

1 **INSURANCE LICENSING AMENDMENTS**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: Thomas V. Hatch

---

---

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Insurance Code to address licensing.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the timing requirements for reporting to the commissioner that
- 13 administrative or criminal action has been taken against certain persons;
- 14 ▶ modifies the information a provider of viatical settlements is required to provide the
- 15 Insurance Department;
- 16 ▶ modifies requirements for a title insurance agency license;
- 17 ▶ amends provisions related to revocation, suspension, surrender, lapsing, or limiting
- 18 of licenses, license types, and classifications;
- 19 ▶ amends provisions related to probation;
- 20 ▶ provides for rulemaking;
- 21 ▶ enacts language addressing license lapse and voluntary surrender; and
- 22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 31A-23a-105, as last amended by Chapter 185, Laws of Utah 2005

30 31A-23a-111, as last amended by Chapter 219, Laws of Utah 2005

31 31A-23a-112, as last amended by Chapter 2, Laws of Utah 2004

32 31A-23a-113, as last amended by Chapter 219, Laws of Utah 2005

33 31A-23a-117, as enacted by Chapter 81, Laws of Utah 2003

34 31A-23a-204, as last amended by Chapters 124 and 185, Laws of Utah 2005

35 31A-25-203, as last amended by Chapter 116, Laws of Utah 2001

36 31A-25-208, as last amended by Chapter 116, Laws of Utah 2001

37 31A-25-209, as last amended by Chapter 161, Laws of Utah 1987

38 31A-26-203, as last amended by Chapter 185, Laws of Utah 2005

39 31A-26-213, as last amended by Chapter 308, Laws of Utah 2002

40 31A-26-214, as last amended by Chapter 185, Laws of Utah 1997

41 ENACTS:

42 31A-25-210, Utah Code Annotated 1953

43 31A-26-214.5, Utah Code Annotated 1953



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

46 Section 1. Section 31A-23a-105 is amended to read:

47 **31A-23a-105. General requirements for individual and agency license issuance**  
48 **and renewal.**

49 (1) The commissioner shall issue or renew a license to act as a producer, limited line  
50 producer, customer service representative, consultant, managing general agent, or reinsurance  
51 intermediary to any person who, as to the license type and line of authority classification  
52 applied for under Section 31A-23a-106:

53 (a) has satisfied the application requirements under Section 31A-23a-104;

54 (b) has satisfied the character requirements under Section 31A-23a-107;

55 (c) has satisfied any applicable continuing education requirements under Section  
56 31A-23a-202;

57 (d) has satisfied any applicable examination requirements under Section 31A-23a-108;

58 (e) has satisfied any applicable training period requirements under Section

- 59 31A-23a-203;
- 60 (f) if a nonresident:
- 61 (i) has complied with Section 31A-23a-109; and
- 62 (ii) holds an active similar license in that person's state of residence;
- 63 (g) if an applicant for a title insurance producer license, has satisfied the requirements
- 64 of Sections 31A-23a-203 and 31A-23a-204;
- 65 (h) if an applicant for a license to act as a provider or producer of viatical settlements,
- 66 has satisfied the requirements of Section 31A-23a-117; and
- 67 (i) has paid the applicable fees under Section 31A-3-103.
- 68 (2) (a) This Subsection (2) applies to the following persons:
- 69 (i) an applicant for a pending:
- 70 (A) individual or agency producer[;] license;
- 71 (B) limited line producer[;] license;
- 72 (C) customer service representative[;] license;
- 73 (D) consultant[;] license;
- 74 (E) managing general agent[;] license; or
- 75 (F) reinsurance intermediary license; or
- 76 (ii) a licensed:
- 77 (A) individual or agency producer[;];
- 78 (B) limited line producer[;];
- 79 (C) customer service representative[;];
- 80 (D) consultant[;];
- 81 (E) managing general agent[;]; or
- 82 (F) reinsurance intermediary.
- 83 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 84 (i) any administrative action taken against the person:
- 85 (A) in another jurisdiction; or
- 86 (B) by another regulatory agency in this state; and
- 87 (ii) any criminal prosecution taken against the person in any jurisdiction.
- 88 (c) The report required by Subsection (2)(b) shall:
- 89 (i) be filed:

90 (A) at the time the person files the application for an individual or agency license; ~~or~~  
91 and

92 (B) for an action or prosecution that occurs on or after the day on which the person  
93 files the application:

94 ~~[(B)]~~ (I) for an administrative action, within 30 days of the [initiation of an action or  
95 prosecution described in Subsection (2)(b); and] final disposition of the administrative action;  
96 or

97 (II) for a criminal prosecution, within 30 days of the initial pretrial hearing date; and

98 (ii) include a copy of the complaint or other relevant legal documents related to the  
99 action or prosecution described in Subsection (2)(b).

100 (3) (a) The department may request:

101 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
102 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

103 (ii) complete Federal Bureau of Investigation criminal background checks through the  
104 national criminal history system.

105 (b) Information obtained by the department from the review of criminal history records  
106 received under Subsection (3)(a) shall be used by the department for the purposes of:

107 (i) determining if a person satisfies the character requirements under Section  
108 31A-23a-107 for issuance or renewal of a license;

109 (ii) determining if a person has failed to maintain the character requirements under  
110 Section 31A-23a-107; and

111 (iii) preventing persons who violate the federal Violent Crime Control and Law  
112 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in the business of  
113 insurance in the state.

114 (c) If the department requests the criminal background information, the department  
115 shall:

116 (i) pay to the Department of Public Safety the costs incurred by the Department of  
117 Public Safety in providing the department criminal background information under Subsection  
118 (3)(a)(i);

119 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
120 of Investigation in providing the department criminal background information under

121 Subsection (3)(a)(ii); and

122 (iii) charge the person applying for a license or for renewal of a license a fee equal to  
123 the aggregate of Subsections (3)(c)(i) and (ii).

124 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this  
125 section, a person licensed [~~as an insurance producer, limited line producer, customer service~~  
126 ~~representative, consultant, managing general agent, or reinsurance intermediary~~] as one of the  
127 following in another state who moves to this state shall apply within 90 days of establishing  
128 legal residence in this state[-]:

129 (a) insurance producer;

130 (b) limited line producer;

131 (c) customer service representative;

132 (d) consultant;

133 (e) managing general agent; or

134 (f) reinsurance intermediary.

135 (5) Notwithstanding the other provisions of this section, the commissioner may:

136 (a) issue a license to an applicant for a license for a title insurance line of authority only  
137 with the concurrence of the Title and Escrow Commission; and

138 (b) renew a license for a title insurance line of authority only with the concurrence of  
139 the Title and Escrow Commission.

140 Section 2. Section **31A-23a-111** is amended to read:

141 **31A-23a-111. Revocation, suspension, surrender, lapsing, or limiting of license --**  
142 **Rulemaking for renewal or reinstatement.**

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

144 (a) revoked or suspended under Subsection (5);

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

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

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

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

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

152 (e) voluntarily surrendered.

153 (2) [~~A lapsed or voluntarily surrendered license~~] The following may be reinstated  
154 within one year after the day on which the license is inactivated[-]:

155 (a) a lapsed license; or

156 (b) a voluntarily surrendered license.

157 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a  
158 license, submission and acceptance of a voluntary surrender of a license does not prevent the  
159 department from pursuing additional disciplinary or other action authorized under:

160 (a) this title; or [im]

161 (b) rules [~~adopted~~] made under this title in accordance with Title 63, Chapter 46a, Utah  
162 Administrative Rulemaking Act.

163 (4) A line of authority issued under this chapter remains in force until:

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

165 or

166 (b) the supporting license type:

167 (i) is revoked or suspended under Subsection (5); or

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

170 (5) (a) If the commissioner makes a finding under Subsection (5)(b), after an  
171 adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, the  
172 commissioner may:

173 (i) revoke:

174 (A) a license; or

175 (B) a line of authority;

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

177 (A) a license; or

178 (B) a line of authority; or

179 (iii) limit in whole or in part:

180 (A) a license; or

181 (B) a line of authority.

182 (b) The commissioner may take an action described in Subsection (5)(a) if the

183 commissioner finds that the licensee:

184 (i) is unqualified for a license or line of authority under Sections 31A-23a-104 and  
185 31A-23a-105;

186 (ii) has violated:

187 (A) an insurance statute;

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

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

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

192 (iv) fails to pay any final judgment rendered against the person in this state within 60  
193 days after the day on which the judgment became final;

194 (v) fails to meet the same good faith obligations in claims settlement that is required of  
195 admitted insurers;

196 (vi) is affiliated with and under the same general management or interlocking  
197 directorate or ownership as another insurance producer that transacts business in this state  
198 without a license;

199 (vii) refuses:

200 (A) to be examined; or

201 (B) to produce its accounts, records, and files for examination;

202 (viii) has an officer who refuses to:

203 (A) give information with respect to the [~~administrator's~~] insurance producer's affairs;

204 or

205 (B) perform any other legal obligation as to an examination;

206 (ix) [~~provided~~] provides information in the license application that is:

207 (A) incorrect;

208 (B) misleading;

209 (C) incomplete; or

210 (D) materially untrue;

211 (x) has violated any insurance law, valid rule, or valid order of another state's insurance  
212 department;

213 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

- 214 (xii) has improperly withheld, misappropriated, or converted any monies or properties
- 215 received in the course of doing insurance business;
- 216 (xiii) has intentionally misrepresented the terms of an actual or proposed:
- 217 (A) insurance contract; or
- 218 (B) application for insurance;
- 219 (xiv) has been convicted of a felony;
- 220 (xv) has admitted or been found to have committed any insurance unfair trade practice
- 221 or fraud;
- 222 (xvi) in the conduct of business in this state or elsewhere has:
- 223 (A) used fraudulent, coercive, or dishonest practices; or
- 224 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 225 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in
- 226 any other state, province, district, or territory;
- 227 (xviii) has forged another's name to:
- 228 (A) an application for insurance; or
- 229 (B) [~~any~~] a document related to an insurance transaction;
- 230 (xix) has improperly used notes or any other reference material to complete an
- 231 examination for an insurance license;
- 232 (xx) has knowingly accepted insurance business from an individual who is not
- 233 licensed;
- 234 (xxi) has failed to comply with an administrative or court order imposing a child
- 235 support obligation;
- 236 (xxii) has failed to:
- 237 (A) pay state income tax; or
- 238 (B) comply with any administrative or court order directing payment of state income
- 239 tax;
- 240 (xxiii) has violated or permitted others to violate the federal Violent Crime Control and
- 241 Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or
- 242 (xxiv) has engaged in methods and practices in the conduct of business that endanger
- 243 the legitimate interests of customers and the public.
- 244 (c) For purposes of this section, if a license is held by an agency, both the agency itself



245 and any natural person named on the license are considered to be the holders of the license.

246 (d) If a natural person named on the agency license commits any act or fails to perform  
247 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the  
248 commissioner may suspend, revoke, or limit the license of:

249 (i) the natural person;

250 (ii) the agency, if the agency:

251 (A) is reckless or negligent in its supervision of the natural person; or

252 (B) knowingly participated in the act or failure to act that is the ground for suspending,  
253 revoking, or limiting the license; or

254 (iii) (A) the natural person; and

255 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

256 (6) A licensee under this chapter is subject to the penalties for acting as a licensee  
257 without a license if:

258 (a) the licensee's license is:

259 (i) revoked;

260 (ii) suspended;

261 (iii) limited;

262 (iv) surrendered in lieu of administrative action;

263 (v) lapsed; or

264 (vi) voluntarily surrendered; and

265 (b) the licensee:

266 (i) continues to act as a licensee; or

267 (ii) violates the terms of the license limitation.

268 (7) A licensee under this chapter shall immediately report to the commissioner:

269 (a) a revocation, suspension, or limitation of the person's license in any other state,  
270 District of Columbia, or territory of the United States;

271 (b) the imposition of a disciplinary sanction imposed on that person by any other state,  
272 District of Columbia, or territory of the United States; [~~and~~] or

273 (c) a judgment or injunction entered against that person on the basis of conduct  
274 involving:

275 (i) fraud;

- 276 (ii) deceit;  
277 (iii) misrepresentation; or  
278 (iv) a violation of an insurance law or rule.

279 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a  
280 license in lieu of administrative action may specify a time, not to exceed five years, within  
281 which the former licensee may not apply for a new license.

282 (b) If no time is specified in ~~[an] the order [revoking a license under] or agreement~~  
283 ~~described in Subsection [(5) or an agreement to surrender a license in lieu of administrative~~  
284 ~~action]~~ (8)(a), the former licensee may not apply for a new license for five years from the day  
285 on which the order or agreement is made without the express approval by the commissioner.

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

288 (10) The commissioner shall by rule prescribe the license renewal and reinstatement  
289 procedures in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

290 Section 3. Section **31A-23a-112** is amended to read:

291 **31A-23a-112. Probation -- Grounds for revocation.**

292 (1) The commissioner may place a licensee on probation for a period not to exceed 24  
293 months as follows:

294 (a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative  
295 Procedures Act, for any circumstances that would justify a suspension under Section  
296 31A-23a-111; or

297 (b) at the issuance of a new license:

298 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or

299 (ii) with a response to background information questions on ~~[any]~~ a new license  
300 application indicating that:

301 (A) the person has been convicted of a crime, that is listed by rule made in accordance  
302 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is grounds for  
303 probation;

304 (B) the person is currently charged with a crime, that is listed by rule made in  
305 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is  
306 grounds for probation regardless of whether adjudication ~~[was]~~ is withheld;

307 (C) the person has been involved in an administrative proceeding regarding any  
308 professional or occupational license; or

309 (D) any business in which the person is or was an owner, partner, officer, or director  
310 has been involved in an administrative proceeding regarding any professional or occupational  
311 license.

312 (2) The commissioner may ~~put~~ place a ~~new~~ licensee on probation for a specified  
313 period no longer than ~~12~~ 24 months if the licensee has admitted to ~~violations~~ a violation  
314 under 18 U.S.C. Sections 1033 and 1034.

315 (3) The probation order shall state the conditions for retention of the license, which  
316 shall be reasonable.

317 (4) Any violation of the probation is grounds for revocation pursuant to any proceeding  
318 authorized under Title 63, Chapter 46b, Administrative Procedures Act.

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

320 **31A-23a-113. License lapse and voluntary surrender.**

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

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

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

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

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

328 (v) ~~to~~ maintain an active license in a resident state if the licensee is a nonresident  
329 licensee.

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

332 (A) military service;

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

335 (C) some other extenuating circumstances such as long-term medical disability.

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

337 (A) reinstatement of the license; and

338 (B) waiver of any of the following imposed for failure to comply with renewal  
339 procedures:

340 (I) an examination requirement;

341 (II) reinstatement fees set under Section 31A-3-103;

342 (III) continuing education requirements; or

343 (IV) other sanction imposed for failure to comply with renewal procedures.

344 (2) If a license type or line of authority issued under this chapter is voluntarily  
345 surrendered, the license or line of authority may be reinstated within one year after the day on  
346 which the license or line of authority is inactivated.

347 [~~(3) The commissioner shall by rule prescribe the license renewal and reinstatement  
348 procedures, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.~~]

349 Section 5. Section **31A-23a-117** is amended to read:

350 **31A-23a-117. Special requirements for providers and producers of viatical  
351 settlements.**

352 (1) [~~Providers and producers~~] A provider or producer of viatical settlements shall be  
353 licensed in accordance with this title, with the additional requirements listed in this section.

354 (2) [~~Providers~~] A provider of viatical settlements shall provide to the commissioner:

355 (a) [~~provide~~] a detailed plan of operation with [~~their~~] the provider's:

356 (i) initial license application; and [~~with each~~]

357 (ii) renewal application;

358 (b) [~~if a legal entity, provide a certificate of good standing from the state of its  
359 domicile~~] a copy of the provider's most current audited financial statement; and

360 (c) [~~provide~~] an antifraud plan that meets the requirements of Section 31A-36-117.

361 (3) [~~Providers and producers~~] A provider or producer of viatical settlements shall  
362 provide with [~~their~~] the provider's or producer's initial license application information  
363 describing [~~their~~] the provider's or producer's viatical settlement experience, training, and  
364 education.

365 (4) A provider or producer of viatical settlements shall provide to the commissioner,  
366 within 30 days after a change occurs, new or revised information concerning any of the  
367 following:

368 (a) officers;

- 369 (b) holders of more than 10% of its stock;  
 370 (c) partners;  
 371 (d) directors;  
 372 (e) members; and  
 373 (f) designated employees.

374 Section 6. Section **31A-23a-204** is amended to read:

375 **31A-23a-204. Special requirements for title insurance producers.**

376 Title insurance producers shall be licensed in accordance with this chapter, with the  
 377 additional requirements listed in this section.

378 (1) (a) A person that receives a new license under this title on or after July 1, 2007 as a  
 379 title insurance agency, shall at the time of licensure be owned or managed by one or more  
 380 natural persons who are licensed with the following lines of authority for at least ~~H→~~ [F] **three** [F]  
 380a **[18 months]** ~~←H~~ of the  
 381 ~~H→~~ [F] **five** [F] **[3]** ~~←H~~ years immediately proceeding the date on which the title insurance  
 381a1 agency applies  
 381a for a  
 382 license:

383 (i) both a:

384 (A) search line of authority; and

385 (B) escrow line of authority; or

386 (ii) a search and escrow line of authority.

387 (b) A title insurance agency subject to Subsection (1)(a) may comply with Subsection  
 388 (1)(a) by having the title insurance agency owned or managed by:

389 (i) one or more natural persons who are licensed with the search line of authority for  
 390 the time period provided in Subsection (1)(a); and

391 (ii) one or more natural persons who are licensed with the escrow line of authority for  
 392 the time period provided in Subsection (1)(a).

392a ~~H→~~ **(c) The Title and Escrow Commission may by rule made in accordance with**  
 392b **Title63, Chapter 46a, Utah Administrative Rulemaking Act, exempt an attorney with real**  
 392c **estate experience from the experience requirements in Subsection (1)(a).** ~~←H~~

393 ~~[H]~~ (2) (a) Every title insurance agency or producer appointed by an insurer shall  
 394 maintain:

395 (i) a fidelity bond;

396 (ii) a professional liability insurance policy; or

397 (iii) a financial protection:

398 (A) equivalent to that described in Subsection ~~[H]~~ (2)(a)(i) or (ii); and

399 (B) that the commissioner considers adequate.

- 400 (b) The bond or insurance required by this Subsection [~~(1)~~] (2):
- 401 (i) shall be supplied under a contract approved by the commissioner to provide
- 402 protection against the improper performance of any service in conjunction with the issuance of
- 403 a contract or policy of title insurance; and
- 404 (ii) be in a face amount no less than \$50,000.
- 405 (c) The Title and Escrow Commission may by rule made in accordance with Title 63,
- 406 Chapter 46a, Utah Administrative Rulemaking Act, exempt title insurance producers from the
- 407 requirements of this Subsection [~~(1)~~] (2) upon a finding that, and only so long as, the required
- 408 policy or bond is generally unavailable at reasonable rates.
- 409 [~~(2)~~] (3) (a) (i) Every title insurance agency or producer appointed by an insurer shall
- 410 maintain a reserve fund.
- 411 (ii) The reserve fund required by this Subsection [~~(2)~~] (3) shall be:
- 412 (A) (I) composed of assets approved by the commissioner and the Title and Escrow
- 413 Commission;
- 414 (II) maintained as a separate trust account; and
- 415 (III) charged as a reserve liability of the title insurance producer in determining the
- 416 producer's financial condition; and
- 417 (B) accumulated by segregating 1% of all gross income received from the title
- 418 insurance business.
- 419 (iii) The reserve fund shall contain the accumulated assets for the immediately
- 420 preceding ten years as defined in Subsection [~~(2)~~] (3)(a)(ii).
- 421 (iv) That portion of the assets held in the reserve fund over ten years may be:
- 422 (A) withdrawn from the reserve fund; and
- 423 (B) restored to the income of the title insurance producer.
- 424 (v) The title insurance producer may withdraw interest from the reserve fund related to
- 425 the principal amount as it accrues.
- 426 (b) (i) A disbursement may not be made from the reserve fund except as provided in
- 427 Subsection [~~(2)~~] (3)(a) unless the title insurance producer ceases doing business as a result of:
- 428 (A) sale of assets;
- 429 (B) merger of the producer with another producer;
- 430 (C) termination of the producer's license;

431 (D) insolvency; or

432 (E) any cessation of business by the producer.

433 (ii) Any disbursements from the reserve fund may be made only to settle claims arising  
434 from the improper performance of the title insurance producer in providing services defined in  
435 Section 31A-23a-406.

436 (iii) The commissioner shall be notified ten days before any disbursements from the  
437 reserve fund.

438 (iv) The notice required by this Subsection [~~(2)~~] (3)(b) shall contain:

439 (A) the amount of claim;

440 (B) the nature of the claim; and

441 (C) the name of the payee.

442 (c) (i) The reserve fund shall be maintained by the title insurance producer or the title  
443 insurance producer's representative for a period of two years after the title insurance producer  
444 ceases doing business.

445 (ii) Any assets remaining in the reserve fund at the end of the two years specified in  
446 Subsection [~~(2)~~] (3)(c)(i) may be withdrawn and restored to the former title insurance producer.

447 [~~(3)~~] (4) Any examination for licensure shall include questions regarding the search  
448 and examination of title to real property.

449 [~~(4)~~] (5) A title insurance producer may not perform the functions of escrow unless the  
450 title insurance producer has been examined on the fiduciary duties and procedures involved in  
451 those functions.

452 [~~(5)~~] (6) The Title and Escrow Commission shall adopt rules, in accordance with Title  
453 63, Chapter 46a, Utah Administrative Rulemaking Act, after consulting with the department  
454 and the department's test administrator, establishing an examination for a license that will  
455 satisfy this section.

456 [~~(6)~~] (7) A license may be issued to a title insurance producer who has qualified:

457 (a) to perform only searches and examinations of title as specified in Subsection [~~(3)~~]  
458 (4);

459 (b) to handle only escrow arrangements as specified in Subsection [~~(4)~~] (5); or

460 (c) to act as a title marketing representative.

461 [~~(7)~~] (8) ~~§~~ → (a) ← ~~§~~ A person licensed to practice law in Utah is exempt from the  
461a requirements of

462 Subsections ~~[(1) and]~~ (2) and (3) if that person issues 12 or less policies in any 12-month  
 463 period.

463a **§→ (b) In determining the number of policies issued by a person licensed to practice law in**  
 463b **Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a**  
 463c **policy to more than one party to the same closing, the person is considered to have issued only**  
 463d **one policy. ←§**

464 ~~[(8)]~~ (9) A person licensed to practice law in Utah, whether exempt under Subsection  
 465 ~~[(7)]~~ (8) or not, shall maintain a trust account separate from a law firm trust account for all title  
 466 and real estate escrow transactions.

467 Section 7. Section **31A-25-203** is amended to read:

468 **31A-25-203. General requirements for license issuance.**

469 (1) The commissioner shall issue a license to act as a third party administrator to any  
 470 person who has:

- 471 (a) satisfied the character requirements under Section 31A-25-204;
- 472 (b) satisfied the financial responsibility requirement under Section 31A-25-205;
- 473 (c) if a nonresident, complied with Section 31A-25-206; and
- 474 (d) paid the applicable fees under Section 31A-3-103.

475 (2) The license of each third party administrator licensed under former Title 31,  
 476 Chapter 15a, is continued under this chapter.

477 (3) (a) This Subsection (3) applies to the following persons:

- 478 (i) an applicant for a third party administrator's license; or
- 479 (ii) a licensed third party administrator.

480 (b) A person described in Subsection (3)(a) shall report to the commissioner:

481 (i) any administrative action taken against the person:

- 482 (A) in another jurisdiction; or
- 483 (B) by another regulatory agency in this state; and

484 (ii) any criminal prosecution taken against the person in any jurisdiction.

485 (c) The report required by Subsection (3)(b) shall:

486 (i) be filed:

487 (A) at the time the person applies for a third party administrator's license; ~~[or]~~ and

488 (B) for an action or prosecution that occurs on or after the day on which the person

489 applies for a third party administrator license;

490 ~~[(B)]~~ (I) for an administrative action, within 30 days of the [initiation of an action or  
 491 prosecution described in Subsection (3)(b); and] final disposition of the administrative action;

492 or



493 (II) for a criminal prosecution, within 30 days of the initial pretrial hearing; and  
494 (ii) include a copy of the complaint or other relevant legal documents related to the  
495 action or prosecution described in Subsection (3)(b).

496 (4) (a) The department may request concerning a person applying for a third party  
497 administrator's license:

498 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
499 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

500 (ii) complete Federal Bureau of Investigation criminal background checks through the  
501 national criminal history system.

502 (b) Information obtained by the department from the review of criminal history records  
503 received under Subsection (4)(a) shall be used by the department for the purposes of:

504 (i) determining if a person satisfies the character requirements under Section  
505 31A-25-204 for issuance or renewal of a license;

506 (ii) determining if a person has failed to maintain the character requirements under  
507 Section 31A-25-204; and

508 (iii) preventing persons who violate the federal Violent Crime Control and Law  
509 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in the business of  
510 insurance in the state.

511 (c) If the department requests the criminal background information, the department  
512 shall:

513 (i) pay to the Department of Public Safety the costs incurred by the Department of  
514 Public Safety in providing the department criminal background information under Subsection  
515 (4)(a)(i);

516 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
517 of Investigation in providing the department criminal background information under  
518 Subsection (4)(a)(ii); and

519 (iii) charge the person applying for a license or for renewal of a license a fee equal to  
520 the aggregate of Subsections (4)(c)(i) and (ii).

521 Section 8. Section **31A-25-208** is amended to read:

522 **31A-25-208. Revocation, suspension, surrender, lapsing, or limiting of license --**  
523 **Rulemaking for renewal and reinstatement.**

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

525 (a) ~~revoked[;] or suspended[; or limited]~~ under Subsection ~~[(2)]~~ (4);

526 ~~[(b)]~~ ~~lapsed under Subsection (3);~~

527 ~~[(c)]~~ (b) surrendered to the commissioner and accepted by the commissioner in lieu of

528 administrative action; [or]

529 ~~[(d)]~~ (c) the licensee dies or is adjudicated incompetent as defined under:

530 (i) Title 75, Chapter 5, Part 3 ~~[or 4]~~, Guardians of Incapacitated Persons; or

531 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and

532 Minors;

533 (d) lapsed under Section 31A-25-210; or

534 (e) voluntarily surrendered.

535 (2) The following may be reinstated within one year after the day on which the license

536 is inactivated:

537 (a) a lapsed license; or

538 (b) a voluntarily surrendered license.

539 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a

540 license, submission and acceptance of a voluntary surrender of a license does not prevent the

541 department from pursuing additional disciplinary or other action authorized under:

542 (a) this title; or

543 (b) rules made under this title in accordance with Title 63, Chapter 46a, Utah

544 Administrative Rulemaking Act.

545 ~~[(2) After]~~ (4) (a) If the commissioner makes a finding under Subsection (4)(b), after

546 an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, the

547 commissioner may:

548 (i) revoke[;] a license;

549 (ii) suspend a license for a specified period of 12 months or less[;]; or

550 (iii) limit a license in whole or in part [the license of any administrator, found to:];

551 (b) The commissioner may take an action described in Subsection (4)(a) if the

552 commissioner finds that the licensee:

553 ~~[(a) be]~~ (i) is unqualified for a license under [Section] Sections 31A-25-202 and

554 31A-25-203;

555           ~~[(b) have]~~ (ii) has violated;

556           (A) an insurance statute~~[-valid];~~

557           (B) a rule that is valid under Subsection 31A-2-201(3)~~;~~; or ~~[a valid]~~

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

559           ~~[(c) be]~~ (iii) is insolvent~~;~~ or the subject of receivership, conservatorship,

560 rehabilitation, or other delinquency proceedings in any state;

561           ~~[(d) have failed]~~ (iv) fails to pay any final judgment rendered against ~~[it]~~ the person in

562 this state within 60 days after the day on which the judgment became final;

563           ~~[(e) have failed]~~ (v) fails to meet the same good faith obligations in claims settlement

564 ~~[as]~~ is required of admitted insurers;

565           ~~[(f) be]~~ (vi) is affiliated with and under the same general management or interlocking

566 directorate or ownership as another third party administrator ~~[which]~~ that transacts business in

567 this state without a license;

568           ~~[(g) have refused]~~ (vii) refuses:

569           (A) to be examined; or

570           (B) to produce its accounts, records, and files for examination~~[-or have officers who~~

571 ~~have refused];~~

572           (viii) has an officer who refuses to:

573           (A) give information with respect to the third party administrator's affairs; or ~~[to]~~

574           (B) perform any other legal obligation as to an examination;

575           ~~[(h) (ix) [have provided incorrect, misleading, incomplete, or materially untrue]~~

576 provides information in the license application~~;~~ that is:

577           (A) incorrect;

578           (B) misleading;

579           (C) incomplete; or

580           (D) materially untrue;

581           ~~[(i) have]~~ (x) has violated an insurance law, valid rule, or valid order of another state's

582 insurance department;

583           ~~[(j) have]~~ (xi) has obtained or attempted to obtain a license through misrepresentation

584 or fraud;

585           ~~[(k) have]~~ (xii) has improperly withheld, misappropriated, or converted any monies or

586 properties received in the course of doing insurance business;

587 ~~[(t) have]~~ (xiii) has intentionally misrepresented the terms of an actual or proposed;

588 (A) insurance contract; or

589 (B) application for insurance;

590 ~~[(m) have]~~ (xiv) has been convicted of a felony;

591 ~~[(n) have]~~ (xv) has admitted or been found to have committed any insurance unfair

592 trade practice or fraud;

593 ~~[(o) have]~~ (xvi) in the conduct of business in this state or elsewhere has:

594 (A) used fraudulent, coercive, or dishonest practices ~~[in this state or elsewhere];~~ or

595 ~~[(p) have]~~ (B) demonstrated incompetence, untrustworthiness, or financial

596 irresponsibility ~~[in the conduct of business in this state or elsewhere];~~

597 ~~[(q) have]~~ (xvii) has had an insurance license or its equivalent, denied, suspended, or

598 revoked in any other state, province, district, or territory;

599 ~~[(r) have]~~ (xviii) has forged another's name to:

600 ~~[(i)]~~ (A) an application for insurance; or

601 ~~[(ii)]~~ (B) a document related to an insurance transaction;

602 ~~[(s) have]~~ (xix) has improperly used notes or any other reference material to complete

603 an examination for an insurance license;

604 ~~[(t) have]~~ (xx) has knowingly accepted insurance business from an individual who is

605 not licensed;

606 ~~[(u) have]~~ (xxi) has failed to comply with an administrative or court order imposing a

607 child support obligation;

608 ~~[(v) have]~~ (xxii) has failed to:

609 ~~[(i)]~~ (A) pay state income tax; or

610 ~~[(ii)]~~ (B) comply with any administrative or court order directing payment of state

611 income tax;

612 ~~[(w) have]~~ (xxiii) has violated or permitted others to violate the federal Violent Crime

613 Control and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or

614 ~~[(x) have]~~ (xxiv) has engaged in methods and practices in the conduct of business that

615 endanger the legitimate interests of customers and the public.

616 ~~[(3) (a) Any license issued under this chapter lapses if the licensee fails to:]~~

617 ~~[(i) pay the fee due under Section 31A-3-103; or]~~

618 ~~[(ii) produce, when due, evidence of compliance with the financial responsibility~~  
619 ~~requirement under Section 31A-25-205.]~~

620 ~~[(b) Subject to Subsection (3)(c), a license that has lapsed under this Subsection (3)~~  
621 ~~may be reinstated if the licensee cures the deficiency or deficiencies that brought about the~~  
622 ~~license lapse within 90 days after the date the license lapsed.]~~

623 ~~[(c) The licensee shall pay twice the applicable license renewal fee if the cause of the~~  
624 ~~license lapse was failure to pay the usual renewal fee.]~~

625 ~~[(4) Notwithstanding Subsection (3), a licensee whose license lapses due to military~~  
626 ~~service or some other extenuating circumstance such as a long-term medical disability may~~  
627 ~~request:]~~

628 ~~[(a) reinstatement; and]~~

629 ~~[(b) a waiver of any of the following imposed for failure to comply with renewal~~  
630 ~~procedures:]~~

631 ~~[(i) an examination requirement;]~~

632 ~~[(ii) a fine; or]~~

633 ~~[(iii) other sanction:]~~

634 ~~[(5) The commissioner shall by rule prescribe the license renewal and reinstatement~~  
635 ~~procedures, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

636 ~~[(6) A licensee under this chapter whose license is suspended, revoked, or lapsed, but~~  
637 ~~who continues to act as a licensee, is subject to the penalties for acting as an administrator~~  
638 ~~without a license.]~~

639 (c) For purposes of this section, if a license is held by an agency, both the agency itself  
640 and any natural person named on the license are considered to be the holders of the license.

641 (d) If a natural person named on the agency license commits any act or fails to perform  
642 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the  
643 commissioner may suspend, revoke, or limit the license of:

644 (i) the natural person;

645 (ii) the agency if the agency:

646 (A) is reckless or negligent in its supervision of the natural person; or

647 (B) knowingly participated in the act or failure to act that is the ground for suspending,

648 revoking, or limiting the license; or  
649 (iii) (A) the natural person; and  
650 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).  
651 (5) A licensee under this chapter is subject to the penalties for acting as a licensee  
652 without a license if:  
653 (a) the licensee's license is:  
654 (i) revoked;  
655 (ii) suspended;  
656 (iii) limited;  
657 (iv) surrendered in lieu of administrative action;  
658 (v) lapsed; or  
659 (vi) voluntarily surrendered; and  
660 (b) the licensee:  
661 (i) continues to act as a licensee; or  
662 (ii) violates the terms of the license limitation.  
663 (6) A licensee under this chapter shall immediately report to the commissioner:  
664 (a) a revocation, suspension, or limitation of the person's license in any other state, the  
665 District of Columbia, or a territory of the United States;  
666 (b) the imposition of a disciplinary sanction imposed on that person by any other state,  
667 the District of Columbia, or a territory of the United States; or  
668 (c) a judgment or injunction entered against the person on the basis of conduct  
669 involving:  
670 (i) fraud;  
671 (ii) deceit;  
672 (iii) misrepresentation; or  
673 (iv) a violation of an insurance law or rule.  
674 (7) (a) An order revoking a license under Subsection [~~(2)~~] (4) or an agreement to  
675 surrender a license in lieu of administrative action may specify a time, not to exceed five years,  
676 within which the former licensee may not apply for a new license.  
677 (b) If no time is specified in the order or agreement described in Subsection (7)(a), the  
678 former licensee may not apply for a new license for five years from the day on which the order

679 or agreement is made without the express approval of the commissioner.

680 ~~[(8) Any person whose license is suspended or revoked under Subsection (2) shall,~~  
 681 ~~when the suspension ends or a new license is issued, pay all the fees that would have been~~  
 682 ~~payable if the license had not been suspended or revoked, unless the commissioner by order~~  
 683 ~~waives the payment of the interim fees. If a new license is issued more than three years after~~  
 684 ~~the revocation of a similar license, this subsection applies only to the fees that would have~~  
 685 ~~accrued during the three years immediately following the revocation.]~~

686 ~~[(9)]~~ (8) ~~[If ordered by a court, the]~~ The commissioner shall promptly withhold,  
 687 suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the  
 688 court.

689 (9) The commissioner shall by rule prescribe the license renewal and reinstatement  
 690 procedures in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

691 Section 9. Section **31A-25-209** is amended to read:

692 **31A-25-209. Probation -- Grounds for revocation.**

693 (1) ~~[H]~~ The commissioner may place a licensee on probation for a period not to exceed  
 694 24 months as follows:

695 (a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative  
 696 Procedures Act, for any circumstances that would justify a suspension under Section  
 697 31A-25-208[; the commissioner may instead, after a formal adjudicative proceeding, put the  
 698 licensee on probation for a specified period no longer than 12 months.]; or

699 (b) at the issuance of a new license:

700 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or

701 (ii) with a response to a background information question on a new license application  
 702 indicating that:

703 (A) the person has been convicted of a crime that is listed by rule made in accordance  
 704 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is grounds for  
 705 probation;

706 (B) the person is currently charged with a crime that is listed by rule made in  
 707 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is  
 708 grounds for probation regardless of whether adjudication is withheld;

709 (C) the person has been involved in an administrative proceeding regarding any

710 professional or occupational license; or

711 (D) any business in which the person is or was an owner, partner, officer, or director  
712 has been involved in an administrative proceeding regarding any professional or occupational  
713 license.

714 (2) The commissioner may place a licensee on probation for a specified period no  
715 longer than 24 months if the licensee has admitted to a violation under 18 U.S.C. Sections 1033  
716 and 1034.

717 ~~[(2) The]~~ (3) A probation order under this section shall state the conditions for  
718 retention of the license, which shall be reasonable.

719 ~~[(3) Violation]~~ (4) A violation of the probation [constitutes] is grounds for  
720 [immediate] revocation [without a formal adjudicative proceeding, unless one is requested]  
721 pursuant to any proceeding authorized under Title 63, Chapter 46b, Administrative Procedures  
722 Act.

723 Section 10. Section **31A-25-210** is enacted to read:

724 **31A-25-210. License lapse and voluntary surrender.**

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

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

727 (ii) submit a completed renewal application as required by Section 31A-25-202;

728 (iii) produce, when due, evidence of compliance with the financial responsibility  
729 requirement under Section 31A-25-205; or

730 (iv) maintain an active license in a resident state if the licensee is a nonresident  
731 licensee.

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

734 (A) military service;

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

737 (C) some other extenuating circumstances such as long-term medical disability.

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

739 (A) reinstatement of the license; and

740 (B) waiver of any of the following imposed for failure to comply with renewal



741 procedures:

742 (I) an examination requirement;

743 (II) reinstatement fees set under Section 31A-3-103; or

744 (III) other sanction imposed for failure to comply with renewal procedures.

745 (2) If a license issued under this chapter is voluntarily surrendered, the license may be  
746 reinstated within one year after the day on which the license is inactivated.

747 Section 11. Section **31A-26-203** is amended to read:

748 **31A-26-203. Adjuster's license required.**

749 (1) The commissioner shall issue a license to act as an independent adjuster or public  
750 adjuster to any person who, as to the license classification applied for under Section  
751 31A-26-204, has:

752 (a) satisfied the character requirements under Section 31A-26-205;

753 (b) satisfied the applicable continuing education requirements under Section

754 31A-26-206;

755 (c) satisfied the applicable examination requirements under Section 31A-26-207;

756 (d) if a nonresident, complied with Section 31A-26-208; and

757 (e) paid the applicable fees under Section 31A-3-103.

758 (2) (a) This Subsection (2) applies to the following persons:

759 (i) an applicant for:

760 (A) an independent adjuster's license; or

761 (B) a public adjuster's license;

762 (ii) a licensed independent adjuster; or

763 (iii) a licensed public adjuster.

764 (b) A person described in Subsection (2)(a) shall report to the commissioner:

765 (i) any administrative action taken against the person:

766 (A) in another jurisdiction; or

767 (B) by another regulatory agency in this state; and

768 (ii) any criminal prosecution taken against the person in any jurisdiction.

769 (c) The report required by Subsection (2)(b) shall:

770 (i) be filed:

771 (A) at the time the person applies for [~~a third party administrator's~~] an adjuster's

772 license; ~~or~~ and

773 (B) for an action or prosecution that occurs on or after the day on which the person  
774 applies for an adjustor's license:

775 ~~[(B)] (I) for an administrative action, within 30 days of the [initiation of an action or~~  
776 ~~prosecution described in Subsection (2)(b); and] final disposition of the administrative action;~~  
777 or

778 (II) for a criminal prosecution, within 30 days of the initial pretrial hearing date; and  
779 (ii) include a copy of the complaint or other relevant legal documents related to the  
780 action or prosecution described in Subsection (2)(b).

781 (3) (a) The department may request concerning a person applying for an independent or  
782 public adjuster's license:

783 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
784 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

785 (ii) complete Federal Bureau of Investigation criminal background checks through the  
786 national criminal history system.

787 (b) Information obtained by the department from the review of criminal history records  
788 received under Subsection (3)(a) shall be used by the department for the purposes of:

789 (i) determining if a person satisfies the character requirements under Section  
790 31A-26-205 for issuance or renewal of a license;

791 (ii) determining if a person has failed to maintain the character requirements under  
792 Section 31A-25-204; and

793 (iii) preventing persons who violate the federal Violent Crime Control and Law  
794 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in the business of  
795 insurance in the state.

796 (c) If the department requests the criminal background information, the department  
797 shall:

798 (i) pay to the Department of Public Safety the costs incurred by the Department of  
799 Public Safety in providing the department criminal background information under Subsection  
800 (3)(a)(i);

801 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
802 of Investigation in providing the department criminal background information under

803 Subsection (3)(a)(ii); and

804 (iii) charge the person applying for a license or for renewal of a license a fee equal to  
805 the aggregate of Subsections (3)(c)(i) and (ii).

806 (4) Notwithstanding the other provisions of this section, the commissioner may:

807 (a) issue a license to an applicant for a license for a title insurance classification only  
808 with the concurrence of the Title and Escrow Commission; or

809 (b) renew a license for a title insurance classification only with the concurrence of the  
810 Title and Escrow Commission.

811 Section 12. Section **31A-26-213** is amended to read:

812 **31A-26-213. Revocation, suspension, surrender, lapsing, or limiting of license --**  
813 **Rulemaking for renewal or reinstatement.**

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

815 (a) revoked ~~;~~ or suspended ~~[, or limited]~~ under Subsection ~~[(2)]~~ (5);

816 ~~[(b) lapsed under Subsection (3);]~~

817 ~~[(c)]~~ (b) surrendered to the commissioner and accepted by the commissioner in lieu of  
818 administrative action; ~~[or]~~

819 ~~[(d)]~~ (c) the licensee dies or is adjudicated incompetent as defined under:

820 (i) Title 75, Chapter 5, Part 3 ~~[or 4]~~, Guardians of Incapacitated Persons; or

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

823 (d) lapsed under Section 31A-26-214.5; or

824 (e) voluntarily surrendered.

825 (2) The following may be reinstated within one year after the day on which the license  
826 is inactivated:

827 (a) a lapsed license; or

828 (b) a voluntarily surrendered license.

829 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a  
830 license, submission and acceptance of a voluntary surrender of a license does not prevent the  
831 department from pursuing additional disciplinary or other action authorized under:

832 (a) this title; or

833 (b) rules made under this title in accordance with Title 63, Chapter 46a, Utah

834 Administrative Rulemaking Act.

835 (4) A license classification issued under this chapter remains in force until:

836 (a) the qualifications pertaining to a license classification are no longer met by the  
837 licensee; or

838 (b) the supporting license type:

839 (i) is revoked or suspended under Subsection (5); or

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

842 ~~[(2)(a) After]~~ (5) (a) If the commissioner makes a finding under Subsection (5)(b)  
843 after an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act,  
844 ~~[if the commissioner makes a finding described in Subsection (2)(b);]~~ the commissioner may:

845 (i) revoke;

846 (A) a license [of an adjustor]; or

847 (B) a license classification;

848 (ii) suspend [a license of an adjustor] for a specified period of 12 months or less[; or];

849 (A) a license; or

850 (B) a license classification; or

851 (iii) limit in whole or in part [the license of any adjuster.];

852 (A) a license; or

853 (B) a license classification.

854 (b) The commissioner may take an action described in Subsection ~~[(2)]~~ (5)(a) if the  
855 commissioner finds that the [adjustor] licensee:

856 (i) is unqualified for a license or license classification under [Section] Sections  
857 31A-26-202, 31A-26-203, and 31A-26-204;

858 (ii) has violated:

859 (A) an insurance statute;

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

861 (C) [a valid] an order that is valid under Subsection 31A-2-201(4);

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

864 (iv) ~~[has failed]~~ fails to pay any final judgment rendered against the [adjustor] person

865 in this state within 60 days after the judgment became final;

866 (v) ~~[has failed]~~ fails to meet the same good faith obligations in claims settlement [as]

867 that is required of admitted insurers;

868 (vi) is affiliated with and under the same general management or interlocking

869 directorate or ownership as another insurance adjuster that transacts business in this state

870 without a license;

871 (vii) refuses;

872 (A) to be examined; or

873 (B) to produce ~~[the adjuster's]~~ its accounts, records, and files for examination;

874 (viii) has an officer who refuses to:

875 (A) ~~[refuses to]~~ give information with respect to the ~~[administrator's]~~ insurance

876 adjuster's affairs; or

877 (B) ~~[refuses to]~~ perform any other legal obligation as to an examination;

878 (ix) ~~[has provided incorrect, misleading, incomplete, or materially untrue]~~ provides

879 information in the license application[;] that is:

880 (A) incorrect;

881 (B) misleading;

882 (C) incomplete; or

883 (D) materially untrue;

884 (x) has violated any insurance law, valid rule, or valid order of another state's insurance

885 department;

886 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

887 (xii) has improperly withheld, misappropriated, or converted any monies or properties

888 received in the course of doing insurance business;

889 (xiii) has intentionally misrepresented the terms of an actual or proposed;

890 (A) insurance contract; or

891 (B) application for insurance;

892 (xiv) has been convicted of a felony;

893 (xv) has admitted or been found to have committed any insurance unfair trade practice

894 or fraud;

895 (xvi) in the conduct of business in this state or elsewhere has;

896 (A) used fraudulent, coercive, or dishonest practices [~~in the conduct of business in this~~  
897 ~~state or elsewhere~~]; or

898 [~~(xvii) has~~] (B) demonstrated incompetence, untrustworthiness, or financial  
899 irresponsibility [~~in the conduct of business in this state or elsewhere~~];

900 [~~(xviii)~~] (xvii) has had an insurance license, or its equivalent, denied, suspended, or  
901 revoked in any other state, province, district, or territory;

902 [~~(xix)~~] (xviii) has forged another's name to:

903 (A) an application for insurance; or

904 (B) any document related to an insurance transaction;

905 [~~(xx)~~] (xix) has improperly used notes or any other reference material to complete an  
906 examination for an insurance license;

907 [~~(xxi)~~] (xx) has knowingly accepted insurance business from an individual who is not  
908 licensed;

909 [~~(xxii)~~] (xxi) has failed to comply with an administrative or court order imposing a  
910 child support obligation;

911 [~~(xxiii)~~] (xxii) has failed to:

912 (A) pay state income tax; or

913 (B) comply with any administrative or court order directing payment of state income  
914 tax;

915 [~~(xxiv)~~] (xxiii) has violated or permitted others to violate the federal Violent Crime  
916 Control and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or

917 [~~(xxv)~~] (xxiv) has engaged in methods and practices in the conduct of business that  
918 endanger the legitimate interests of customers and the public.

919 [~~(3) (a) Any license issued under this chapter shall lapse if the licensee fails to:~~]

920 [~~(i) pay any fee that is due under Section 31A-3-103 or 31A-3-104;~~]

921 [~~(ii) complete continuing education requirements under Section 31A-26-206 before~~  
922 ~~submitting the license renewal application; or~~]

923 [~~(iii) submit a completed renewal application as required by Section 31A-26-202.~~]

924 [~~(b) A licensee whose license lapses due to military service or some other extenuating~~  
925 ~~circumstance such as a long-term medical disability may request:~~]

926 [~~(i) reinstatement; and~~]

927 ~~[(ii) a waiver of any of the following imposed for failure to comply with renewal~~  
 928 ~~procedures:]~~

929 ~~[(A) an examination requirement;]~~

930 ~~[(B) a fine; or]~~

931 ~~[(C) other sanction.]~~

932 ~~[(e) The commissioner shall by rule prescribe the license renewal and reinstatement~~  
 933 ~~procedures, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

934 (c) For purposes of this section, if a license is held by an agency, both the agency itself  
 935 and any natural person named on the license are considered to be the holders of the license.

936 (d) If a natural person named on the agency license commits any act or fails to perform  
 937 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the  
 938 commissioner may suspend, revoke, or limit the license of:

939 (i) the natural person;

940 (ii) the agency, if the agency:

941 (A) is reckless or negligent in its supervision of the natural person; or

942 (B) knowingly participated in the act or failure to act that is the ground for suspending,  
 943 revoking, or limiting the license; or

944 (iii) (A) the natural person; and

945 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

946 ~~[(4) (6) A licensee under this chapter [whose license is suspended, revoked, or lapsed,~~  
 947 ~~but who continues to act as a licensee,] is subject to the penalties for conducting an insurance~~  
 948 ~~business without a license[-] if:~~

949 (a) the licensee's license is:

950 (i) revoked;

951 (ii) suspended;

952 (iii) limited;

953 (iv) surrendered in lieu of administrative action;

954 (v) lapsed; or

955 (vi) voluntarily surrendered; and

956 (b) the licensee:

957 (i) continues to act as a licensee; or

958 (ii) violates the terms of the license limitation.  
 959 (7) A licensee under this chapter shall immediately report to the commissioner:  
 960 (a) a revocation, suspension, or limitation of the person's license in any other state, the  
 961 District of Columbia, or a territory of the United States;  
 962 (b) the imposition of a disciplinary sanction imposed on that person by any other state,  
 963 the District of Columbia, or a territory of the United States; or  
 964 (c) a judgment or injunction entered against that person on the basis of conduct  
 965 involving:  
 966 (i) fraud;  
 967 (ii) deceit;  
 968 (iii) misrepresentation; or  
 969 (iv) a violation of an insurance law or rule.  
 970 ~~[(5)]~~ (8) (a) An order revoking a license under Subsection ~~[(2)]~~ (5) or an agreement to  
 971 surrender a license in lieu of administrative action may specify a time not to exceed five years  
 972 within which the former licensee may not apply for a new license.  
 973 (b) If no time is specified in the order ~~[revoking a license under Subsection (2)] or~~  
 974 agreement described in Subsection (8)(a), the former licensee may not apply for a new license  
 975 for five years without the express approval of the commissioner.  
 976 ~~[(6) (a) Any person whose license is suspended or revoked under Subsection (2) shall,~~  
 977 ~~when the suspension ends or a new license is issued, pay all fees that would have been payable~~  
 978 ~~if the license had not been suspended or revoked, unless the commissioner by order waives the~~  
 979 ~~payment of the interim fees.]~~  
 980 ~~[(b) If a new license is issued more than three years after the revocation of a similar~~  
 981 ~~license, this Subsection (6) applies only to the fees that would have accrued during the three~~  
 982 ~~years immediately following the revocation.]~~  
 983 ~~[(7)]~~ (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the  
 984 use of a license issued under this part if so ordered by a court.  
 985 (10) The commissioner shall by rule prescribe the license renewal and reinstatement  
 986 procedures in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.  
 987 Section 13. Section 31A-26-214 is amended to read:  
 988 **31A-26-214. Probation -- Grounds for revocation.**



989 (1) ~~[H]~~ The commissioner may place a licensee on probation for a period not to  
990 exceed 24 months as follows:

991 (a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative  
992 Procedures Act, for any circumstances that would justify a suspension under Section  
993 31A-26-213[, the commissioner may instead, after a formal adjudicative proceeding, put the  
994 licensee on probation for a specified period no longer than 24 months.]; or

995 (b) at the issuance of a new license:

996 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or

997 (ii) with a response to a background information question on any new license  
998 application indicating that:

999 (A) the person has been convicted of a crime, that is listed by rule made in accordance  
1000 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is grounds for  
1001 probation;

1002 (B) the person is currently charged with a crime, that is listed by rule made in  
1003 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is  
1004 grounds for probation regardless of whether adjudication was withheld;

1005 (C) the person has been involved in an administrative proceeding regarding any  
1006 professional or occupational license; or

1007 (D) any business in which the person is or was an owner, partner, officer, or director  
1008 has been involved in an administrative proceeding regarding any professional or occupational  
1009 license.

1010 (2) The commissioner may put a licensee on probation for a specified period no longer  
1011 than 24 months if the licensee has admitted to violations under 18 U.S.C. Sections 1033 and  
1012 1034.

1013 ~~[(2) The]~~ (3) A probation order under this section shall state the conditions for  
1014 retention of the license, which shall be reasonable.

1015 ~~[(3) Violation]~~ (4) A violation of the probation is grounds for revocation pursuant to  
1016 any proceeding authorized under Title 63, Chapter 46b, Administrative Procedures Act.

1017 Section 14. Section **31A-26-214.5** is enacted to read:

1018 **31A-26-214.5. License lapse and voluntary surrender.**

1019 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:

- 1020           (i) pay when due a fee under Section 31A-3-103;
- 1021           (ii) complete continuing education requirements under Section 31A-26-206 before
- 1022 submitting the license renewal application;
- 1023           (iii) submit a completed renewal application as required by Section 31A-26-202;
- 1024           (iv) submit additional documentation required to complete the licensing process as
- 1025 related to a specific license type or license classification; or
- 1026           (v) maintain an active license in a resident state if the licensee is a nonresident
- 1027 licensee.
- 1028           (b) (i) A licensee whose license lapses due to the following may request an action
- 1029 described in Subsection (1)(b)(ii):
- 1030           (A) military service;
- 1031           (B) voluntary service for a period of time designated by the person for whom the
- 1032 licensee provides voluntary service; or
- 1033           (C) some other extenuating circumstances such as long-term medical disability.
- 1034           (ii) A licensee described in Subsection (1)(b)(i) may request:
- 1035           (A) reinstatement of the license; and
- 1036           (B) waiver of any of the following imposed for failure to comply with renewal
- 1037 procedures:
- 1038           (I) an examination requirement;
- 1039           (II) reinstatement fees set under Section 31A-3-103;
- 1040           (III) continuing education requirements; or
- 1041           (IV) other sanction imposed for failure to comply with renewal procedures.
- 1042           (2) If a license type or license classification issued under this chapter is voluntarily
- 1043 surrendered, the license type or license classification may be reinstated within one year after
- 1044 the day on which the license type or license classification is inactivated.

---

---

**Legislative Review Note**

as of 12-28-05 12:18 PM

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 HB0233**

**Insurance Licensing Amendments**

*16-Jan-06*

*7:53 AM*

---

---

**State Impact**

No fiscal impact.

---

**Individual and Business Impact**

No fiscal impact.

---

**Office of the Legislative Fiscal Analyst**