

- 28 **31A-23a-111**, as last amended by Chapter 173, Laws of Utah 2004
- 29 **31A-23a-113**, as last amended by Chapter 173, Laws of Utah 2004
- 30 **31A-23a-115**, as last amended by Chapter 173, Laws of Utah 2004
- 31 **31A-23a-202**, as renumbered and amended by Chapter 298, Laws of Utah 2003
- 32 **31A-26-206**, as last amended by Chapter 308, Laws of Utah 2002
- 33 **31A-35-504**, as enacted by Chapter 245, Laws of Utah 2001



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

36 Section 1. Section **31A-23a-106** is amended to read:

37 **31A-23a-106. License types.**

38 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
39 the license types described under [~~Subsections (1) through (7)~~] Subsection (2).

40 (b) License types and lines of authority pertaining to each license type describe the type
41 of licensee and the lines of business that licensee may sell, solicit, or negotiate. License types
42 are intended to describe the matters to be considered under any education, examination, and
43 training required of license applicants under Sections 31A-23a-108, 31A-23a-202, and
44 31A-23a-203.

45 ~~(1)~~ (2) (a) A producer license type includes the following lines of authority:

46 ~~(a)~~ (i) life insurance, including nonvariable contracts;

47 ~~(b)~~ (ii) variable contracts, including variable life and annuity, if the producer has the
48 life insurance line of authority;

49 ~~(c)~~ (iii) accident and health insurance, including contracts issued to policyholders
50 under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health
51 Maintenance Organizations and Limited Health Plans;

52 ~~(d)~~ (iv) property insurance;

53 ~~(e)~~ (v) casualty insurance, including surety and other bonds;

54 ~~(f)~~ (vi) title insurance under one or more of the following categories:

55 ~~(i)~~ (A) search, including authority to act as a title marketing representative;

56 ~~(ii)~~ (B) escrow, including authority to act as a title marketing representative;

57 ~~(iii)~~ (C) search and escrow, including authority to act as a title marketing
58 representative; and

- 59 ~~[(iv)]~~ (D) title marketing representative only;
- 60 ~~[(g)]~~ (vii) workers' compensation insurance;
- 61 ~~[(h)]~~ (viii) personal lines insurance; and
- 62 ~~[(i)]~~ (ix) surplus lines, if the producer has the property or casualty or both lines of
- 63 authority.
- 64 ~~[(2)]~~ (b) A limited line producer license type includes the following limited lines of
- 65 authority:
- 66 ~~[(a)]~~ (i) limited line credit insurance;
- 67 ~~[(b)]~~ (ii) travel insurance;
- 68 ~~[(c)]~~ (iii) motor club insurance;
- 69 ~~[(d)]~~ (iv) car rental related insurance;
- 70 ~~[(e)]~~ (v) legal expense insurance; and
- 71 ~~[(f)]~~ (vi) bail bond producer~~[-and]~~.
- 72 ~~[(g)]~~ viatical settlements;
- 73 ~~[(3)]~~ (c) A customer service representative license type includes the following lines of
- 74 authority, if held by the customer service representative's employer producer:
- 75 ~~[(a)]~~ (i) life insurance, including nonvariable contracts;
- 76 ~~[(b)]~~ (ii) accident and health insurance, including contracts issued to policyholders
- 77 under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health
- 78 Maintenance Organizations and Limited Health Plans;
- 79 ~~[(c)]~~ (iii) property insurance;
- 80 ~~[(d)]~~ (iv) casualty insurance, including surety and other bonds;
- 81 ~~[(e)]~~ (v) workers' compensation insurance;
- 82 ~~[(f)]~~ (vi) personal lines insurance; and
- 83 ~~[(g)]~~ (vii) surplus lines, if the employer producer has the property or casualty or both
- 84 lines of authority.
- 85 ~~[(4)]~~ (d) A consultant license type includes the following lines of authority:
- 86 ~~[(a)]~~ (i) life insurance, including nonvariable contracts;
- 87 ~~[(b)]~~ (ii) variable contracts, including variable life and annuity, if the consultant has the
- 88 life insurance line of authority;
- 89 ~~[(c)]~~ (iii) accident and health insurance, including contracts issued to policyholders

90 under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health
91 Maintenance Organizations and Limited Health Plans;

92 [~~d~~] (iv) property insurance;

93 [~~e~~] (v) casualty insurance, including surety and other bonds;

94 [~~f~~] (vi) workers' compensation insurance; and

95 [~~g~~] (vii) personal lines insurance.

96 [~~5~~] (e) A managing general agent license type includes the following lines of
97 authority:

98 [~~a~~] (i) life insurance, including nonvariable contracts;

99 [~~b~~] (ii) variable contracts, including variable life and annuity, if the managing general
100 agent has the life insurance line of authority;

101 [~~e~~] (iii) accident and health insurance, including contracts issued to policyholders
102 under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health
103 Maintenance Organizations and Limited Health Plans;

104 [~~d~~] (iv) property insurance;

105 [~~e~~] (v) casualty insurance, including surety and other bonds;

106 [~~f~~] (vi) workers' compensation insurance; and

107 [~~g~~] (vii) personal lines insurance.

108 [~~6~~] (f) A reinsurance intermediary license type includes the following lines of
109 authority:

110 [~~a~~] (i) life insurance, including nonvariable contracts;

111 [~~b~~] (ii) variable contracts, including variable life and annuity, if the reinsurance
112 intermediary has the life insurance line of authority;

113 [~~e~~] (iii) accident and health insurance, including contracts issued to policyholders
114 under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health
115 Maintenance Organizations and Limited Health Plans;

116 [~~d~~] (iv) property insurance;

117 [~~e~~] (v) casualty insurance, including surety and other bonds;

118 [~~f~~] (vi) workers' compensation insurance; and

119 [~~g~~] (vii) personal lines insurance.

120 [~~7~~] (g) A holder of licenses under Subsections [~~1~~], [~~4~~], [~~5~~], and [~~6~~] (2)(a), (d), (e).

121 and (f) has all qualifications necessary to act as a holder of a license under Subsections (2)(b)
122 and ~~[(3)]~~ (c).

123 ~~[(8)]~~ (3) The commissioner may by rule recognize other producer, limited line
124 producer, customer service representative, consultant, managing general agent, or reinsurance
125 intermediary lines of authority as to kinds of insurance not listed under Subsections ~~[(1)]~~ (2)(a)
126 through ~~[(6)]~~ (f).

127 ~~[(9)]~~ (4) The variable contracts, including variable life and annuity line of authority
128 requires:

129 (a) licensure as a registered agent or broker by the National Association of Securities
130 Dealers ~~[(NASD)]~~; and

131 (b) current registration with a securities broker/dealer.

132 ~~[(10)]~~ (5) A surplus lines producer is a producer who has a surplus lines line of
133 authority.

134 Section 2. Section **31A-23a-108** is amended to read:

135 **31A-23a-108. Examination requirements.**

136 (1) (a) The commissioner may require applicants for any particular license type under
137 Section 31A-23a-106 to pass a line of authority examination as a requirement for a license,
138 except that an examination may not be required of applicants for:

139 (i) licenses under Subsections 31A-23a-106(2)(b) and ~~[(3)]~~ (c); or

140 (ii) other limited line license lines of authority recognized by the commissioner by rule
141 as provided in Subsection 31A-23a-106~~[(8)]~~(3).

142 (b) The examination described in Subsection (1)(a):

143 (i) shall reasonably relate to the line of authority for which it is prescribed; and

144 (ii) may be administered by the commissioner or as otherwise specified by rule.

145 (2) The commissioner shall waive the requirement of an examination for a nonresident
146 applicant who:

147 (a) applies for an insurance producer license in this state;

148 (b) has been licensed for the same line of authority in another state; and

149 (c) (i) is licensed in the state described in Subsection (2)(b) at the time the applicant
150 applies for an insurance producer license in this state; or

151 (ii) if the application is received within 90 days of the cancellation of the applicant's

152 previous license:

153 (A) the prior state certifies that at the time of cancellation, the applicant was in good
154 standing in that state; or

155 (B) the state's producer database records maintained by the National Association of
156 Insurance Commissioners or the National Association of Insurance Commissioner's affiliates or
157 subsidiaries, indicates that the producer is or was licensed in good standing for the line of
158 authority requested.

159 (3) A nonresident producer licensee who moves to this state and applies for a resident
160 license within 90 days of establishing legal residence in this state shall be exempt from any line
161 of authority examination that the producer was authorized on the producer's nonresident
162 producer license, except where the commissioner determines otherwise by rule.

163 (4) This section's requirement may only be applied to applicants who are natural
164 persons.

165 Section 3. Section **31A-23a-111** is amended to read:

166 **31A-23a-111. Revocation, suspension, surrender, lapsing, or limiting of license.**

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

168 (a) revoked or suspended under Subsection [~~(4)~~] (5);

169 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
170 administrative action;

171 (c) the licensee dies or is adjudicated incompetent as defined under:

172 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

173 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
174 Minors;

175 (d) lapsed under Section 31A-23a-113; or

176 (e) voluntarily surrendered.

177 (2) [~~Lapsed~~] A lapsed or voluntarily surrendered [~~licenses~~] license may be reinstated
178 [~~during the current license period.~~] within one year after the day on which the license is
179 inactivated.

180 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a
181 license, submission and acceptance of a voluntary surrender of a license does not prevent the
182 department from pursuing additional disciplinary or other action authorized under this title or

183 in rules adopted under this title.

184 [~~3~~] (4) A line of authority issued under this chapter remains in force until:

185 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;

186 or

187 (b) the supporting license type:

188 (i) is revoked or suspended under Subsection [~~4~~] (5); or [~~voluntarily~~]

189 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
190 administrative action.

191 [~~4~~] (5) (a) If the commissioner makes a finding under Subsection [~~4~~] (5)(b), after an
192 adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, the
193 commissioner may:

194 (i) revoke:

195 (A) a license; or

196 (B) a line of authority;

197 (ii) suspend for a specified period of 12 months or less:

198 (A) a license; or

199 (B) a line of authority; or

200 (iii) limit in whole or in part:

201 (A) a license; or

202 (B) a line of authority.

203 (b) The commissioner may take an action described in Subsection [~~4~~] (5)(a) if the
204 commissioner finds that the licensee:

205 (i) is unqualified for a license or line of authority under Sections 31A-23a-104 and
206 31A-23a-105;

207 (ii) has violated:

208 (A) an insurance statute;

209 (B) a rule that is valid under Subsection 31A-2-201(3); or

210 (C) an order that is valid under Subsection 31A-2-201(4);

211 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
212 delinquency proceedings in any state;

213 (iv) fails to pay any final judgment rendered against the person in this state within 60

- 214 days after the day the judgment became final;
- 215 (v) fails to meet the same good faith obligations in claims settlement that is required of
- 216 admitted insurers;
- 217 (vi) is affiliated with and under the same general management or interlocking
- 218 directorate or ownership as another insurance producer that transacts business in this state
- 219 without a license;
- 220 (vii) refuses:
- 221 (A) to be examined; or
- 222 (B) to produce its accounts, records, and files for examination;
- 223 (viii) has an officer who refuses to:
- 224 (A) give information with respect to the administrator's affairs; or
- 225 (B) perform any other legal obligation as to an examination;
- 226 (ix) provided information in the license application that is:
- 227 (A) incorrect;
- 228 (B) misleading;
- 229 (C) incomplete; or
- 230 (D) materially untrue;
- 231 (x) has violated any insurance law, valid rule, or valid order of another state's insurance
- 232 department;
- 233 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- 234 (xii) has improperly withheld, misappropriated, or converted any monies or properties
- 235 received in the course of doing insurance business;
- 236 (xiii) has intentionally misrepresented the terms of an actual or proposed:
- 237 (A) insurance contract; or
- 238 (B) application for insurance;
- 239 (xiv) has been convicted of a felony;
- 240 (xv) has admitted or been found to have committed any insurance unfair trade practice
- 241 or fraud;
- 242 (xvi) in the conduct of business in this state or elsewhere has:
- 243 (A) used fraudulent, coercive, or dishonest practices; or
- 244 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

- 245 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in
246 any other state, province, district, or territory;
- 247 (xviii) has forged another's name to:
- 248 (A) an application for insurance; or
- 249 (B) any document related to an insurance transaction;
- 250 (xix) has improperly used notes or any other reference material to complete an
251 examination for an insurance license;
- 252 (xx) has knowingly accepted insurance business from an individual who is not
253 licensed;
- 254 (xxi) has failed to comply with an administrative or court order imposing a child
255 support obligation;
- 256 (xxii) has failed to:
- 257 (A) pay state income tax; or
- 258 (B) comply with any administrative or court order directing payment of state income
259 tax;
- 260 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
261 Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or
- 262 (xxiv) has engaged in methods and practices in the conduct of business that endanger
263 the legitimate interests of customers and the public.
- 264 (c) For purposes of this section, if a license is held by an agency, both the agency itself
265 and any natural person named on the license are considered to be the holders of the license.
- 266 (d) If a natural person named on the agency license commits any act or fails to perform
267 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the
268 commissioner may suspend, revoke, or limit the license of:
- 269 (i) the natural person;
- 270 (ii) the agency, if the agency:
- 271 (A) is reckless or negligent in its supervision of the natural person; or
- 272 (B) knowingly participated in the act or failure to act that is the ground for suspending,
273 revoking, or limiting the license; or
- 274 (iii) (A) the natural person; and
- 275 (B) the agency if the agency meets the requirements of Subsection [~~(4)~~] (5)(d)(ii).

276 ~~[(5)]~~ (6) A licensee under this chapter is subject to the penalties for acting as a licensee
277 without a license if:

- 278 (a) the licensee's license is:
- 279 (i) revoked;
 - 280 (ii) suspended;
 - 281 (iii) limited;
 - 282 (iv) surrendered in lieu of administrative action;
 - 283 (v) lapsed; or
 - 284 (vi) voluntarily surrendered; and
- 285 (b) the licensee:
- 286 (i) continues to act as a licensee; or
 - 287 (ii) violates the terms of the license limitation.

288 ~~[(6)]~~ (7) A licensee under this chapter shall immediately report to the commissioner:

- 289 (a) a revocation, suspension, or limitation of the person's license in any other state,
290 District of Columbia, or territory of the United States;
- 291 (b) the imposition of a disciplinary sanction imposed on that person by any other state,
292 District of Columbia, or territory of the United States; and
- 293 (c) a judgment or injunction entered against that person on the basis of conduct
294 involving:
- 295 (i) fraud;
 - 296 (ii) deceit;
 - 297 (iii) misrepresentation; or
 - 298 (iv) a violation of an insurance law or rule.

299 ~~[(7)]~~ (8) (a) An order revoking a license under Subsection ~~[(4)]~~ (5) or an agreement to
300 surrender a license in lieu of administrative action may specify a time, not to exceed five years,
301 within which the former licensee may not apply for a new license.

302 (b) If no time is specified in an order revoking a license under Subsection ~~[(4)]~~ (5) or
303 an agreement to surrender a license in lieu of administrative action, the former licensee may not
304 apply for a new license for five years without express approval by the commissioner.

305 ~~[(8)]~~ (9) The division shall promptly withhold, suspend, restrict, or reinstate the use of
306 a license issued under this part if so ordered by a court.

307 Section 4. Section **31A-23a-113** is amended to read:

308 **31A-23a-113. License lapse and voluntary surrender.**

309 (1) (a) A license issued under this chapter shall lapse if the licensee fails:

310 (i) to pay when due a fee under Section 31A-3-103;

311 (ii) to complete continuing education requirements under Section 31A-23a-202 before
312 submitting the license renewal application;

313 (iii) to submit a completed renewal application as required by Section 31A-23a-104;

314 [~~or~~]

315 (iv) to submit additional documentation required to complete the licensing process as
316 related to a specific license type or line of authority[~~;~~]; or

317 (v) to maintain an active license in a resident state if the licensee is a nonresident
318 licensee.

319 (b) (i) A licensee whose license lapses due to the following may request an action
320 described in Subsection (1)(b)(ii):

321 (A) military service;

322 (B) voluntary service for a period of time designated by the person for whom the
323 licensee provides voluntary service; or

324 (C) some other extenuating circumstances such as long-term medical disability [~~may~~
325 request:];

326 (ii) A licensee described in Subsection (1)(b)(i) may request:

327 [~~(i)~~] (A) reinstatement of the license; and

328 [~~(ii)~~] (B) waiver of any of the following imposed for failure to comply with renewal
329 procedures:

330 [~~(A)~~] (I) an examination requirement;

331 [~~(B)~~] (II) reinstatement fees; [~~or~~]

332 (III) continuing education requirements; or

333 [~~(C)~~] (IV) other sanction imposed for failure to comply with renewal procedures.

334 (2) If a license type or line of authority issued under this chapter is voluntarily
335 surrendered, the license or line of authority may be reinstated [~~during the current license~~
336 ~~period~~] within one year after the day on which the license or line of authority is inactivated.

337 (3) The commissioner shall by rule prescribe the license renewal and reinstatement

338 procedures, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

339 Section 5. Section **31A-23a-115** is amended to read:

340 **31A-23a-115. Appointment of individual and agency insurance producer, limited**
341 **line producer, or managing general agent -- Reports and lists.**

342 (1) (a) An insurer shall appoint a natural person or agency that has an insurance
343 producer, limited line producer, or managing general agent license to act as an insurance
344 producer, limited line producer, or managing general agent on [its] the insurer's behalf prior to
345 any producer, limited line producer, or managing general agent doing business for the insurer
346 in this state.

347 (b) An insurer shall report to the commissioner, at intervals and in the form the
348 commissioner establishes by rule:

349 (i) all new appointments; and

350 (ii) all terminations of appointments.

351 (2) (a) (i) An insurer shall report to the commissioner the cause of termination of an
352 appointment.

353 (ii) The information provided to the commissioner under this Subsection (2) is a
354 private record under Title 63, Chapter 2, Government Records Access and Management Act.

355 (b) An insurer is immune from civil action, civil penalty, or damages if the insurer
356 complies in good faith with this Subsection (2) in reporting to the commissioner the cause of
357 termination of an appointment.

358 (c) Notwithstanding any other provision in this section, an insurer is not immune from
359 any action or resulting penalty imposed on the reporting insurer as a result of proceedings
360 brought by or on behalf of the department if the action is based on evidence other than the
361 report submitted in compliance with this Subsection (2).

362 (3) If an insurer appoints an agency, the insurer need not appoint, report, or pay
363 appointment reporting fees for natural persons designated on the agency's license under Section
364 31A-23a-302.

365 [~~(4) (a) Each insurer shall maintain with the department a list of natural persons with~~
366 ~~authority to appoint and remove the company's producers, limited line producers, or managing~~
367 ~~general agents in this state on forms:]~~

368 [~~(i) supplied by the department; and]~~

369 ~~[(ii) signed by any officer of the insurer.]~~

370 ~~[(b) The insurer shall submit the list required under Subsection (4)(a) to the~~
 371 ~~commissioner pursuant to Subsection (1).]~~

372 ~~[(5)]~~ (4) If an insurer lists a licensee in ~~[reports]~~ a report submitted under Subsection
 373 (2), there is a rebuttable presumption that in placing a risk with the insurer the appointed
 374 licensee or any of the licensee's licensed employees acted on behalf of the insurer.

375 Section 6. Section **31A-23a-202** is amended to read:

376 **31A-23a-202. Continuing education requirements -- Regulatory authority.**

377 (1) The commissioner shall by rule prescribe the continuing education requirements for
 378 a producer and a consultant.

379 (2) (a) The commissioner may not state a continuing education requirement in terms of
 380 formal education.

381 (b) The commissioner may state a continuing education requirement in terms of
 382 classroom hours, or their equivalent, of insurance-related instruction received.

383 (c) Insurance-related formal education may be a substitute, in whole or in part, for
 384 classroom hours, or their equivalent, required under Subsection (2)(b).

385 (3) (a) The commissioner shall impose continuing education requirements in
 386 accordance with a two-year licensing period in which the licensee meets the requirements of
 387 this Subsection (3).

388 (b) (i) ~~§~~ **→ [The] Except as provided in Subsection (3)(b)(iii), the ← §** continuing
 388a education ~~[requirement]~~ requirements shall require:

389 ~~[(i) a minimum of 12 hours of continuing education;]~~

390 ~~[(ii) a maximum of 23 hours of continuing education;]~~

391 ~~[(iii) three hours of ethics continuing education; and]~~

392 ~~[(iv) for each line of authority authorized for a producer or consultant, not to exceed~~
 393 ~~four lines of authority:]~~

394 ~~[(A) five hours of continuing education;]~~

395 ~~[(B) passing a line of authority examination; or]~~

396 ~~[(C) a combination of Subsections (3)(b)(iv)(A) and (B).]~~

397 ~~[(c) (i) If a licensee completes the licensee's continuing education requirement without~~
 398 ~~taking a line of authority continuing education examination,]~~

399 (A) that a licensee complete 24 credit hours of continuing education for every two-year

400 licensing period;

401 (B) that three of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics
402 courses; and

403 (C) that the licensee [~~shall~~] complete at least half of the required hours through
404 classroom hours of insurance-related instruction.

405 (ii) The hours not completed through classroom hours in accordance with Subsection
406 [~~(2)(b)~~] (3)(b)(i)(C) may be obtained through:

407 (A) home study;

408 (B) video recording;

409 (C) experience credit; or

410 (D) other methods provided by rule.

410a **§→ (iii) Notwithstanding Subsection (3)(b)(i)(A) and (B), a title insurance producer is**
410b **required to complete 12 credit hours of continuing education for every two-year licensing**
410c **period, with three of the credit hours being ethics courses. ←§**

411 [~~(d)(i)~~] (c) A licensee may obtain continuing education hours at any time during the
412 two-year licensing period.

413 [~~(ii)~~] ~~The licensee may not take a line of authority continuing education examination~~
414 ~~more than 90 calendar days before the date on which the licensee's license is renewed.]~~

415 [~~(e)~~] ~~In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
416 ~~the commissioner shall adopt rules for the content and procedures for line of authority~~
417 ~~continuing education examinations].~~

418 [~~(f)~~] (d) (i) Beginning May 3, 1999, a licensee is exempt from continuing education
419 requirements under this section if:

420 [~~(A)~~] ~~as of April 1, 1990, the licensee has completed 20 years of licensure in good~~
421 ~~standing;]~~

422 (A) the licensee was first licensed before April 1, 1970;

423 (B) the licensee requests an exemption from the department; and

424 (C) the department approves the exemption.

425 (ii) If the department approves the exemption under Subsection (3)[~~(f)~~](d)(i), the
426 licensee is not required to apply again for the exemption.

427 [~~(g)~~] ~~A licensee with a variable contract line of authority is exempt from the~~
428 ~~requirement for continuing education for that line of authority so long as the:]~~

429 [~~(i)~~] ~~National Association of Securities Dealers requires continuing education for~~
430 ~~licensees having a securities license; and]~~

431 ~~[(ii) licensee complies with the National Association of Securities Dealers' continuing~~
432 ~~education requirements for securities licensees.]~~

433 ~~[(h)]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
434 Act, the commissioner shall, by rule:

435 (i) publish a list of insurance professional designations whose continuing education
436 requirements can be used to meet the requirements for continuing education under Subsection
437 (3)(b); and

438 (ii) authorize continuing education providers and professional producer or consultant
439 associations to:

440 (A) offer qualified programs for all license types and lines of authority on a
441 geographically accessible basis; and

442 (B) collect reasonable fees for funding and administration of the continuing education
443 program, subject to the review and approval of the commissioner.

444 (iii) The fees permitted under Subsection (3)~~[(h)]~~(e)(ii)(B) that are charged for
445 attendance at a professional producer or consultant association program may be less for an
446 association member, based on the member's affiliation expense, but shall preserve the right of a
447 nonmember to attend without affiliation.

448 (4) The commissioner shall approve continuing education providers and continuing
449 education courses which satisfy the requirements of this section.

450 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
451 commissioner shall by rule set the processes and procedures for continuing education provider
452 registration and course approval.

453 (6) The requirements of this section apply only to producers or consultants who are
454 natural persons.

455 (7) A nonresident producer or consultant is considered to have satisfied this state's
456 continuing education requirements if the nonresident producer or consultant satisfies the
457 nonresident producer's or consultant's home state's continuing education requirements for a
458 licensed insurance producer or consultant.

459 Section 7. Section **31A-26-206** is amended to read:

460 **31A-26-206. Continuing education requirements.**

461 (1) The commissioner shall by rule prescribe continuing education requirements for

462 each class of license under Section 31A-26-204.

463 (2) (a) The commissioner shall impose continuing education requirements in
464 accordance with a two-year licensing period in which the licensee meets the requirements of
465 this Subsection (2).

466 [~~(b) Except as provided in Subsection (2)(c), for a two-year licensing period described~~
467 ~~in Subsection (2)(a) the commissioner shall require that the licensee for each line of authority~~
468 ~~held by the licensee:]~~

469 [~~(i) receive five hours of continuing education; or]~~

470 [~~(ii) pass a line of authority continuing education examination:]~~

471 [~~(c) Notwithstanding Subsection (2)(b):]~~

472 [~~(i) the commissioner may not require continuing education for more than four lines of~~
473 ~~authority held by the licensee;]~~

474 [~~(ii) the commissioner shall require:]~~

475 [~~(A) a minimum of:]~~

476 [~~(I) 12 hours of continuing education;]~~

477 [~~(H) passage of two line of authority continuing education examinations; or]~~

478 [~~(HH) a combination of Subsection (2)(c)(ii)(A)(I) and (H);]~~

479 [~~(B) that the minimum continuing education requirement of Subsection (2)(c)(ii)(A)~~
480 ~~include:]~~

481 [~~(I) at least five hours or one line of authority continuing education examination for~~
482 ~~each line of authority held by the licensee not to exceed four lines of authority held by the~~
483 ~~licensee; and]~~

484 [~~(H) three hours of ethics training:]~~

485 [~~(d) (i) If a licensee completes the licensee's continuing education requirement without~~
486 ~~taking a line of authority continuing education examination,]~~

487 (b) (i) ~~§~~ → **[The] Except as provided in Subsection (2)(b)(iii), the** ← ~~§~~ continuing
487a education requirements shall require:

488 (A) that a licensee complete 24 credit hours of continuing education for every two-year
489 licensing period;

490 (B) that three of the 24 credit hours described in Subsection (2)(b)(i)(A) be ethics
491 courses; and

492 (C) that the licensee [shall] complete at least [1/2] half of the required hours through

493 classroom hours of insurance-related instruction.

494 (ii) The hours not completed through classroom hours in accordance with Subsection

495 (2)~~[(d)(i)]~~(b)(i)(C) may be obtained through:

496 (A) home study;

497 (B) video ~~[tape]~~ recording;

498 (C) experience credit; or

499 (D) other ~~[method]~~ methods provided by rule.

499a **§→ (iii) Notwithstanding Subsection (2)(b)(i)(A) and (B), a title insurance adjuster is required**
 499b **to complete 12 credit hours of continuing education for every two-year licensing period, with**
 499c **three of the credit hours being ethics courses. ←§**

500 ~~[(e)(i)]~~ (c) A licensee may obtain continuing education hours at any time during the
 501 two-year licensing period.

502 ~~[(ii) The licensee may not take a line of authority continuing education examination~~
 503 ~~more than 90 calendar days before the date on which the licensee's license is renewed.]~~

504 ~~[(f) The commissioner shall make rules for the content and procedures for line of~~
 505 ~~authority continuing education examinations.]~~

506 ~~[(g)]~~ (d) (i) Beginning May 3, 1999, a licensee is exempt from the continuing education
 507 requirements of this section if:

508 ~~[(A) as of April 1, 1990, the licensee has completed 20 years of licensure in good~~
 509 ~~standing;]~~

510 (A) the licensee was first licensed before April 1, 1970;

511 (B) the licensee requests an exemption from the department; and

512 (C) the department approves the exemption.

513 (ii) If the department approves the exemption under Subsection (2)~~[(g)]~~(d)(i), the
 514 licensee is not required to apply again for the exemption.

515 ~~[(h) A licensee with a variable annuity line of authority is exempt from the requirement~~
 516 ~~for continuing education for that line of authority so long as:]~~

517 ~~[(i) the National Association of Securities Dealers requires continuing education for~~
 518 ~~licensees having a securities license; and]~~

519 ~~[(ii) the licensee complies with the National Association of Securities Dealers'~~
 520 ~~continuing education requirements for securities licensees.]~~

521 ~~[(i) The]~~ (e) In accordance with Title 63, Chapter 46a, Utah Administrative
 522 Rulemaking Act, the commissioner shall by rule:

523 (i) publish a list of insurance professional designations whose continuing education

524 requirements can be used to meet the requirements for continuing education under Subsection
525 (2)(~~e~~)(b); and

526 (ii) authorize professional adjuster associations to:

527 (A) offer qualified programs for all classes of licenses on a geographically accessible
528 basis; and

529 (B) collect reasonable fees for funding and administration of the continuing education
530 programs, subject to the review and approval of the commissioner.

531 ~~(j)~~ (f) (i) The fees permitted under Subsection (2)(~~f~~)(e)(ii)(B) that are charged to
532 fund and administer a program shall reasonably relate to the costs of administering the
533 program.

534 (ii) Nothing in this section shall prohibit a provider of continuing education programs
535 or courses from charging fees for attendance at courses offered for continuing education credit.

536 (iii) The fees permitted under Subsection (2)(~~f~~)(e)(ii)(B) that are charged for
537 attendance at an association program may be less for an association member, based on the
538 member's affiliation expense, but shall preserve the right of a nonmember to attend without
539 affiliation.

540 (3) The requirements of this section apply only to licensees who are natural persons.

541 (4) The requirements of this section do not apply to members of the Utah State Bar.

542 (5) The commissioner shall designate courses that satisfy the requirements of this
543 section, including those presented by insurers.

544 (6) A nonresident adjuster is considered to have satisfied this state's continuing
545 education requirements if:

546 (a) the nonresident adjuster satisfies the nonresident producer's home state's continuing
547 education requirements for a licensed insurance adjuster; and

548 (b) on the same basis the nonresident adjuster's home state considers satisfaction of
549 Utah's continuing education requirements for a producer as satisfying the continuing education
550 requirements of the home state.

551 Section 8. Section **31A-35-504** is amended to read:

552 **31A-35-504. Failure to pay bail bond forfeiture - Grounds for suspension and**
553 **revocation of bail bond surety license.**

554 (1) As used in this section:

555 (a) "Company" means a bail bond surety company.

556 (b) "Judgment" means a judgment of bond forfeiture issued under Section 77-20b-104.

557 (2) (a) A company shall pay a judgment not later than 15 days following service of
558 notice upon the company from a prosecutor of the entry of the judgment.

559 (b) A prosecutor who does not receive proof of or notice of payment of the judgment
560 within 15 days after the service of notice to the company of a judgment shall notify the
561 commissioner of the failure to pay the judgment.

562 (c) If notice of entry of judgment is served upon the company by mail, three additional
563 days are added to the 15 days provided in Subsections (2)(a) ~~[and]~~, (2)(b), and (2)(d).

564 (d) A prosecutor ~~[shall]~~ may not proceed under Subsection (2)(b) if a company
565 provides notice of a motion to set aside judgment or notice of an application for an
566 extraordinary writ ~~[prior to the end of the payment period.]~~ filed within 15 days after the day on
567 which service of notice of the entry of a judgment is served.

568 (e) For purposes of this section, the filing of the following shall toll the time within
569 which a company is required to pay a judgment if the motion or application is filed within 15
570 days after the day on which service of notice of the entry of a judgment is served:

571 (i) a motion to set aside a judgment; or

572 (ii) an application for extraordinary writ.

573 (3) ~~[(a)]~~ The commissioner shall suspend the license of the company not later than five
574 days following receipt of notice from a prosecutor of the company's failure to pay the
575 judgment.

576 ~~[(b) The suspension shall be for 60 days and shall be in accordance with Section~~
577 ~~31A-35-502.]~~

578 (4) ~~[(a)]~~ If the prosecutor receives proof of or notice of payment of the judgment during
579 the suspension period under Subsection (3), the prosecutor shall immediately notify the
580 commissioner of the payment. The notice shall be in writing and by the most expeditious
581 means possible, ~~[which may be via]~~ including facsimile or ~~[any]~~ other electronic means[;
582 ~~followed by the prosecutor's mailing of the original written notification to the commissioner].~~

583 ~~[(b) The commissioner shall vacate any suspension of the company's license due solely~~
584 ~~to the failure to pay a judgment, which is then paid under Subsection (4)(a), not later than five~~
585 ~~days after the commissioner receives the original written notification from the prosecutor,~~

586 regardless of whether the prosecutor also sent the notification via facsimile or other electronic
587 means. However, any suspension under this Subsection (4) may not be for fewer than 14 days.]

588 [(c) The commissioner may not vacate any suspension under this section for fewer than
589 14 days after receiving notification under Subsection (2) of failure to pay a judgment, even if
590 the suspension for 14 days causes the total suspension of a company's license to extend beyond
591 60 days because the company had failed to pay a prior judgment and the commissioner had
592 suspended the company's license based on that prior failure to pay.]

593 (5) The commissioner [~~may not vacate~~] shall lift a suspension under Subsection (3) [if
594 at the time the commissioner receives notification under Subsection (4)(a) of payment of a
595 judgment: (a) at least one other unpaid judgment against the company exists;] within five days
596 of the day on which all of the following conditions are met:

597 (a) the suspension has been in place for no fewer than 14 days;

598 (b) the commissioner has received written notice [~~under Subsection (2) of the~~
599 ~~company's failure to pay that judgment~~] of payment of the unpaid forfeiture from the
600 prosecutor; and

601 (c) the commissioner has [~~not~~] received [~~notice under Subsection (4)(a) of the~~
602 ~~company's payment of that outstanding judgment.~~];

603 (i) no other notice of any unpaid forfeiture from a prosecutor; or

604 (ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that
605 the unpaid forfeiture has been paid.

606 (6) The commissioner shall commence an administrative proceeding [~~to~~] and revoke
607 the license of a company that fails to [~~pay a judgment of bond forfeiture before the expiration~~
608 ~~date of the suspension period~~] meet the conditions under Subsection (5) within 60 days
609 following the initial date of suspension.

610 (7) This section does not restrict or otherwise affect the rights of a prosecutor to
611 commence collection proceedings under Subsection 77-20b-104(5).

Legislative Review Note

as of 1-4-05 10:56 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0060

Producer Licensing Amendments

17-Jan-05

9:08 AM

State Impact

No fiscal impact.

Individual and Business Impact

Some individual producers could see an increase of \$60 annually to meet the additional required continuing education hours. Individual insurers should see a cost reduction of \$25 annually.

Office of the Legislative Fiscal Analyst