

1 **INSURANCE REPORTS, TABLES, AND**
2 **EXAMINATION AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

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

6 Senate Sponsor: Sheldon L. Killpack

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Insurance Code to address reports, tables, and examinations.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ expands the purposes for which annual statement forms developed by the National
- 14 Association of Insurance Commissioners shall be used;
- 15 ▶ modifies examination provisions;
- 16 ▶ addresses market regulation surveillance;
- 17 ▶ grants rulemaking authority;
- 18 ▶ addresses cooperation with other states in conducting examinations;
- 19 ▶ addresses relationship to Utah's Administrative Procedures Act;
- 20 ▶ deletes the requirement that the commissioner obtain and publish certain tables;
- 21 ▶ adjusts reporting requirements of captive insurance companies; 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-2-202**, as last amended by Chapter 185, Laws of Utah 1997

- 30 **31A-2-203**, as last amended by Chapter 293, Laws of Utah 1998
- 31 **31A-2-204**, as last amended by Chapter 308, Laws of Utah 2002
- 32 **31A-2-212**, as last amended by Chapter 265, Laws of Utah 1997
- 33 **31A-27-315**, as last amended by Chapter 308, Laws of Utah 2002
- 34 **31A-37-501**, as last amended by Chapter 312, Laws of Utah 2004
- 35 **59-9-102**, as last amended by Chapter 289, Laws of Utah 2005

36

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

38 Section 1. Section **31A-2-202** is amended to read:

39 **31A-2-202. Reports and replies.**

40 (1) When relevant, either directly or indirectly, to the performance of the
41 commissioner's duties under [~~the Insurance Code~~] this title, the commissioner may require
42 from any person subject to regulation under this title:

43 (a) [~~statements, reports, answers to questionnaires, other information, and evidence of~~
44 ~~the information,~~] in whatever reasonable form and reasonable intervals the commissioner
45 designates[;]:

46 (i) a statement;

47 (ii) a report;

48 (iii) an answer to a questionnaire;

49 (iv) other information; and

50 (v) evidence of the information described in Subsections (1)(a)(i) through (iv);

51 (b) full explanation of the programming of any data storage or communication system
52 in use;

53 (c) information from books, records, electronic data processing systems, computers, or
54 any other information storage system be made available to the department[;]:

55 (i) at any reasonable time; and

56 (ii) in any reasonable manner; and

57 (d) timely delivery to the National Association of Insurance Commissioners or other

58 entity ~~[which]~~ that gathers insurance industry information, a copy of the statistical data
 59 prepared for and submitted to the ~~[Insurance Department]~~ department, as specified by the
 60 commissioner.

61 (2) ~~(a) [The]~~ Subject to the requirements of this Subsection (2), the commissioner may:

- 62 (i) prescribe forms for the [reports] information under Subsection (1); and
- 63 (ii) specify who shall execute or certify the [reports] information under Subsection (1).

64 (b) The forms prescribed under this Subsection (2) shall be consistent, to the extent
 65 practicable, with those prescribed by other jurisdictions. ~~[For basic financial data, the]~~

66 (c) The commissioner shall use the annual statement forms developed by the National
 67 Association of Insurance Commissioners[-] for:

- 68 (i) basic financial data; and
- 69 (ii) market regulation analysis.

70 (3) ~~(a) [The]~~ Subject to the requirements of this Subsection (3), the commissioner may
 71 prescribe reasonable minimum standards and techniques of accounting and data handling to
 72 ensure that timely and reliable information exists and can be made available.

73 (b) The standards and techniques prescribed under this Subsection (3) shall be
 74 consistent, to the extent practicable, with those prescribed by other states.

75 (4) ~~(a) [Any person with executive authority over or in charge of any segment of the~~
 76 ~~affairs of an insurer authorized to do or doing an insurance business in this state, the affiliate of~~
 77 ~~this type of insurer, and any other person licensed under the Insurance Code]~~ A person listed in
 78 Subsection (4)(b) shall reply promptly in writing or in other designated form to a reasonable
 79 written inquiry from the commissioner.

80 (b) This Subsection (4) applies to any person with executive authority over or in charge
 81 of any segment of the affairs of:

- 82 (i) an insurer authorized to do or doing an insurance business in this state;
- 83 (ii) the affiliate of an insurer authorized to do or doing an insurance business in this
 84 state; and
- 85 (iii) any other person licensed under this title.

- 86 (5) The commissioner may;
- 87 (a) require that any communication made under this section be verified[;]; and [may]
- 88 (b) specify by whom [it] a communication shall be verified.
- 89 (6) All information submitted to the commissioner shall be accurate and complete.
- 90 (7) In the absence of actual malice, no communication to the commissioner required by
- 91 law or by the commissioner subjects the person making it to an action for damages for
- 92 defamation.

93 Section 2. Section **31A-2-203** is amended to read:

94 **31A-2-203. Examinations and alternatives.**

95 (1) (a) Whenever the commissioner considers it necessary in order to inform [himself]
96 the commissioner about any matter related to the enforcement of this title, the commissioner
97 may examine the affairs and condition of:

- 98 (i) a licensee under this title;
- 99 (ii) an applicant for a license under this title;
- 100 (iii) a person or organization of persons doing or in process of organizing to do an
- 101 insurance business in this state; or
- 102 (iv) a person who is not, but should be, licensed under this title.

103 (b) When reasonably necessary for an examination under Subsection (1)(a), the
104 commissioner may examine:

105 (i) so far as they relate to the examinee, the accounts, records, documents, or evidences
106 of transactions of;

107 (A) the insurer or other licensee[, ~~so far as they relate to the examinee, of~~];

108 (B) any officer or other person who has executive authority over or is in charge of any
109 segment of the examinee's affairs[;]; or [of]

110 (C) any affiliate of the examinee[;]; or

111 (ii) any third party model or product used by the examinee.

112 (c) (i) On demand, each examinee under Subsection (1)(a) shall make available to the
113 commissioner for examination:

114 (A) any of ~~[its]~~ the examinee's own accounts, records, files, documents, or evidences of
115 transactions; and~~;~~

116 (B) to the extent reasonably necessary for an examination, ~~[those]~~ the accounts,
117 records, files, documents, or evidences of transactions of any persons under Subsection (1)(b).
118 ~~[Failure]~~

119 (ii) Except as provided in Subsection (1)(c)(iii), failure to make ~~[these]~~ the documents
120 described in Subsection (1)(c)(i) available is concealment of records under Subsection
121 31A-27-307(7). ~~[However, if]~~

122 (iii) If the examinee is unable to obtain accounts, records, files, documents, or
123 evidences of transactions from persons under Subsection (1)(b), that failure is not concealment
124 of records if the examinee immediately terminates the relationship with the other person.

125 (d) (i) Neither the commissioner nor an examiner may remove any account, record, file,
126 document, evidence of transaction, or other property of the examinee from the examinee's
127 offices unless:

128 (A) the examinee consents in writing; or

129 (B) a court grants permission.

130 (ii) The commissioner may~~[-, however,]~~ make and remove copies or abstracts of the
131 following described in Subsection (1)(d)(i):

132 (A) an account~~[-];~~

133 (B) a record~~[-];~~

134 (C) a file~~[-];~~

135 (D) a document~~[-, or];~~

136 (E) evidence of transaction~~[-];~~ or

137 (F) other property.

138 (2) (a) ~~[The]~~ Subject to the other provisions of this section, the commissioner shall
139 examine as needed and as otherwise provided by law:

140 (i) every insurer, both domestic and nondomestic~~[-, and];~~

141 (ii) every licensed rate service organization~~[-, as needed and as otherwise required by~~

142 ~~law-]; and~~

143 (iii) any other licensee.

144 (b) The commissioner shall examine insurers, both domestic and nondomestic, no less
145 frequently than once every five years, but the commissioner may use ["in lieu["] examinations
146 under Subsection (4) to satisfy this requirement.

147 ~~(b)~~ (c) The commissioner shall revoke the certificate of authority of an insurer or the
148 license of a rate service organization that has not been examined, or submitted an acceptable
149 ["in lieu["] report under Subsection (4), within the past five years.

150 ~~(c)~~ (d) (i) Any 25 persons who are policyholders, shareholders, or creditors of a
151 domestic insurer may by verified petition demand a hearing under Section 31A-2-301 to
152 determine whether the commissioner should conduct an unscheduled examination of the
153 insurer.

154 (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an
155 opportunity in the hearing to present evidence that an examination of the insurer is necessary.

156 (iii) If the evidence justifies an examination, the commissioner shall order ~~one~~ an
157 examination.

158 ~~(d)~~ (e) (i) When the board of directors of a domestic insurer requests that the
159 commissioner examine the insurer, the commissioner shall examine the insurer as soon as
160 reasonably possible.

161 (ii) If the ~~requested~~ examination requested under this Subsection (2)(e) is conducted
162 within two years after completion of a comprehensive examination by the commissioner, costs
163 of the requested examination may not be deducted from premium taxes under Section 59-9-102
164 unless the commissioner's order specifically provides for the deduction.

165 ~~(e)~~ (f) Bail bond surety companies as defined in Section 31A-35-102 are exempted
166 from:

167 (i) the five-year examination requirement in Subsection (2)~~(a);~~ (b);

168 (ii) the revocation under Subsection (2)~~(b);~~ (c); and

169 (iii) Subsections (2)~~(c);~~ (d) and (2)~~(d)~~ (e).

170 (3) (a) [~~In lieu of all or part of an examination under Subsections (1) and (2), or in~~
 171 ~~addition to it, the]~~ The commissioner may order an independent audit or examination by
 172 technical experts, including certified public accountants and actuaries[-]:

173 (i) in lieu of all or part of an examination under Subsection (1) or (2); or

174 (ii) in addition to an examination under Subsection (1) or (2).

175 (b) Any audit or evaluation under this Subsection (3) is subject to Subsection (5),
 176 Section 31A-2-204, and Subsection 31A-2-205(4).

177 (4) (a) In lieu of all or any part of an examination under this section, the commissioner
 178 may accept the report of an examination made by:

179 (i) the insurance department of another state[-]; or

180 (ii) another government agency in:

181 (A) this state[-];

182 (B) the federal government[-]; or [~~other~~]

183 (C) another state.

184 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by the
 185 commissioner under this Subsection (4) may use:

186 (i) an audit already made by a certified public accountant; or

187 (ii) an actuarial evaluation made by an actuary approved by the commissioner.

188 (5) (a) An examination may be comprehensive or limited with respect to the
 189 examinee's affairs and condition. The commissioner shall determine the nature and scope of
 190 each examination, taking into account all relevant factors, including:

191 (i) the length of time the examinee has been licensed in this state;

192 (ii) the nature of the business being examined;

193 (iii) the nature of the accounting or other records available; [~~and~~]

194 (iv) reports from:

195 (A) independent auditors; and

196 (B) self-certification entities; and

197 [~~(iv)~~] (v) the nature of examinations performed elsewhere.

198 (b) The examination of an alien insurer shall be limited to insurance transactions and
199 assets in the United States, unless the commissioner orders otherwise after finding that
200 extraordinary circumstances necessitate a broader examination.

201 (6) To effectively administer this section, the commissioner;

202 (a) shall:

203 ~~[(a)]~~ (i) maintain ~~[an]~~ effective financial condition and market regulation surveillance
204 ~~[system,]~~ systems including:

205 (A) financial and market analysis; and

206 (B) review of insurance regulatory information system reports;

207 ~~[(b)]~~ (ii) employ a priority scheduling method that focuses on insurers and other
208 licensees most in need of examination; and

209 ~~[(c)]~~ (iii) use examination management techniques similar to those outlined in the
210 Financial Condition Examination Handbook of the National Association of Insurance
211 Commissioners~~[-];~~ and

212 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
213 may make rules pertaining to the financial condition and market regulation surveillance
214 systems.

215 Section 3. Section **31A-2-204** is amended to read:

216 **31A-2-204. Conducting examinations.**

217 (1) (a) For each examination under Section 31A-2-203, the commissioner shall issue an
218 order:

219 (i) stating the scope of the examination; and

220 (ii) designating the examiner in charge.

221 (b) The commissioner need not give advance notice of an examination to an examinee.

222 (c) The examiner in charge shall give the examinee a copy of the order issued under
223 this Subsection (1).

224 (d) (i) The commissioner may alter the scope or nature of an examination at any time
225 without advance notice to the examinee.

226 (ii) If the commissioner amends an order described in this Subsection (1), the
227 commissioner shall provide a copy of any amended order to the examinee.

228 (e) Statements in the commissioner's examination order concerning examination scope
229 are for the examiner's guidance only.

230 (f) Examining relevant matters not mentioned in an order issued under this Subsection
231 (1) is not a violation of this title.

232 (2) The commissioner shall, whenever practicable, cooperate with the insurance
233 regulators of other states by conducting joint examinations of:

234 (a) multistate insurers doing business in this state[-]; or
235 (b) other multistate licensees doing business in this state.

236 (3) An examiner authorized by the commissioner shall, when necessary to the purposes
237 of the examination, have access at all reasonable hours to the premises and to any books,
238 records, files, securities, documents, or property of:

239 (a) the examinee; and
240 (b) any of the following if the premises, books, records, files, securities, documents, or
241 property relate to the affairs of the examinee:

242 (i) an officer of the examinee;
243 (ii) any other person who:
244 (A) has executive authority over the examinee; or
245 (B) is in charge of any segment of the examinee's affairs; or
246 (iii) any affiliate of the examinee under Subsection 31A-2-203(1)(b).

247 (4) (a) The officers, employees, and agents of the examinee and of persons under
248 Subsection 31A-2-203(1)(b) shall comply with every reasonable request of the examiners for
249 assistance in any matter relating to the examination.

250 (b) A person may not obstruct or interfere with the examination except by legal
251 process.

252 (5) If the commissioner finds the accounts or records to be inadequate for proper
253 examination of the condition and affairs of the examinee or improperly kept or posted, the

254 commissioner may employ experts to rewrite, post, or balance the accounts or records at the
255 expense of the examinee.

256 (6) (a) The examiner in charge of an examination shall make a report of the
257 examination no later than 60 days after the completion of the examination that shall include:

258 (i) the information and analysis ordered under Subsection (1); and

259 (ii) the examiner's recommendations.

260 (b) At the option of the examiner in charge, preparation of the report may include
261 conferences with the examinee or representatives of the examinee.

262 (c) The report is confidential until the report becomes a public document under
263 Subsection (7), except the commissioner may use information from the report as a basis for
264 action under Chapter 27, Insurers Rehabilitation and Liquidation.

265 (7) (a) The commissioner shall serve a copy of the examination report described in
266 Subsection (6) upon the examinee.

267 (b) Within 20 days after service, the examinee shall:

268 (i) accept the examination report as written; or

269 (ii) request agency action to modify the examination report.

270 (c) The report is considered accepted under this Subsection (7) if the examinee does
271 not file a request for agency action to modify the report within 20 days after service of the
272 report.

273 (d) If the examination report is accepted:

274 (i) the examination report immediately becomes a public document; and

275 (ii) the commissioner shall distribute the examination report to all jurisdictions in
276 which the examinee is authorized to do business.

277 (e) (i) Any adjudicative proceeding held as a result of the examinee's request for
278 agency action shall, upon the examinee's demand, be closed to the public, except that the
279 commissioner need not exclude any participating examiner from this closed hearing.

280 (ii) Within 20 days after the hearing held under this Subsection (7)(e), the
281 commissioner shall:

282 (A) adopt the examination report with any necessary modifications; and
283 (B) serve a copy of the adopted report upon the examinee.
284 (iii) Unless the examinee seeks judicial relief, the adopted examination report:
285 (A) shall become a public document ten days after service; and
286 (B) may be distributed as described in this section.
287 (f) Notwithstanding Title 63, Chapter 46b, Administrative Procedures Act, to the
288 extent that this section is in conflict with Title 63, Chapter 46b, this section governs:
289 (i) a request for agency action under this section; or
290 (ii) adjudicative proceeding under this section.
291 (8) The examinee shall promptly furnish copies of the adopted examination report
292 described in Subsection (7) to each member of the examinee's board.
293 (9) After an examination report becomes a public document under Subsection (7), the
294 commissioner may furnish, without cost or at a reasonable price set under Section 31A-3-103,
295 a copy of the examination report to interested persons, including:
296 (a) a member of the board of the examinee; or
297 (b) one or more newspapers in this state.
298 (10) (a) In a proceeding by or against the examinee, or any officer or agent of the
299 examinee, the examination report as adopted by the commissioner is admissible as evidence of
300 the facts stated in the report.
301 (b) In any proceeding commenced under Chapter 27, Insurers Rehabilitation and
302 Liquidation, the examination report, whether adopted by the commissioner or not, is admissible
303 as evidence of the facts stated in the examination report.
304 Section 4. Section **31A-2-212** is amended to read:
305 **31A-2-212. Miscellaneous duties.**
306 (1) Upon issuance of any order limiting, suspending, or revoking an insurer's authority
307 to do business in Utah, and on institution of any proceedings against the insurer under Chapter
308 27, Insurers Rehabilitation and Liquidation, the commissioner:
309 (a) shall notify by mail all agents of the insurer of whom the commissioner has record[-

310 ~~The commissioner may also]; and~~

311 (b) may publish notice of the order or proceeding in any manner ~~[he]~~ the
312 commissioner considers necessary to protect the rights of the public.

313 (2) When required for evidence in any legal proceeding, the commissioner shall furnish
314 a certificate of the authority of any licensee to transact insurance business in Utah on any
315 particular date. The court or other officer shall receive the certificate of authority in lieu of the
316 commissioner's testimony.

317 ~~[(3) The commissioner shall obtain and publish tables showing the average expectancy~~
318 ~~of life, the values of annuities, and of life and term estates. These tables shall be for the use of~~
319 ~~courts and appraisers in Utah.]~~

320 ~~[(4)]~~ (3) (a) On the request of any insurer authorized to do a surety business, the
321 commissioner shall ~~[mail a certified]~~ furnish a copy of the insurer's certificate of authority to
322 any designated public officer in this state who requires that certificate of authority before
323 accepting a bond. ~~[That]~~

324 (b) The public officer described in Subsection (3)(a) shall file the certificate of
325 authority furnished under Subsection (3)(a).

326 (c) After a certified copy of a certificate of authority has been furnished to a public
327 officer, it is not necessary, while the certificate of authority remains effective, to attach a copy
328 of it to any instrument of suretyship filed with that public officer.

329 (d) Whenever the commissioner revokes the certificate of authority or starts
330 proceedings under Chapter 27, Insurers Rehabilitation and Liquidation, against any insurer
331 authorized to do a surety business, the commissioner shall immediately give notice of that
332 action to each public officer who was sent a certified copy under this Subsection (3).

333 ~~[(5) When]~~ (4) (a) The commissioner shall immediately notify every judge and clerk
334 of all courts of record in the state when:

335 (i) an authorized insurer doing a surety business [has filed]:

336 (A) files a petition for receivership[;]; or

337 (B) is in receivership[;]; or

338 (ii) the commissioner has reason to believe that the [company] authorized insurer doing
339 surety business:

340 (A) is in financial difficulty[-]; or

341 (B) has unreasonably failed to carry out any of its contracts[~~the commissioner shall~~
342 ~~immediately notify every judge and clerk of all courts of record in the state~~].

343 (b) Upon the receipt of the notice required by this Subsection (4) it is the duty of the
344 judges and clerks to notify and require every person that has filed with the court a bond on
345 which the [company] authorized insurer doing surety business is surety, to immediately file a
346 new bond with a new surety.

347 [~~(6)~~] (5) The commissioner shall require an insurer that issues, sells, renews, or offers
348 health insurance coverage in this state to comply with the Health Insurance Portability and
349 Accountability Act, P.L. 104-191, pursuant to 110 Stat. 1968, Sec. 2722.

350 Section 5. Section **31A-27-315** is amended to read:

351 **31A-27-315. Notice to creditors and others.**

352 (1) (a) The liquidator shall give notice of the liquidation order as soon as possible:

353 (i) by first-class mail and electronic communication to the insurance commissioner of
354 each jurisdiction in which the insurer is doing business;

355 (ii) by first-class mail and electronic communication to any guaranty fund or
356 association that may become obligated as a result of the liquidation;

357 (iii) by first-class mail to all insurance agents, brokers, and reinsurers doing business
358 with the insurer;

359 (iv) by first-class mail to the persons designated in Subsection 31A-2-212[~~(5)~~] (4), if
360 the insurer does a surety business;

361 (v) by first-class mail to the last known address of all persons known or reasonably
362 expected from the insurer's records to have claims against the insurer, including all
363 policyholders; and

364 (vi) unless the court orders otherwise, by publication under Section 31A-2-303, with
365 the last publication being not less than three months before the earliest deadline specified in the

366 notice under Subsection (2).

367 (b) Notice to policyholders shall include:

368 (i) notice of impairment and termination of coverage under Section 31A-27-311; and

369 (ii) when applicable:

370 (A) notice of withdrawal of the insurer from the defense of any case in which the

371 insured is interested; and

372 (B) information about the existence of any:

373 (I) applicable assigned risk plans or residual market facilities; or

374 (II) guaranty funds under Chapter 28, Guaranty Associations, or similar laws of another

375 state.

376 (c) (i) Within 45 days of the date of entry of the liquidation order, the liquidator shall
377 report to the court what notice has been given.

378 (ii) The court may order notice in addition to the notice required by this Subsection (1)
379 that the court considers appropriate.

380 (2) (a) Notice to potential claimants under Subsection (1) shall require claimants to file
381 with the liquidator on or before a date the liquidator specifies in the notice:

382 (i) the claimants' claims; and

383 (ii) proper proofs under Section 31A-27-329.

384 (b) The liquidator need not require the following to file a claim:

385 (i) a person claiming unearned premium; or

386 (ii) a person claiming cash surrender values or other investment values in life insurance
387 and annuities.

388 (c) The liquidator may specify different dates for filing the different kinds of claims.

389 (3) If notice is given in accordance with this section, the distribution of the assets of the
390 insurer under this chapter is conclusive with respect to all claimants, whether or not the
391 claimants received actual notice.

392 Section 6. Section **31A-37-501** is amended to read:

393 **31A-37-501. Reports to commissioner.**

394 (1) A captive insurance company is not required to make any report except those
395 provided in this chapter.

396 (2) (a) Before March 1 of each year, a captive insurance company shall submit to the
397 commissioner a report of the financial condition of the captive insurance company, verified by
398 oath of two of the executive officers of the captive insurance company.

399 (b) Except as provided in Sections 31A-37-204 and 31A-37-205, a captive insurance
400 company shall report:

401 (i) unless the commissioner approves the use of statutory accounting principles, using
402 generally accepted accounting principles;

403 (ii) using any useful or necessary modifications or adaptations to accounting principles
404 required, approved, or accepted by the commissioner for the type of insurance and kinds of
405 insurers to be reported upon; and

406 (iii) any supplemental or additional information required by the commissioner.

407 (c) Except as otherwise provided:

408 (i) an association captive insurance company and an industrial insured group shall file
409 the report required by Section 31A-4-113; and

410 (ii) each industrial insured group shall comply with Section 31A-4-113.5.

411 (3) (a) A pure captive insurance company may make written application to file the
412 required report on a fiscal year end that is consistent with the fiscal year of the parent company
413 of the pure captive insurance company.

414 (b) If the commissioner grants an alternative reporting date for a pure captive insurance
415 company requested under Subsection (3)(a)~~[-(i)]~~, the annual report is due 60 days after the
416 fiscal year end~~[-and]~~.

417 ~~[(ii) the pure captive insurance company shall file before March 1 of each year for each
418 calendar year end, a report required by the commissioner under Section 31A-37-106 to provide
419 sufficient detail to support the premium tax return of the pure captive insurance company.]~~

420 (4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall
421 file with the commissioner a copy of all reports and statements required to be filed under the

422 laws of the jurisdiction in which the alien captive insurance company is formed, verified by
423 oath by two of its executive officers.

424 (b) If the commissioner is satisfied that the annual report filed by the alien captive
425 insurance company in the jurisdiction in which the alien captive insurance company is formed
426 provides adequate information concerning the financial condition of the alien captive insurance
427 company, the commissioner may waive the requirement for completion of the annual statement
428 required for a captive insurance company under this section with respect to business written in
429 the alien jurisdiction.

430 (c) A waiver by the commissioner under Subsection (4)(b) shall be:

431 (i) in writing; and

432 (ii) subject to public inspection.

433 Section 7. Section **59-9-102** is amended to read:

434 **59-9-102. Offsets.**

435 (1) If any authorized insurer doing business in this state during the tax year pays a
436 property tax in this state, the insurer may deduct from the tax provided under this chapter that
437 portion of the property tax paid for general state purposes.

438 (2) Any domestic insurance company paying a fee for examination under Section
439 31A-2-205 may deduct from the tax provided under this chapter the amount of the examination
440 fee paid, subject to the limitations of Subsection 31A-2-203(2)~~(d)~~ (e).

441 (3) There is offset against the taxes imposed under Section 59-9-101 the amount of any
442 assessments paid by an insurance company under the guaranty associations established under
443 Title 31A, Chapter 28, Guaranty Associations, in the manner provided by Sections 31A-28-113
444 and 31A-28-212.

445 (4) There is an offset provided in Section 59-9-102.5 against the premium assessment
446 imposed under Subsection 59-9-101(2) against an admitted insurer writing workers'
447 compensation insurance in this state.

448 (5) The state has no liability to insurers for any amount by which offsets allowed under
449 this section exceed the insurer's premium tax liability.

