 357 (qq) threats to influence official or political action, Section 76-8-104;
- 358 (rr) receiving bribe or bribery by public servant, Section 76-8-105;
- 359 (ss) receiving bribe or bribery for endorsement of person as public servant, Section
- 360 76-8-106;
- 361 (tt) official misconduct, Sections 76-8-201 and 76-8-202;
- 362 (uu) obstruction of justice, Section 76-8-306;
- 363 (vv) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 364 (ww) false or inconsistent material statements, Section 76-8-502;
- 365 (xx) false or inconsistent statements, Section 76-8-503;
- 366 (yy) written false statements, Section 76-8-504;
- 367 (zz) tampering with a witness, retaliation against a witness or informant, or bribery,
- 368 Section 76-8-508;

- 369 (aaa) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
370 (bbb) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
371 76-8-1205;
372 (ccc) intentionally or knowingly causing one animal to fight with another, Subsection
373 76-9-301(1)(f);
374 (ddd) possession, use, or removal of explosives, chemical, or incendiary devices or
375 parts, Section 76-10-306;
376 (eee) delivery to common carrier, mailing, or placement on premises of an incendiary
377 device, Section 76-10-307;
378 (fff) possession of a deadly weapon with intent to assault, Section 76-10-507;
379 (ggg) unlawful marking of pistol or revolver, Section 76-10-521;
380 (hhh) alteration of number or mark on pistol or revolver, Section 76-10-522;
381 (iii) forging or counterfeiting trademarks, trade name, or trade device, Section
382 76-10-1002;
383 (jjj) selling goods under counterfeited trademark, trade name, or trade devices, Section
384 76-10-1003;
385 (kkk) sales in containers bearing registered trademark of substituted articles, Section
386 76-10-1004;
387 (lll) selling or dealing with article bearing registered trademark or service mark with
388 intent to defraud, Section 76-10-1006;
389 (mmm) gambling, Section 76-10-1102;
390 (nnn) gambling fraud, Section 76-10-1103;
391 (ooo) gambling promotion, Section 76-10-1104;
392 (ppp) possessing a gambling device or record, Section 76-10-1105;
393 (qqq) confidence game, Section 76-10-1109;
394 (rrr) distributing pornographic material, Section 76-10-1204;
395 (sss) inducing acceptance of pornographic material, Section 76-10-1205;
396 (ttt) dealing in harmful material to a minor, Section 76-10-1206;
397 (uuu) distribution of pornographic films, Section 76-10-1222;
398 (vvv) indecent public displays, Section 76-10-1228;
399 (www) prostitution, Section 76-10-1302;

400 (xxx) aiding prostitution, Section 76-10-1304;
401 (yyy) exploiting prostitution, Section 76-10-1305;
402 (zzz) aggravated exploitation of prostitution, Section 76-10-1306;
403 (aaaa) communications fraud, Section 76-10-1801;
404 (bbbb) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19,
405 Money Laundering and Currency Transaction Reporting Act;
406 (cccc) any act prohibited by the criminal provisions of the laws governing taxation in
407 this state; and
408 (dddd) any act illegal under the laws of the United States and enumerated in Title 18,
409 Section 1961 (1)(B), (C), and (D) of the United States Code.

410 Section 8. Section **77-23a-8** is amended to read:

411 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

412 (1) The attorney general of the state, any assistant attorney general specially designated
413 by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy
414 district attorney specially designated by the county attorney or by the district attorney, may
415 authorize an application to a judge of competent jurisdiction for an order for an interception of
416 wire, electronic, or oral communications by any law enforcement agency of the state, the
417 federal government or of any political subdivision of the state that is responsible for
418 investigating the type of offense for which the application is made.

419 (2) The judge may grant the order in conformity with the required procedures when the
420 interception sought may provide or has provided evidence of the commission of:

421 (a) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
422 Controlled Substances Act; Title 58, Chapter 37c, Utah Controlled Substances Precursor Act;
423 Title 58, Chapter 37d, Clandestine Drug Lab Act; punishable by a term of imprisonment of
424 more than one year;

425 (b) any act prohibited by the criminal provisions of the Utah Uniform Securities Act
426 and punishable by a term of imprisonment of more than one year, Title 61, Chapter 1;

427 (c) attempt, Section 76-4-101; conspiracy, Section 76-4-201; solicitation, Section
428 76-4-203; to commit any of the offenses enumerated above so long as the attempt, conspiracy
429 or solicitation offense is punishable by a term of imprisonment of more than one year;

430 (d) terroristic threat offense punishable by a maximum term of imprisonment of more

- 431 than one year, Section 76-5-107;
- 432 (e) aggravated murder, Section 76-5-202; murder, Section 76-5-203; manslaughter,
433 Section 76-5-205;
- 434 (f) kidnapping, Section 76-5-301; child kidnapping, Section 76-5-301.1; aggravated
435 kidnapping, Section 76-5-302;
- 436 (g) arson, Section 76-6-102; aggravated arson, Section 76-6-103;
- 437 (h) burglary, Section 76-6-202; aggravated burglary, Section 76-6-203;
- 438 (i) robbery, Section 76-6-301; aggravated robbery, Section 76-6-302;
- 439 (j) theft, Section 76-6-404; theft by deception, Section 76-6-405; theft by extortion,
440 Section 76-6-406; when the theft, theft by deception or theft by extortion, is punishable by a
441 maximum term of imprisonment of more than one year;
- 442 (k) receiving stolen property offense punishable by a maximum term of imprisonment
443 of more than one year, Section 76-6-408;
- 444 (l) financial card transaction offenses punishable by a maximum term of imprisonment
445 of more than one year, Section 76-6-506.1, 76-6-506.2, 76-6-506.3, 76-6-506.4, 76-6-506.5, or
446 76-6-506.6;
- 447 (m) bribery of a labor official, Section 76-6-509;
- 448 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
- 449 (o) criminal simulation offenses punishable by a maximum term of imprisonment of
450 more than one year, Section 76-6-518;
- 451 (p) criminal usury, Section 76-6-520;
- 452 (q) [~~false or~~] fraudulent insurance [~~claim~~] act offenses punishable by a maximum term
453 of imprisonment of more than one year, Section 76-6-521;
- 454 (r) violations of the Computer Crimes Act punishable by a maximum term of
455 imprisonment of more than one year, Section 76-6-703;
- 456 (s) bribery to influence official or political actions, Section 76-8-103;
- 457 (t) misusing public moneys, Section 76-8-402;
- 458 (u) tampering with a witness, retaliation against a witness or informant, or bribery,
459 communicating a threat, Section 76-8-508;
- 460 (v) tampering with a juror, retaliation against a juror, Section 76-8-508.5;
- 461 (w) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

- 462 (x) obstruction of justice, Section 76-8-306;
- 463 (y) destruction of property to interfere with preparation for defense or war, Section
- 464 76-8-802;
- 465 (z) attempts to commit crimes of sabotage, Section 76-8-804;
- 466 (aa) conspiracy to commit crimes of sabotage, Section 76-8-805;
- 467 (bb) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 468 (cc) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 469 (dd) riot punishable by a maximum term of imprisonment of more than one year,
- 470 Section 76-9-101;
- 471 (ee) dog fighting, training dogs for fighting, dog fighting exhibitions punishable by a
- 472 maximum term of imprisonment of more than one year, Section 76-9-301.1;
- 473 (ff) explosive, chemical, or incendiary device and parts, possession, use, or removal,
- 474 Section 76-10-306;
- 475 (gg) explosive, chemical, or incendiary device, delivery to a common carrier or mailing,
- 476 Section 76-10-307;
- 477 (hh) exploiting prostitution, Section 76-10-1305;
- 478 (ii) aggravated exploitation of prostitution, Section 76-10-1306;
- 479 (jj) bus hijacking, assault with intent to commit hijacking, dangerous weapon or
- 480 firearm, Section 76-10-1504;
- 481 (kk) discharging firearms and hurling missiles, Section 76-10-1505;
- 482 (ll) violations of the Pattern of Unlawful Activity Act and the offenses listed under the
- 483 definition of unlawful activity in the act, including the offenses not punishable by a maximum
- 484 term of imprisonment of more than one year when those offenses are investigated as predicates
- 485 for the offenses prohibited by the act, Section 76-10-1602;
- 486 (mm) communications fraud, Section 76-10-1801;
- 487 (nn) money laundering, Sections 76-10-1903 and 76-10-1904; or
- 488 (oo) reporting by financial institutions when the offense is punishable by a maximum
- 489 term of imprisonment of more than one year, Section 76-10-1906.

490 **Section 9. Repealer.**

491 This bill repeals:

492 **Section 31A-23a-411, Person's liability if premium received is not forwarded to the**

493 insurer.

Legislative Review Note
as of 1-7-04 2:51 PM

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

Office of Legislative Research and General Counsel

State Impact

No fiscal impact.

Individual and Business Impact

Net benefit to the industry is expected to be positive. Criminal financial penalties may be increased.

Office of the Legislative Fiscal Analyst