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INSURANCE LICENSING AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Thomas V. Hatch

LONG TITLE

General Description:

This bill modifies the Insurance Code to address licensing.

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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, limiting, or otherwise**

142 **terminating a license -- 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 [in]

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 and agencies.**

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 three of the
381 five years immediately proceeding the date on which the title insurance agency applies 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).

393 (c) The Title and Escrow Commission may by rule made in accordance with Title 63,

394 Chapter 46a, Utah Administrative Rulemaking Act, exempt an attorney with real estate
395 experience from the experience requirements in Subsection (1)(a).

396 ~~(1)~~ (2) (a) Every title insurance agency or producer appointed by an insurer shall
397 maintain:

398 (i) a fidelity bond;

399 (ii) a professional liability insurance policy; or

400 (iii) a financial protection:

401 (A) equivalent to that described in Subsection ~~(1)~~ (2)(a)(i) or (ii); and

402 (B) that the commissioner considers adequate.

403 (b) The bond or insurance required by this Subsection ~~(1)~~ (2):

404 (i) shall be supplied under a contract approved by the commissioner to provide
405 protection against the improper performance of any service in conjunction with the issuance of
406 a contract or policy of title insurance; and

407 (ii) be in a face amount no less than \$50,000.

408 (c) The Title and Escrow Commission may by rule made in accordance with Title 63,
409 Chapter 46a, Utah Administrative Rulemaking Act, exempt title insurance producers from the
410 requirements of this Subsection ~~(1)~~ (2) upon a finding that, and only so long as, the required
411 policy or bond is generally unavailable at reasonable rates.

412 ~~(2)~~ (3) (a) (i) Every title insurance agency or producer appointed by an insurer shall
413 maintain a reserve fund.

414 (ii) The reserve fund required by this Subsection ~~(2)~~ (3) shall be:

415 (A) (I) composed of assets approved by the commissioner and the Title and Escrow
416 Commission;

417 (II) maintained as a separate trust account; and

418 (III) charged as a reserve liability of the title insurance producer in determining the
419 producer's financial condition; and

420 (B) accumulated by segregating 1% of all gross income received from the title
421 insurance business.

- 422 (iii) The reserve fund shall contain the accumulated assets for the immediately
423 preceding ten years as defined in Subsection [~~(2)~~] (3)(a)(ii).
- 424 (iv) That portion of the assets held in the reserve fund over ten years may be:
425 (A) withdrawn from the reserve fund; and
426 (B) restored to the income of the title insurance producer.
- 427 (v) The title insurance producer may withdraw interest from the reserve fund related to
428 the principal amount as it accrues.
- 429 (b) (i) A disbursement may not be made from the reserve fund except as provided in
430 Subsection [~~(2)~~] (3)(a) unless the title insurance producer ceases doing business as a result of:
431 (A) sale of assets;
432 (B) merger of the producer with another producer;
433 (C) termination of the producer's license;
434 (D) insolvency; or
435 (E) any cessation of business by the producer.
- 436 (ii) Any disbursements from the reserve fund may be made only to settle claims arising
437 from the improper performance of the title insurance producer in providing services defined in
438 Section 31A-23a-406.
- 439 (iii) The commissioner shall be notified ten days before any disbursements from the
440 reserve fund.
- 441 (iv) The notice required by this Subsection [~~(2)~~] (3)(b) shall contain:
442 (A) the amount of claim;
443 (B) the nature of the claim; and
444 (C) the name of the payee.
- 445 (c) (i) The reserve fund shall be maintained by the title insurance producer or the title
446 insurance producer's representative for a period of two years after the title insurance producer
447 ceases doing business.
- 448 (ii) Any assets remaining in the reserve fund at the end of the two years specified in
449 Subsection [~~(2)~~] (3)(c)(i) may be withdrawn and restored to the former title insurance producer.

450 ~~[(3)]~~ (4) Any examination for licensure shall include questions regarding the search
 451 and examination of title to real property.

452 ~~[(4)]~~ (5) A title insurance producer may not perform the functions of escrow unless the
 453 title insurance producer has been examined on the fiduciary duties and procedures involved in
 454 those functions.

455 ~~[(5)]~~ (6) The Title and Escrow Commission shall adopt rules, in accordance with Title
 456 63, Chapter 46a, Utah Administrative Rulemaking Act, after consulting with the department
 457 and the department's test administrator, establishing an examination for a license that will
 458 satisfy this section.

459 ~~[(6)]~~ (7) A license may be issued to a title insurance producer who has qualified:

460 (a) to perform only searches and examinations of title as specified in Subsection ~~[(3)]~~
 461 (4);

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

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

464 ~~[(7)]~~ (8) (a) A person licensed to practice law in Utah is exempt from the requirements
 465 of Subsections ~~[(1) and]~~ (2) and (3) if that person issues 12 or less policies in any 12-month
 466 period.

467 (b) In determining the number of policies issued by a person licensed to practice law in
 468 Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a
 469 policy to more than one party to the same closing, the person is considered to have issued only
 470 one policy.

471 ~~[(8)]~~ (9) A person licensed to practice law in Utah, whether exempt under Subsection
 472 ~~[(7)]~~ (8) or not, shall maintain a trust account separate from a law firm trust account for all title
 473 and real estate escrow transactions.

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

475 **31A-25-203. General requirements for license issuance.**

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

- 478 (a) satisfied the character requirements under Section 31A-25-204;
- 479 (b) satisfied the financial responsibility requirement under Section 31A-25-205;
- 480 (c) if a nonresident, complied with Section 31A-25-206; and
- 481 (d) paid the applicable fees under Section 31A-3-103.
- 482 (2) The license of each third party administrator licensed under former Title 31,
- 483 Chapter 15a, is continued under this chapter.
- 484 (3) (a) This Subsection (3) applies to the following persons:
- 485 (i) an applicant for a third party administrator's license; or
- 486 (ii) a licensed third party administrator.
- 487 (b) A person described in Subsection (3)(a) shall report to the commissioner:
- 488 (i) any administrative action taken against the person:
- 489 (A) in another jurisdiction; or
- 490 (B) by another regulatory agency in this state; and
- 491 (ii) any criminal prosecution taken against the person in any jurisdiction.
- 492 (c) The report required by Subsection (3)(b) shall:
- 493 (i) be filed:
- 494 (A) at the time the person applies for a third party administrator's license; ~~[or]~~ and
- 495 (B) for an action or prosecution that occurs on or after the day on which the person
- 496 applies for a third party administrator license:
- 497 ~~[(B)] (I) for an administrative action, within 30 days of the [initiation of an action or~~
- 498 ~~prosecution described in Subsection (3)(b); and] final disposition of the administrative action;~~
- 499 or
- 500 (II) for a criminal prosecution, within 30 days of the initial pretrial hearing; and
- 501 (ii) include a copy of the complaint or other relevant legal documents related to the
- 502 action or prosecution described in Subsection (3)(b).
- 503 (4) (a) The department may request concerning a person applying for a third party
- 504 administrator's license:
- 505 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part

506 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
 507 (ii) complete Federal Bureau of Investigation criminal background checks through the
 508 national criminal history system.

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

- 511 (i) determining if a person satisfies the character requirements under Section
- 512 31A-25-204 for issuance or renewal of a license;
- 513 (ii) determining if a person has failed to maintain the character requirements under
- 514 Section 31A-25-204; and
- 515 (iii) preventing persons who violate the federal Violent Crime Control and Law
- 516 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in the business of
- 517 insurance in the state.

518 (c) If the department requests the criminal background information, the department
 519 shall:

- 520 (i) pay to the Department of Public Safety the costs incurred by the Department of
- 521 Public Safety in providing the department criminal background information under Subsection
- 522 (4)(a)(i);
- 523 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau
- 524 of Investigation in providing the department criminal background information under
- 525 Subsection (4)(a)(ii); and
- 526 (iii) charge the person applying for a license or for renewal of a license a fee equal to
- 527 the aggregate of Subsections (4)(c)(i) and (ii).

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

529 **31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
 530 **terminating a license -- Rulemaking for renewal and reinstatement.**

- 531 (1) A license type issued under this chapter remains in force until:
- 532 (a) revoked[;] or suspended[~~, or limited~~] under Subsection [~~(2)~~] (4);
- 533 [~~(b) lapsed under Subsection (3);~~]

534 ~~[(e)]~~ (b) surrendered to the commissioner and accepted by the commissioner in lieu of
535 administrative action; [or]

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

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

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

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

541 (e) voluntarily surrendered.

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

544 (a) a lapsed license; or

545 (b) a voluntarily surrendered license.

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

549 (a) this title; or

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

551 Administrative Rulemaking Act.

552 ~~[(2) After]~~ (4) (a) If the commissioner makes a finding under Subsection (4)(b), after
553 an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act, the
554 commissioner may:

555 (i) revoke[;] a license;

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

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

558 (b) The commissioner may take an action described in Subsection (4)(a) if the
559 commissioner finds that the licensee:

560 ~~[(a) be]~~ (i) is unqualified for a license under [Section] Sections 31A-25-202 and
561 31A-25-203;

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

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

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

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

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

567 rehabilitation, or other delinquency proceedings in any state;

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

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

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

571 ~~[as]~~ that is required of admitted insurers;

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

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

574 this state without a license;

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

576 (A) to be examined; or

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

578 ~~have refused]~~;

579 (viii) has an officer who refuses to:

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

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

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

583 provides information in the license application~~[-];~~ that is:

584 (A) incorrect;

585 (B) misleading;

586 (C) incomplete; or

587 (D) materially untrue;

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

589 insurance department;

590 ~~[(j) have]~~ (xi) has obtained or attempted to obtain a license through misrepresentation
591 or fraud;

592 ~~[(k) have]~~ (xii) has improperly withheld, misappropriated, or converted any monies or
593 properties received in the course of doing insurance business;

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

595 (A) insurance contract; or

596 (B) application for insurance;

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

598 ~~[(n) have]~~ (xv) has admitted or been found to have committed any insurance unfair
599 trade practice or fraud;

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

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

602 ~~[(p) have]~~ (B) demonstrated incompetence, untrustworthiness, or financial
603 irresponsibility [~~in the conduct of business in this state or elsewhere~~];

604 ~~[(q) have]~~ (xvii) has had an insurance license or its equivalent, denied, suspended, or
605 revoked in any other state, province, district, or territory;

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

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

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

609 ~~[(s) have]~~ (xix) has improperly used notes or any other reference material to complete
610 an examination for an insurance license;

611 ~~[(t) have]~~ (xx) has knowingly accepted insurance business from an individual who is
612 not licensed;

613 ~~[(u) have]~~ (xxi) has failed to comply with an administrative or court order imposing a
614 child support obligation;

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

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

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

618 income tax;

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

621 ~~[(x) have]~~ (xxiv) has engaged in methods and practices in the conduct of business that
622 endanger the legitimate interests of customers and the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

651 (i) the natural person;

652 (ii) the agency if the agency:

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

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

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

657 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

658 (5) A licensee under this chapter is subject to the penalties for acting as a licensee
659 without a license if:

660 (a) the licensee's license is:

661 (i) revoked;

662 (ii) suspended;

663 (iii) limited;

664 (iv) surrendered in lieu of administrative action;

665 (v) lapsed; or

666 (vi) voluntarily surrendered; and

667 (b) the licensee:

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

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

670 (6) A licensee under this chapter shall immediately report to the commissioner:

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

673 (b) the imposition of a disciplinary sanction imposed on that person by any other state,

674 the District of Columbia, or a territory of the United States; or

675 (c) a judgment or injunction entered against the person on the basis of conduct

676 involving:

677 (i) fraud;

678 (ii) deceit;

679 (iii) misrepresentation; or

680 (iv) a violation of an insurance law or rule.

681 (7) (a) An order revoking a license under Subsection [(2)] (4) or an agreement to
682 surrender a license in lieu of administrative action may specify a time, not to exceed five years,
683 within which the former licensee may not apply for a new license.

684 (b) If no time is specified in the order or agreement described in Subsection (7)(a), the
685 former licensee may not apply for a new license for five years from the day on which the order
686 or agreement is made without the express approval of the commissioner.

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

693 ~~[(9)] (8) [If ordered by a court, the] The commissioner shall promptly withhold,~~
694 ~~suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the~~
695 ~~court.~~

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

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

699 **31A-25-209. Probation -- Grounds for revocation.**

700 (1) ~~[It]~~ The commissioner may place a licensee on probation for a period not to exceed
701 24 months as follows:

702 (a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative
703 Procedures Act, for any circumstances that would justify a suspension under Section
704 31A-25-208[, the commissioner may instead, after a formal adjudicative proceeding, put the
705 licensee on probation for a specified period no longer than 12 months.]; or

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

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

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

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

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

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

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

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

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

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

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

731 **31A-25-210. License lapse and voluntary surrender.**

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

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

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

735 (iii) produce, when due, evidence of compliance with the financial responsibility

736 requirement under Section 31A-25-205; or

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

738 licensee.

739 (b) (i) A licensee whose license lapses due to the following may request an action

740 described in Subsection (1)(b)(ii):

741 (A) military service;

742 (B) voluntary service for a period of time designated by the person for whom the

743 licensee provides voluntary service; or

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

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

746 (A) reinstatement of the license; and

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

748 procedures:

749 (I) an examination requirement;

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

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

752 (2) If a license issued under this chapter is voluntarily surrendered, the license may be

753 reinstated within one year after the day on which the license is inactivated.

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

755 **31A-26-203. Adjuster's license required.**

756 (1) The commissioner shall issue a license to act as an independent adjuster or public

757 adjuster to any person who, as to the license classification applied for under Section

758 31A-26-204, has:

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

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

761 31A-26-206;

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

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

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

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

766 (i) an applicant for:

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

768 (B) a public adjuster's license;

769 (ii) a licensed independent adjuster; or

770 (iii) a licensed public adjuster.

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

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

773 (A) in another jurisdiction; or

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

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

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

777 (i) be filed:

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

779 ~~license; [or] and~~

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

781 applies for an adjustor's license:

782 ~~[(B)] (I) for an administrative action,~~ within 30 days of the ~~[initiation of an action or~~

783 ~~prosecution described in Subsection (2)(b); and]~~ final disposition of the administrative action;

784 or

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

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

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

790 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
791 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

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

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

796 (i) determining if a person satisfies the character requirements under Section
797 31A-26-205 for issuance or renewal of a license;

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

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

803 (c) If the department requests the criminal background information, the department
804 shall:

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

808 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau
809 of Investigation in providing the department criminal background information under
810 Subsection (3)(a)(ii); and

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

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

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

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

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

819 **31A-26-213. Revocation, suspension, surrender, lapsing, limiting, or otherwise**
820 **terminating a license -- Rulemaking for renewal or reinstatement.**

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

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

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

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

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

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

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

829 Minors;

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

831 (e) voluntarily surrendered.

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

834 (a) a lapsed license; or

835 (b) a voluntarily surrendered license.

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

839 (a) this title; or

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

841 Administrative Rulemaking Act.

842 (4) A license classification issued under this chapter remains in force until:
 843 (a) the qualifications pertaining to a license classification are no longer met by the
 844 licensee; or
 845 (b) the supporting license type:
 846 (i) is revoked or suspended under Subsection (5); or
 847 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
 848 administrative action.
 849 ~~[(2) (a) After]~~ (5) (a) If the commissioner makes a finding under Subsection (5)(b)
 850 after an adjudicative proceeding under Title 63, Chapter 46b, Administrative Procedures Act,
 851 ~~[if the commissioner makes a finding described in Subsection (2)(b),]~~ the commissioner may:
 852 (i) revoke:
 853 (A) a license [of an adjuster]; or
 854 (B) a license classification;
 855 (ii) suspend [a license of an adjuster] for a specified period of 12 months or less[; or]:
 856 (A) a license; or
 857 (B) a license classification; or
 858 (iii) limit in whole or in part [the license of any adjuster.]:
 859 (A) a license; or
 860 (B) a license classification.
 861 (b) The commissioner may take an action described in Subsection [~~(2)~~] (5)(a) if the
 862 commissioner finds that the [adjuster] licensee:
 863 (i) is unqualified for a license or license classification under [Section] Sections
 864 31A-26-202, 31A-26-203, and 31A-26-204;
 865 (ii) has violated:
 866 (A) an insurance statute;
 867 (B) a [valid] rule that is valid under Subsection 31A-2-201(3); or
 868 (C) [a valid] an order that is valid under Subsection 31A-2-201(4);
 869 (iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other

870 delinquency proceedings in any state;

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

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

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

874 that is required of admitted insurers;

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

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

877 without a license;

878 (vii) refuses;

879 (A) to be examined; or

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

881 (viii) has an officer who refuses to:

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

883 adjuster's affairs; or

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

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

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

887 (A) incorrect;

888 (B) misleading;

889 (C) incomplete; or

890 (D) materially untrue;

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

892 department;

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

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

895 received in the course of doing insurance business;

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

897 (A) insurance contract; or

898 (B) application for insurance;

899 (xiv) has been convicted of a felony;

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

901 or fraud;

902 (xvi) in the conduct of business in this state or elsewhere has:

903 (A) used fraudulent, coercive, or dishonest practices [~~in the conduct of business in this~~

904 ~~state or elsewhere~~]; or

905 [~~(xvii) has~~] (B) demonstrated incompetence, untrustworthiness, or financial

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

907 [~~(xviii)~~] (xvii) has had an insurance license, or its equivalent, denied, suspended, or

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

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

910 (A) an application for insurance; or

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

912 [~~(xx)~~] (xix) has improperly used notes or any other reference material to complete an

913 examination for an insurance license;

914 [~~(xxi)~~] (xx) has knowingly accepted insurance business from an individual who is not

915 licensed;

916 [~~(xxii)~~] (xxi) has failed to comply with an administrative or court order imposing a

917 child support obligation;

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

919 (A) pay state income tax; or

920 (B) comply with any administrative or court order directing payment of state income

921 tax;

922 [~~(xxiv)~~] (xxiii) has violated or permitted others to violate the federal Violent Crime

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

924 [~~(xxv)~~] (xxiv) has engaged in methods and practices in the conduct of business that

925 endanger the legitimate interests of customers and the public.

926 ~~[(3) (a) Any license issued under this chapter shall lapse if the licensee fails to:]~~
927 ~~[(i) pay any fee that is due under Section 31A-3-103 or 31A-3-104;]~~
928 ~~[(ii) complete continuing education requirements under Section 31A-26-206 before~~
929 ~~submitting the license renewal application; or]~~
930 ~~[(iii) submit a completed renewal application as required by Section 31A-26-202.]~~
931 ~~[(b) A licensee whose license lapses due to military service or some other extenuating~~
932 ~~circumstance such as a long-term medical disability may request:]~~
933 ~~[(i) reinstatement; and]~~
934 ~~[(ii) a waiver of any of the following imposed for failure to comply with renewal~~
935 ~~procedures:]~~
936 ~~[(A) an examination requirement;]~~
937 ~~[(B) a fine; or]~~
938 ~~[(C) other sanction.]~~
939 ~~[(c) The commissioner shall by rule prescribe the license renewal and reinstatement~~
940 ~~procedures, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~
941 (c) For purposes of this section, if a license is held by an agency, both the agency itself
942 and any natural person named on the license are considered to be the holders of the license.
943 (d) If a natural person named on the agency license commits any act or fails to perform
944 any duty that is a ground for suspending, revoking, or limiting the natural person's license, the
945 commissioner may suspend, revoke, or limit the license of:
946 (i) the natural person;
947 (ii) the agency, if the agency:
948 (A) is reckless or negligent in its supervision of the natural person; or
949 (B) knowingly participated in the act or failure to act that is the ground for suspending,
950 revoking, or limiting the license; or
951 (iii) (A) the natural person; and
952 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
953 ~~[(4)] (6) A licensee under this chapter [whose license is suspended, revoked, or lapsed;~~

954 ~~but who continues to act as a licensee,]~~ is subject to the penalties for conducting an insurance
955 business without a license[-] if:

956 (a) the licensee's license is:

957 (i) revoked;

958 (ii) suspended;

959 (iii) limited;

960 (iv) surrendered in lieu of administrative action;

961 (v) lapsed; or

962 (vi) voluntarily surrendered; and

963 (b) the licensee:

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

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

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

967 (a) a revocation, suspension, or limitation of the person's license in any other state, the

968 District of Columbia, or a territory of the United States;

969 (b) the imposition of a disciplinary sanction imposed on that person by any other state,

970 the District of Columbia, or a territory of the United States; or

971 (c) a judgment or injunction entered against that person on the basis of conduct

972 involving:

973 (i) fraud;

974 (ii) deceit;

975 (iii) misrepresentation; or

976 (iv) a violation of an insurance law or rule.

977 ~~[(5)]~~ (8) (a) An order revoking a license under Subsection ~~[(2)]~~ (5) or an agreement to

978 surrender a license in lieu of administrative action may specify a time not to exceed five years

979 within which the former licensee may not apply for a new license.

980 (b) If no time is specified in the order ~~[revoking a license under Subsection (2)]~~ or

981 agreement described in Subsection (8)(a), the former licensee may not apply for a new license

982 for five years without the express approval of the commissioner.

983 ~~[(6) (a) Any person whose license is suspended or revoked under Subsection (2) shall,~~
984 ~~when the suspension ends or a new license is issued, pay all fees that would have been payable~~
985 ~~if the license had not been suspended or revoked, unless the commissioner by order waives the~~
986 ~~payment of the interim fees.]~~

987 ~~[(b) If a new license is issued more than three years after the revocation of a similar~~
988 ~~license, this Subsection (6) applies only to the fees that would have accrued during the three~~
989 ~~years immediately following the revocation.]~~

990 ~~[(7)]~~ (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the
991 use of a license issued under this part if so ordered by a court.

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

994 Section 13. Section **31A-26-214** is amended to read:

995 **31A-26-214. Probation -- Grounds for revocation.**

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

998 (a) after an adjudicative proceeding under Title 63, Chapter 46b, Administrative
999 Procedures Act, for any circumstances that would justify a suspension under Section

1000 31A-26-213~~[, the commissioner may instead, after a formal adjudicative proceeding, put the~~
1001 ~~licensee on probation for a specified period no longer than 24 months.]; or~~

1002 (b) at the issuance of a new license:

1003 (i) with an admitted violation under 18 U.S.C. Sections 1033 and 1034; or

1004 (ii) with a response to a background information question on any new license
1005 application indicating that:

1006 (A) the person has been convicted of a crime, that is listed by rule made in accordance
1007 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is grounds for
1008 probation;

1009 (B) the person is currently charged with a crime, that is listed by rule made in

1010 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as a crime that is
1011 grounds for probation regardless of whether adjudication was withheld;

1012 (C) the person has been involved in an administrative proceeding regarding any
1013 professional or occupational license; or

1014 (D) any business in which the person is or was an owner, partner, officer, or director
1015 has been involved in an administrative proceeding regarding any professional or occupational
1016 license.

1017 (2) The commissioner may put a licensee on probation for a specified period no longer
1018 than 24 months if the licensee has admitted to violations under 18 U.S.C. Sections 1033 and
1019 1034.

1020 ~~[(2) The]~~ (3) A probation order under this section shall state the conditions for
1021 retention of the license, which shall be reasonable.

1022 ~~[(3) Violation]~~ (4) A violation of the probation is grounds for revocation pursuant to
1023 any proceeding authorized under Title 63, Chapter 46b, Administrative Procedures Act.

1024 Section 14. Section **31A-26-214.5** is enacted to read:

1025 **31A-26-214.5. License lapse and voluntary surrender.**

1026 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:

1027 (i) pay when due a fee under Section 31A-3-103;

1028 (ii) complete continuing education requirements under Section 31A-26-206 before
1029 submitting the license renewal application;

1030 (iii) submit a completed renewal application as required by Section 31A-26-202;

1031 (iv) submit additional documentation required to complete the licensing process as
1032 related to a specific license type or license classification; or

1033 (v) maintain an active license in a resident state if the licensee is a nonresident
1034 licensee.

1035 (b) (i) A licensee whose license lapses due to the following may request an action
1036 described in Subsection (1)(b)(ii):

1037 (A) military service;

1038 (B) voluntary service for a period of time designated by the person for whom the
1039 licensee provides voluntary service; or
1040 (C) some other extenuating circumstances such as long-term medical disability.
1041 (ii) A licensee described in Subsection (1)(b)(i) may request:
1042 (A) reinstatement of the license; and
1043 (B) waiver of any of the following imposed for failure to comply with renewal
1044 procedures:
1045 (I) an examination requirement;
1046 (II) reinstatement fees set under Section 31A-3-103;
1047 (III) continuing education requirements; or
1048 (IV) other sanction imposed for failure to comply with renewal procedures.
1049 (2) If a license type or license classification issued under this chapter is voluntarily
1050 surrendered, the license type or license classification may be reinstated within one year after
1051 the day on which the license type or license classification is inactivated.