

1                   **INSURANCE CODE AND RELATED AMENDMENTS**

2                                   2009 GENERAL SESSION

3                                   STATE OF UTAH

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

5                                   Senate Sponsor: John L. Valentine

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Insurance Code and related provisions.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ modifies definitions;
- 13           ▶ provides for rulemaking authority related to annual financial reporting requirements
- 14           similar to those adopted by the National Association of Insurance Commissioners;
- 15           ▶ modifies provisions related to audit committees:
  - 16               • making the board of directors an audit committee in certain circumstances;
  - 17               • providing rulemaking authority for rules pertaining to an audit committee
- 18           requirement; and
- 19           ▶ clarifying insider directors;
- 20           ▶ addresses single risk limitations;
- 21           ▶ addresses the suicide provisions;
- 22           ▶ authorizes the commissioner to make rules related to federal law requirements
- 23           involving genetic information and involving marketing;
- 24           ▶ addresses general requirements for licensing and when the commissioner may deny
- 25           a license application;
- 26           ▶ modifies license types and classifications;
- 27           ▶ addresses reinstatement of a voluntarily surrendered license;
- 28           ▶ modifies requirements related to a title insurance producer's reserve fund;
- 29           ▶ addresses designations by an insurer, agency licensee, or organization of an

- 30 individual licensee;
- 31       ▶ addresses loss of a license if an individual licensee commits an act or fails to
- 32 perform a duty;
- 33       ▶ exempts a nonresident licensee from trust account requirements of this state by
- 34 requiring that the licensee comply with the trust account requirements of the
- 35 licensee's home state;
- 36       ▶ modifies notice requirements related to termination of coverage when an employer
- 37 receives premium by deducting wages or salary;
- 38       ▶ modifies exemptions from the prohibition on sharing commissions;
- 39       ▶ modifies provisions related to a bail bond licensee;
- 40       ▶ shortens the period of time an applicant for a bail bond surety company license has
- 41 to request a hearing for a denial;
- 42       ▶ modifies the renewal process for a bail bond surety company;
- 43       ▶ permits the commissioner to accept a comprehensive annual independent audit in
- 44 lieu of an examination for a captive insurance company;
- 45       ▶ provides for the sharing of information with the Insurance Department related to
- 46 professional employer organizations;
- 47       ▶ makes certain records private records under the Government Records Access and
- 48 Management Act; and
- 49       ▶ makes technical and conforming amendments, including repealing outdated
- 50 language.

51 **Monies Appropriated in this Bill:**

52       None

53 **Other Special Clauses:**

54       None

55 **Utah Code Sections Affected:**

56 AMENDS:

57       **31A-1-301**, as last amended by Laws of Utah 2008, Chapters 345 and 382

- 58           **31A-2-203**, as last amended by Laws of Utah 2008, Chapters 345 and 382
- 59           **31A-5-412**, as last amended by Laws of Utah 1987, Chapters 91 and 95
- 60           **31A-8-215**, as last amended by Laws of Utah 2004, Chapter 90
- 61           **31A-20-108**, as last amended by Laws of Utah 2008, Chapter 257
- 62           **31A-22-404**, as last amended by Laws of Utah 2008, Chapter 345
- 63           **31A-22-620**, as last amended by Laws of Utah 2005, Chapter 78
- 64           **31A-22-1602**, as enacted by Laws of Utah 2002, Chapter 120
- 65           **31A-23a-102**, as last amended by Laws of Utah 2004, Chapters 90 and 173
- 66           **31A-23a-104**, as last amended by Laws of Utah 2008, Chapter 382
- 67           **31A-23a-105**, as last amended by Laws of Utah 2008, Chapter 345
- 68           **31A-23a-106**, as last amended by Laws of Utah 2007, Chapter 325
- 69           **31A-23a-111**, as last amended by Laws of Utah 2008, Chapters 345 and 382
- 70           **31A-23a-113**, as last amended by Laws of Utah 2006, Chapter 312
- 71           **31A-23a-115**, as last amended by Laws of Utah 2008, Chapter 382
- 72           **31A-23a-203**, as last amended by Laws of Utah 2005, Chapter 124
- 73           **31A-23a-204**, as last amended by Laws of Utah 2008, Chapter 220
- 74           **31A-23a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 75           **31A-23a-409**, as last amended by Laws of Utah 2004, Chapter 2
- 76           **31A-23a-410**, as renumbered and amended by Laws of Utah 2003, Chapter 298
- 77           **31A-23a-504**, as last amended by Laws of Utah 2007, Chapter 307
- 78           **31A-25-203**, as last amended by Laws of Utah 2008, Chapter 345
- 79           **31A-25-208**, as last amended by Laws of Utah 2008, Chapter 382
- 80           **31A-25-210**, as enacted by Laws of Utah 2006, Chapter 312
- 81           **31A-26-203**, as last amended by Laws of Utah 2008, Chapter 345
- 82           **31A-26-204**, as last amended by Laws of Utah 2007, Chapter 325
- 83           **31A-26-210**, as last amended by Laws of Utah 2007, Chapter 306
- 84           **31A-26-213**, as last amended by Laws of Utah 2008, Chapter 382
- 85           **31A-26-214.5**, as enacted by Laws of Utah 2006, Chapter 312

- 86            **31A-35-405**, as last amended by Laws of Utah 2008, Chapter 382
  - 87            **31A-35-406**, as last amended by Laws of Utah 2008, Chapter 382
  - 88            **31A-37-502**, as last amended by Laws of Utah 2008, Chapter 302
  - 89            **31A-37a-402**, as enacted by Laws of Utah 2008, Chapter 302
  - 90            **35A-4-312**, as last amended by Laws of Utah 2008, Chapters 58 and 382
  - 91            **63G-2-302**, as last amended by Laws of Utah 2008, Chapter 91 and renumbered and
  - 92 amended by Laws of Utah 2008, Chapter 382
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93

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

95            Section 1. Section **31A-1-301** is amended to read:

96            **31A-1-301. Definitions.**

97            As used in this title, unless otherwise specified:

98            (1) (a) "Accident and health insurance" means insurance to provide protection against  
99 economic losses resulting from:

100            (i) a medical condition including:

101            (A) a medical care expense; or

102            (B) the risk of disability;

103            (ii) accident; or

104            (iii) sickness.

105            (b) "Accident and health insurance":

106            (i) includes a contract with disability contingencies including:

107            (A) an income replacement contract;

108            (B) a health care contract;

109            (C) an expense reimbursement contract;

110            (D) a credit accident and health contract;

111            (E) a continuing care contract; and

112            (F) a long-term care contract; and

113            (ii) may provide:

- 114 (A) hospital coverage;
- 115 (B) surgical coverage;
- 116 (C) medical coverage;
- 117 (D) loss of income coverage;
- 118 (E) prescription drug coverage;
- 119 (F) dental coverage; or
- 120 (G) vision coverage.
- 121 (c) "Accident and health insurance" does not include workers' compensation
- 122 insurance.
- 123 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with
- 124 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 125 (3) "Administrator" is defined in Subsection (159).
- 126 (4) "Adult" means [~~a natural person~~] an individual who has attained the age of at least
- 127 18 years.
- 128 (5) "Affiliate" means a person who controls, is controlled by, or is under common
- 129 control with, another person. A corporation is an affiliate of another corporation, regardless of
- 130 ownership, if substantially the same group of [~~natural persons manages~~] individuals manage
- 131 the corporations.
- 132 (6) "Agency" means:
- 133 (a) a person other than an individual, including a sole proprietorship by which [~~a~~
- 134 ~~natural person~~] an individual does business under an assumed name; and
- 135 (b) an insurance organization licensed or required to be licensed under Section
- 136 31A-23a-301.
- 137 (7) "Alien insurer" means an insurer domiciled outside the United States.
- 138 (8) "Amendment" means an endorsement to an insurance policy or certificate.
- 139 (9) "Annuity" means an agreement to make periodical payments for a period certain or
- 140 over the lifetime of one or more [~~natural persons~~] individuals if the making or continuance of
- 141 all or some of the series of the payments, or the amount of the payment, is dependent upon the

142 continuance of human life.

143 (10) "Application" means a document:

144 (a) (i) completed by an applicant to provide information about the risk to be insured;

145 and

146 (ii) that contains information that is used by the insurer to evaluate risk and decide

147 whether to:

148 (A) insure the risk under:

149 (I) the coverage as originally offered; or

150 (II) a modification of the coverage as originally offered; or

151 (B) decline to insure the risk; or

152 (b) used by the insurer to gather information from the applicant before issuance of an

153 annuity contract.

154 (11) "Articles" or "articles of incorporation" means:

155 (a) the original articles;

156 (b) a special law;

157 (c) a charter;

158 (d) an amendment;

159 (e) restated articles;

160 (f) articles of merger or consolidation;

161 (g) a trust instrument;

162 (h) another constitutive document for a trust or other entity that is not a corporation;

163 and

164 (i) an amendment to an item listed in Subsections (11)(a) through (h).

165 (12) "Bail bond insurance" means a guarantee that a person will attend court when

166 required, up to and including surrender of the person in execution of a sentence imposed under

167 Subsection 77-20-7(1), as a condition to the release of that person from confinement.

168 (13) "Binder" is defined in Section 31A-21-102.

169 (14) "Blanket insurance policy" means a group policy covering a defined class of

170 persons:

171 (a) without individual underwriting or application; and

172 (b) that is determined by definition with or without designating each person covered.

173 (15) "Board," "board of trustees," or "board of directors" means the group of persons

174 with responsibility over, or management of, a corporation, however designated.

175 (16) "Business entity" means:

176 (a) a corporation;

177 (b) an association;

178 (c) a partnership;

179 (d) a limited liability company;

180 (e) a limited liability partnership; or

181 (f) another legal entity.

182 (17) "Business of insurance" is defined in Subsection (85).

183 (18) "Business plan" means the information required to be supplied to the

184 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required

185 when these subsections apply by reference under:

186 (a) Section 31A-7-201;

187 (b) Section 31A-8-205; or

188 (c) Subsection 31A-9-205(2).

189 (19) (a) "Bylaws" means the rules adopted for the regulation or management of a

190 corporation's affairs, however designated.

191 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a

192 corporation.

193 (20) "Captive insurance company" means:

194 (a) an insurer:

195 (i) owned by another organization; and

196 (ii) whose exclusive purpose is to insure risks of the parent organization and an

197 affiliated company; or

- 198 (b) in the case of a group or association, an insurer:
- 199 (i) owned by the insureds; and
- 200 (ii) whose exclusive purpose is to insure risks of:
- 201 (A) a member organization;
- 202 (B) a group member; or
- 203 (C) an affiliate of:
- 204 (I) a member organization; or
- 205 (II) a group member.
- 206 (21) "Casualty insurance" means liability insurance [~~as defined in Subsection (97)~~].
- 207 (22) "Certificate" means evidence of insurance given to:
- 208 (a) an insured under a group insurance policy; or
- 209 (b) a third party.
- 210 (23) "Certificate of authority" is included within the term "license."
- 211 (24) "Claim," unless the context otherwise requires, means a request or demand on an
- 212 insurer for payment of a benefit according to the terms of an insurance policy.
- 213 (25) "Claims-made coverage" means an insurance contract or provision limiting
- 214 coverage under a policy insuring against legal liability to claims that are first made against the
- 215 insured while the policy is in force.
- 216 (26) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
- 217 commissioner.
- 218 (b) When appropriate, the terms listed in Subsection (26)(a) apply to the equivalent
- 219 supervisory official of another jurisdiction.
- 220 (27) (a) "Continuing care insurance" means insurance that:
- 221 (i) provides board and lodging;
- 222 (ii) provides one or more of the following:
- 223 (A) a personal service;
- 224 (B) a nursing service;
- 225 (C) a medical service; or



226 (D) any other health-related service; and  
227 (iii) provides the coverage described in this Subsection (27)(a)[(†)] under an agreement  
228 effective:  
229 (A) for the life of the insured; or  
230 (B) for a period in excess of one year.  
231 (b) Insurance is continuing care insurance regardless of whether or not the board and  
232 lodging are provided at the same location as a service described in Subsection (27)(a)(ii).  
233 (28) (a) "Control," "controlling," "controlled," or "under common control" means the  
234 direct or indirect possession of the power to direct or cause the direction of the management  
235 and policies of a person. This control may be:  
236 (i) by contract;  
237 (ii) by common management;  
238 (iii) through the ownership of voting securities; or  
239 (iv) by a means other than those described in Subsections (28)(a)(i) through (iii).  
240 (b) There is no presumption that an individual holding an official position with  
241 another person controls that person solely by reason of the position.  
242 (c) A person having a contract or arrangement giving control is considered to have  
243 control despite the illegality or invalidity of the contract or arrangement.  
244 (d) There is a rebuttable presumption of control in a person who directly or indirectly  
245 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the  
246 voting securities of another person.  
247 (29) "Controlled insurer" means a licensed insurer that is either directly or indirectly  
248 controlled by a producer.  
249 (30) "Controlling person" means a person that directly or indirectly has the power to  
250 direct or cause to be directed, the management, control, or activities of a reinsurance  
251 intermediary.  
252 (31) "Controlling producer" means a producer who directly or indirectly controls an  
253 insurer.

254 (32) (a) "Corporation" means an insurance corporation, except when referring to:  
255 (i) a corporation doing business:  
256 (A) as:  
257 (I) an insurance producer;  
258 (II) a limited line producer;  
259 (III) a consultant;  
260 (IV) a managing general agent;  
261 (V) a reinsurance intermediary;  
262 (VI) a third party administrator; or  
263 (VII) an adjuster; and  
264 (B) under:  
265 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and  
266 Reinsurance Intermediaries;  
267 (II) Chapter 25, Third Party Administrators; or  
268 (III) Chapter 26, Insurance Adjusters; or  
269 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance  
270 Holding Companies.  
271 (b) "Stock corporation" means a stock insurance corporation.  
272 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.  
273 (33) "Creditable coverage" has the same meaning as provided in federal regulations  
274 adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L.  
275 104-191, 110 Stat. 1936.  
276 (34) "Credit accident and health insurance" means insurance on a debtor to provide  
277 indemnity for payments coming due on a specific loan or other credit transaction while the  
278 debtor is disabled.  
279 (35) (a) "Credit insurance" means insurance offered in connection with an extension  
280 of credit that is limited to partially or wholly extinguishing that credit obligation.  
281 (b) "Credit insurance" includes:

- 282 (i) credit accident and health insurance;
  - 283 (ii) credit life insurance;
  - 284 (iii) credit property insurance;
  - 285 (iv) credit unemployment insurance;
  - 286 (v) guaranteed automobile protection insurance;
  - 287 (vi) involuntary unemployment insurance;
  - 288 (vii) mortgage accident and health insurance;
  - 289 (viii) mortgage guaranty insurance; and
  - 290 (ix) mortgage life insurance.
- 291 (36) "Credit life insurance" means insurance on the life of a debtor in connection with
- 292 an extension of credit that pays a person if the debtor dies.
- 293 (37) "Credit property insurance" means insurance:
- 294 (a) offered in connection with an extension of credit; and
  - 295 (b) that protects the property until the debt is paid.
- 296 (38) "Credit unemployment insurance" means insurance:
- 297 (a) offered in connection with an extension of credit; and
  - 298 (b) that provides indemnity if the debtor is unemployed for payments coming due on
- 299 a:
- 300 (i) specific loan; or
  - 301 (ii) credit transaction.
- 302 (39) "Creditor" means a person, including an insured, having a claim, whether:
- 303 (a) matured;
  - 304 (b) unmatured;
  - 305 (c) liquidated;
  - 306 (d) unliquidated;
  - 307 (e) secured;
  - 308 (f) unsecured;
  - 309 (g) absolute;

- 310 (h) fixed; or
- 311 (i) contingent.
- 312 (40) (a) "Customer service representative" means a person that provides an insurance
- 313 service and insurance product information:
- 314 (i) for the customer service representative's:
- 315 (A) producer; or
- 316 (B) consultant employer; and
- 317 (ii) to the customer service representative's employer's:
- 318 (A) customer;
- 319 (B) client; or
- 320 (C) organization.
- 321 (b) A customer service representative may only operate within the scope of authority
- 322 of the customer service representative's producer or consultant employer.
- 323 (41) "Deadline" means ~~the~~ a final date or time:
- 324 (a) imposed by:
- 325 (i) statute;
- 326 (ii) rule; or
- 327 (iii) order; and
- 328 (b) by which a required filing or payment must be received by the department.
- 329 (42) "Deemer clause" means a provision under this title under which upon the
- 330 occurrence of a condition precedent, the commissioner is considered to have taken a specific
- 331 action. If the statute so provides, a condition precedent may be the commissioner's failure to
- 332 take a specific action.
- 333 (43) "Degree of relationship" means the number of steps between two persons
- 334 determined by counting the generations separating one person from a common ancestor and
- 335 then counting the generations to the other person.
- 336 (44) "Department" means the Insurance Department.
- 337 (45) "Director" means a member of the board of directors of a corporation.

338 (46) "Disability" means a physiological or psychological condition that partially or  
339 totally limits an individual's ability to:

340 (a) perform the duties of:

341 (i) that individual's occupation; or

342 (ii) any occupation for which the individual is reasonably suited by education,  
343 training, or experience; or

344 (b) perform two or more of the following basic activities of daily living:

345 (i) eating;

346 (ii) toileting;

347 (iii) transferring;

348 (iv) bathing; or

349 (v) dressing.

350 (47) "Disability income insurance" is defined in Subsection (76).

351 (48) "Domestic insurer" means an insurer organized under the laws of this state.

352 (49) "Domiciliary state" means the state in which an insurer:

353 (a) is incorporated;

354 (b) is organized; or

355 (c) in the case of an alien insurer, enters into the United States.

356 (50) (a) "Eligible employee" means:

357 (i) an employee who:

358 (A) works on a full-time basis; and

359 (B) has a normal work week of 30 or more hours; or

360 (ii) a person described in Subsection (50)(b).

361 (b) "Eligible employee" includes, if the individual is included under a health benefit  
362 plan of a small employer:

363 (i) a sole proprietor;

364 (ii) a partner in a partnership; or

365 (iii) an independent contractor.

- 366 (c) "Eligible employee" does not include, unless eligible under Subsection (50)(b):
- 367 (i) an individual who works on a temporary or substitute basis for a small employer;
- 368 (ii) an employer's spouse; or
- 369 (iii) a dependent of an employer.
- 370 (51) "Employee" means an individual employed by an employer.
- 371 (52) "Employee benefits" means one or more benefits or services provided to:
- 372 (a) an employee; or
- 373 (b) a dependent of an employee.
- 374 (53) (a) "Employee welfare fund" means a fund:
- 375 (i) established or maintained, whether directly or through a trustee, by:
- 376 (A) one or more employers;
- 377 (B) one or more labor organizations; or
- 378 (C) a combination of employers and labor organizations; and
- 379 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 380 from investments of the fund:
- 381 (A) by or on behalf of an employer doing business in this state; or
- 382 (B) for the benefit of a person employed in this state.
- 383 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 384 revenues.
- 385 (54) "Endorsement" means a written agreement attached to a policy or certificate to
- 386 modify [~~one or more of the provisions of~~] the policy or certificate coverage.
- 387 (55) "Enrollment date," with respect to a health benefit plan, means:
- 388 (a) the first day of coverage; or
- 389 (b) if there is a waiting period, the first day of the waiting period.
- 390 (56) (a) "Escrow" means:
- 391 (i) a real estate settlement or real estate closing conducted by a third party pursuant to
- 392 the requirements of a written agreement between the parties in a real estate transaction; or
- 393 (ii) a settlement or closing involving:

- 394 (A) a mobile home;
- 395 (B) a grazing right;
- 396 (C) a water right; or
- 397 (D) other personal property authorized by the commissioner.
- 398 (b) "Escrow" includes the act of conducting a:
  - 399 (i) real estate settlement; or
  - 400 (ii) real estate closing.
- 401 (57) "Escrow agent" means:
  - 402 (a) an insurance producer with:
    - 403 (i) a title insurance line of authority; and
    - 404 (ii) an escrow subline of authority; or
  - 405 (b) a person defined as an escrow agent in Section 7-22-101.
- 406 (58) (a) "Excludes" is not exhaustive and does not mean that another thing is not also  
407 excluded.
- 408 (b) The items listed in a list using the term "excludes" are representative examples for  
409 use in interpretation of this title.
- 410 (59) "Exclusion" means for the purposes of accident and health insurance that an  
411 insurer does not provide insurance coverage, for whatever reason, for one of the following:
  - 412 (a) a specific physical condition;
  - 413 (b) a specific medical procedure;
  - 414 (c) a specific disease or disorder; or
  - 415 (d) a specific prescription drug or class of prescription drugs.
- 416 (60) "Expense reimbursement insurance" means insurance:
  - 417 (a) written to provide a payment for an expense relating to hospital confinement  
418 resulting from illness or injury; and
  - 419 (b) written:
    - 420 (i) as a daily limit for a specific number of days in a hospital; and
    - 421 (ii) to have a one or two day waiting period following a hospitalization.

422 (61) "Fidelity insurance" means insurance guaranteeing the fidelity of a person  
423 holding a position of public or private trust.

424 (62) (a) "Filed" means that a filing is:

425 (i) submitted to the department as required by and in accordance with applicable  
426 statute, rule, or filing order;

427 (ii) received by the department within the time period provided in applicable statute,  
428 rule, or filing order; and

429 (iii) accompanied by the appropriate fee in accordance with:

430 (A) Section 31A-3-103; or

431 (B) rule.

432 (b) "Filed" does not include a filing that is rejected by the department because it is not  
433 submitted in accordance with Subsection (62)(a).

434 (63) "Filing," when used as a noun, means an item required to be filed with the  
435 department including:

436 (a) a policy;

437 (b) a rate;

438 (c) a form;

439 (d) a document;

440 (e) a plan;

441 (f) a manual;

442 (g) an application;

443 (h) a report;

444 (i) a certificate;

445 (j) an endorsement;

446 (k) an actuarial certification;

447 (l) a licensee annual statement;

448 (m) a licensee renewal application;

449 (n) an advertisement; or



- 450 (o) an outline of coverage.
- 451 (64) "First party insurance" means an insurance policy or contract in which the insurer  
452 agrees to pay a claim submitted to it by the insured for the insured's losses.
- 453 (65) "Foreign insurer" means an insurer domiciled outside of this state, including an  
454 alien insurer.
- 455 (66) (a) "Form" means one of the following prepared for general use:
- 456 (i) a policy;
- 457 (ii) a certificate;
- 458 (iii) an application;
- 459 (iv) an outline of coverage; or
- 460 (v) an endorsement.
- 461 (b) "Form" does not include a document specially prepared for use in an individual  
462 case.
- 463 (67) "Franchise insurance" means an individual insurance policy provided through a  
464 mass marketing arrangement involving a defined class of persons related in some way other  
465 than through the purchase of insurance.
- 466 (68) "General lines of authority" include:
- 467 (a) the general lines of insurance in Subsection (69);
- 468 (b) title insurance under one of the following sublines of authority:
- 469 (i) search, including authority to act as a title marketing representative;
- 470 (ii) escrow, including authority to act as a title marketing representative; and
- 471 [~~(iii) search and escrow, including authority to act as a title marketing representative;~~
- 472 ~~and]~~
- 473 [~~(iv)~~] (iii) title marketing representative only;
- 474 (c) surplus lines;
- 475 (d) workers' compensation; and
- 476 (e) any other line of insurance that the commissioner considers necessary to recognize  
477 in the public interest.

478 (69) "General lines of insurance" include:

479 (a) accident and health;

480 (b) casualty;

481 (c) life;

482 (d) personal lines;

483 (e) property; and

484 (f) variable contracts, including variable life and annuity.

485 (70) "Group health plan" means an employee welfare benefit plan to the extent that the  
486 plan provides medical care:

487 (a) (i) to an employee; or

488 (ii) to a dependent of an employee; and

489 (b) (i) directly;

490 (ii) through insurance reimbursement; or

491 (iii) through another method.

492 (71) (a) "Group insurance policy" means a policy covering a group of persons that is  
493 issued:

494 (i) to a policyholder on behalf of the group; and

495 (ii) for the benefit of a member of the group who is selected under a procedure defined

496 in:

497 (A) the policy; or

498 (B) an agreement that is collateral to the policy.

499 (b) A group insurance policy may include a member of the policyholder's family or a  
500 dependent.

501 (72) "Guaranteed automobile protection insurance" means insurance offered in  
502 connection with an extension of credit that pays the difference in amount between the  
503 insurance settlement and the balance of the loan if the insured automobile is a total loss.

504 (73) (a) Except as provided in Subsection (73)(b), "health benefit plan" means a policy  
505 or certificate that:

- 506 (i) provides health care insurance;
- 507 (ii) provides major medical expense insurance; or
- 508 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
- 509 (A) a hospital confinement indemnity; or
- 510 (B) a limited benefit plan.
- 511 (b) "Health benefit plan" does not include a policy or certificate that:
- 512 (i) provides benefits solely for:
- 513 (A) accident;
- 514 (B) dental;
- 515 (C) income replacement;
- 516 (D) long-term care;
- 517 (E) a Medicare supplement;
- 518 (F) a specified disease;
- 519 (G) vision; or
- 520 (H) a short-term limited duration; or
- 521 (ii) is offered and marketed as supplemental health insurance.
- 522 (74) "Health care" means any of the following intended for use in the diagnosis,
- 523 treatment, mitigation, or prevention of a human ailment or impairment:
- 524 (a) a professional service;
- 525 (b) a personal service;
- 526 (c) a facility;
- 527 (d) equipment;
- 528 (e) a device;
- 529 (f) supplies; or
- 530 (g) medicine.
- 531 (75) (a) "Health care insurance" or "health insurance" means insurance providing:
- 532 (i) a health care benefit; or
- 533 (ii) payment of an incurred health care expense.

534 (b) "Health care insurance" or "health insurance" does not include accident and health  
535 insurance providing a benefit for:

536 (i) replacement of income;

537 (ii) short-term accident;

538 (iii) fixed indemnity;

539 (iv) credit accident and health;

540 (v) supplements to liability;

541 (vi) workers' compensation;

542 (vii) automobile medical payment;

543 (viii) no-fault automobile;

544 (ix) equivalent self-insurance; or

545 (x) a type of accident and health insurance coverage that is a part of or attached to  
546 another type of policy.

547 (76) "Income replacement insurance" or "disability income insurance" means  
548 insurance written to provide payments to replace income lost from accident or sickness.

549 (77) "Indemnity" means the payment of an amount to offset all or part of an insured  
550 loss.

551 (78) "Independent adjuster" means an insurance adjuster required to be licensed under  
552 Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

553 (79) "Independently procured insurance" means insurance procured under Section  
554 31A-15-104.

555 (80) "Individual" means a natural person.

556 (81) "Inland marine insurance" includes insurance covering:

557 (a) property in transit on or over land;

558 (b) property in transit over water by means other than boat or ship;

559 (c) bailee liability;

560 (d) fixed transportation property such as bridges, electric transmission systems, radio  
561 and television transmission towers and tunnels; and

562 (e) personal and commercial property floaters.  
563 (82) "Insolvency" means that:  
564 (a) an insurer is unable to pay its debts or meet its obligations as the debts and  
565 obligations mature;  
566 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level  
567 RBC under Subsection 31A-17-601(8)(c); or  
568 (c) an insurer is determined to be hazardous under this title.  
569 (83) (a) "Insurance" means:  
570 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more  
571 persons to one or more other persons; or  
572 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a  
573 group of persons that includes the person seeking to distribute that person's risk.  
574 (b) "Insurance" includes:  
575 (i) a risk distributing arrangement providing for compensation or replacement for  
576 damages or loss through the provision of a service or a benefit in kind;  
577 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a  
578 business and not as merely incidental to a business transaction; and  
579 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,  
580 but with a class of persons who have agreed to share the risk.  
581 (84) "Insurance adjuster" means a person who directs the investigation, negotiation, or  
582 settlement of a claim under an insurance policy other than life insurance or an annuity, on  
583 behalf of an insurer, policyholder, or a claimant under an insurance policy.  
584 (85) "Insurance business" or "business of insurance" includes:  
585 (a) providing health care insurance[~~as defined in Subsection (75);~~] by an  
586 organization that is or ~~should~~ is required to be licensed under this title;  
587 (b) providing a benefit to an employee in the event of a contingency not within the  
588 control of the employee, in which the employee is entitled to the benefit as a right, which  
589 benefit may be provided either:

- 590 (i) by a single employer or by multiple employer groups; or  
591 (ii) through one or more trusts, associations, or other entities;  
592 (c) providing an annuity:  
593 (i) including an annuity issued in return for a gift; and  
594 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)  
595 and (3);  
596 (d) providing the characteristic services of a motor club as outlined in Subsection  
597 (113);  
598 (e) providing another person with insurance [~~as defined in Subsection (83)~~];  
599 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,  
600 or surety, a contract or policy of title insurance;  
601 (g) transacting or proposing to transact any phase of title insurance, including:  
602 (i) solicitation;  
603 (ii) negotiation preliminary to execution;  
604 (iii) execution of a contract of title insurance;  
605 (iv) insuring; and  
606 (v) transacting matters subsequent to the execution of the contract and arising out of  
607 the contract, including reinsurance; and  
608 (h) doing, or proposing to do, any business in substance equivalent to Subsections  
609 (85)(a) through (g) in a manner designed to evade [~~the provisions of~~] this title.  
610 (86) "Insurance consultant" or "consultant" means a person who:  
611 (a) advises another person about insurance needs and coverages;  
612 (b) is compensated by the person advised on a basis not directly related to the  
613 insurance placed; and  
614 (c) except as provided in Section 31A-23a-501, is not compensated directly or  
615 indirectly by an insurer or producer for advice given.  
616 (87) "Insurance holding company system" means a group of two or more affiliated  
617 persons, at least one of whom is an insurer.

618 (88) (a) "Insurance producer" or "producer" means a person licensed or required to be  
619 licensed under the laws of this state to sell, solicit, or negotiate insurance.

620 (b) With regards to the selling, soliciting, or negotiating of an insurance product to an  
621 insurance customer or an insured:

622 (i) "producer for the insurer" means a producer who is compensated directly or  
623 indirectly by an insurer for selling, soliciting, or negotiating a product of that insurer; and

624 (ii) "producer for the insured" means a producer who:

625 (A) is compensated directly and only by an insurance customer or an insured; and

626 (B) receives no compensation directly or indirectly from an insurer for selling,  
627 soliciting, or negotiating a product of that insurer to an insurance customer or insured.

628 (89) (a) "Insured" means a person to whom or for whose benefit an insurer makes a  
629 promise in an insurance policy and includes:

630 (i) a policyholder;

631 (ii) a subscriber;

632 (iii) a member; and

633 (iv) a beneficiary.

634 (b) The definition in Subsection (89)(a):

635 (i) applies only to this title; and

636 (ii) does not define the meaning of this word as used in an insurance policy or  
637 certificate.

638 (90) (a) ~~(i)~~ "Insurer" means a person doing an insurance business as a principal  
639 including:

640 ~~(A)~~ (i) a fraternal benefit society;

641 ~~(B)~~ (ii) an issuer of a gift annuity other than an annuity specified in Subsections  
642 31A-22-1305(2) and (3);

643 ~~(C)~~ (iii) a motor club;

644 ~~(D)~~ (iv) an employee welfare plan; and

645 ~~(E)~~ (v) a person purporting or intending to do an insurance business as a principal on

646 that person's own account.

647           [(ii)] (b) "Insurer" does not include a governmental entity to the extent the  
648 governmental entity is engaged in an activity described in Section 31A-12-107.

649           ~~[(b) "Admitted insurer" is defined in Subsection (163)(b).]~~

650           ~~[(c) "Alien insurer" is defined in Subsection (7).]~~

651           ~~[(d) "Authorized insurer" is defined in Subsection (163)(b).]~~

652           ~~[(e) "Domestic insurer" is defined in Subsection (48).]~~

653           ~~[(f) "Foreign insurer" is defined in Subsection (65).]~~

654           ~~[(g) "Nonadmitted insurer" is defined in Subsection (163)(a).]~~

655           ~~[(h) "Unauthorized insurer" is defined in Subsection (163)(a).]~~

656           (91) "Interinsurance exchange" is defined in Subsection (142).

657           (92) "Involuntary unemployment insurance" means insurance:

658           (a) offered in connection with an extension of credit; and

659           (b) that provides indemnity if the debtor is involuntarily unemployed for payments  
660 coming due on a:

661           (i) specific loan; or

662           (ii) credit transaction.

663           (93) "Large employer," in connection with a health benefit plan, means an employer  
664 who, with respect to a calendar year and to a plan year:

665           (a) employed an average of at least 51 eligible employees on each business day during  
666 the preceding calendar year; and

667           (b) employs at least two employees on the first day of the plan year.

668           (94) "Late enrollee," with respect to an employer health benefit plan, means an  
669 individual whose enrollment is a late enrollment.

670           (95) "Late enrollment," with respect to an employer health benefit plan, means  
671 enrollment of an individual other than:

672           (a) on the earliest date on which coverage can become effective for the individual  
673 under the terms of the plan; or



674 (b) through special enrollment.

675 (96) (a) Except for a retainer contract or legal assistance described in Section  
676 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a  
677 specified legal expense.

678 (b) "Legal expense insurance" includes an arrangement that creates a reasonable  
679 expectation of an enforceable right.

680 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,  
681 legal services incidental to other insurance coverage.

682 (97) (a) "Liability insurance" means insurance against liability:

683 (i) for death, injury, or disability of a human being, or for damage to property,  
684 exclusive of the coverages under:

685 (A) Subsection (107) for medical malpractice insurance;

686 (B) Subsection (134) for professional liability insurance; and

687 (C) Subsection (168) for workers' compensation insurance;

688 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the  
689 insured who is injured, irrespective of legal liability of the insured, when issued with or  
690 supplemental to insurance against legal liability for the death, injury, or disability of a human  
691 being, exclusive of the coverages under:

692 (A) Subsection (107) for medical malpractice insurance;

693 (B) Subsection (134) for professional liability insurance; and

694 (C) Subsection (168) for workers' compensation insurance;

695 (iii) for loss or damage to property resulting from an accident to or explosion of a  
696 boiler, pipe, pressure container, machinery, or apparatus;

697 (iv) for loss or damage to property caused by:

698 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or

699 (B) water entering through a leak or opening in a building; or

700 (v) for other loss or damage properly the subject of insurance not within another kind  
701 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

702 (b) "Liability insurance" includes:  
703 (i) vehicle liability insurance [~~as defined in Subsection (165)~~];  
704 (ii) residential dwelling liability insurance [~~as defined in Subsection (145)~~]; and  
705 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,  
706 boiler, machinery, or apparatus of any kind when done in connection with insurance on the  
707 elevator, boiler, machinery, or apparatus.

708 (98) (a) "License" means [~~the~~] authorization issued by the commissioner to engage in  
709 an activity that is part of or related to the insurance business.

710 (b) "License" includes a certificate of authority issued to an insurer.

711 (99) (a) "Life insurance" means:

712 (i) insurance on a human life; and  
713 (ii) insurance pertaining to or connected with human life.

714 (b) The business of life insurance includes:

715 (i) granting a death benefit;  
716 (ii) granting an annuity benefit;  
717 (iii) granting an endowment benefit;  
718 (iv) granting an additional benefit in the event of death by accident;  
719 (v) granting an additional benefit to safeguard the policy against lapse; and  
720 (vi) providing an optional method of settlement of proceeds.

721 (100) "Limited license" means a license that:

722 (a) is issued for a specific product of insurance; and  
723 (b) limits an individual or agency to transact only for that product or insurance.

724 (101) "Limited line credit insurance" includes the following forms of insurance:

725 (a) credit life;  
726 (b) credit accident and health;  
727 (c) credit property;  
728 (d) credit unemployment;  
729 (e) involuntary unemployment;

- 730 (f) mortgage life;
- 731 (g) mortgage guaranty;
- 732 (h) mortgage accident and health;
- 733 (i) guaranteed automobile protection; and
- 734 (j) another form of insurance offered in connection with an extension of credit that:
- 735 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 736 (ii) the commissioner determines by rule should be designated as a form of limited line
- 737 credit insurance.

738 (102) "Limited line credit insurance producer" means a person who sells, solicits, or  
739 negotiates one or more forms of limited line credit insurance coverage to an individual through  
740 a master, corporate, group, or individual policy.

741 (103) "Limited line insurance" includes:

- 742 (a) bail bond;
- 743 (b) limited line credit insurance;
- 744 (c) legal expense insurance;
- 745 (d) motor club insurance;
- 746 (e) rental car-related insurance;
- 747 (f) travel insurance; ~~and~~
- 748 (g) crop insurance;
- 749 (h) self-service storage insurance; and

750 ~~(g)~~ (i) another form of limited insurance that the commissioner determines by rule  
751 should be designated a form of limited line insurance.

752 (104) "Limited lines authority" includes:  
753 (a) the lines of insurance listed in Subsection (103); and  
754 (b) a customer service representative.

755 (105) "Limited lines producer" means a person who sells, solicits, or negotiates limited  
756 lines insurance.

757 (106) (a) "Long-term care insurance" means an insurance policy or rider advertised,

- 758 marketed, offered, or designated to provide coverage:
- 759 (i) in a setting other than an acute care unit of a hospital;
  - 760 (ii) for not less than 12 consecutive months for a covered person on the basis of:
    - 761 (A) expenses incurred;
    - 762 (B) indemnity;
    - 763 (C) prepayment; or
    - 764 (D) another method;
    - 765 (iii) for one or more necessary or medically necessary services that are:
      - 766 (A) diagnostic;
      - 767 (B) preventative;
      - 768 (C) therapeutic;
      - 769 (D) rehabilitative;
      - 770 (E) maintenance; or
      - 771 (F) personal care; and
      - 772 (iv) that may be issued by:
        - 773 (A) an insurer;
        - 774 (B) a fraternal benefit society;
        - 775 (C) (I) a nonprofit health hospital; and
        - 776 (II) a medical service corporation;
        - 777 (D) a prepaid health plan;
        - 778 (E) a health maintenance organization; or
        - 779 (F) an entity similar to the entities described in Subsections (106)(a)(iv)(A) through
        - 780 (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.
  - 781 (b) "Long-term care insurance" includes:
    - 782 (i) any of the following that provide directly or supplement long-term care insurance:
      - 783 (A) a group or individual annuity or rider; or
      - 784 (B) a life insurance policy or rider;
    - 785 (ii) a policy or rider that provides for payment of benefits on the basis of:

- 786 (A) cognitive impairment; or
- 787 (B) functional capacity; or
- 788 (iii) a qualified long-term care insurance contract.
- 789 (c) "Long-term care insurance" does not include:
- 790 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 791 (ii) basic hospital expense coverage;
- 792 (iii) basic medical/surgical expense coverage;
- 793 (iv) hospital confinement indemnity coverage;
- 794 (v) major medical expense coverage;
- 795 (vi) income replacement or related asset-protection coverage;
- 796 (vii) accident only coverage;
- 797 (viii) coverage for a specified:
- 798 (A) disease; or
- 799 (B) accident;
- 800 (ix) limited benefit health coverage; or
- 801 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 802 lump sum payment:
- 803 (A) if the following are not conditioned on the receipt of long-term care:
- 804 (I) benefits; or
- 805 (II) eligibility; and
- 806 (B) the coverage is for one or more the following qualifying events:
- 807 (I) terminal illness;
- 808 (II) medical conditions requiring extraordinary medical intervention; or
- 809 (III) permanent institutional confinement.
- 810 (107) "Medical malpractice insurance" means insurance against legal liability incident
- 811 to the practice and provision of a medical service other than the practice and provision of a
- 812 dental service.
- 813 (108) "Member" means a person having membership rights in an insurance

814 corporation.

815 (109) "Minimum capital" or "minimum required capital" means the capital that must  
816 be constantly maintained by a stock insurance corporation as required by statute.

817 (110) "Mortgage accident and health insurance" means insurance offered in  
818 connection with an extension of credit that provides indemnity for payments coming due on a  
819 mortgage while the debtor is disabled.

820 (111) "Mortgage guaranty insurance" means surety insurance under which a  
821 mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

822 (112) "Mortgage life insurance" means insurance on the life of a debtor in connection  
823 with an extension of credit that pays if the debtor dies.

824 (113) "Motor club" means a person:

825 (a) licensed under:

826 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

827 (ii) Chapter 11, Motor Clubs; or

828 (iii) Chapter 14, Foreign Insurers; and

829 (b) that promises for an advance consideration to provide for a stated period of time  
830 one or more:

831 (i) legal services under Subsection 31A-11-102(1)(b);

832 (ii) bail services under Subsection 31A-11-102(1)(c); or

833 (iii) (A) trip reimbursement;

834 (B) towing services;

835 (C) emergency road services;

836 (D) stolen automobile services;

837 (E) a combination of the services listed in Subsections (113)(b)(iii)(A) through (D); or

838 (F) other services given in Subsections 31A-11-102(1)(b) through (f).

839 (114) "Mutual" means a mutual insurance corporation.

840 (115) "Network plan" means health care insurance:

841 (a) that is issued by an insurer; and

842 (b) under which the financing and delivery of medical care is provided, in whole or in  
843 part, through a defined set of providers under contract with the insurer, including the financing  
844 and delivery of an item paid for as medical care.

845 (116) "Nonparticipating" means a plan of insurance under which the insured is not  
846 entitled to receive a dividend representing a share of the surplus of the insurer.

847 (117) "Ocean marine insurance" means insurance against loss of or damage to:

848 (a) ships or hulls of ships;

849 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys,  
850 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia  
851 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

852 (c) earnings such as freight, passage money, commissions, or profits derived from  
853 transporting goods or people upon or across the oceans or inland waterways; or

854 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,  
855 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons  
856 in connection with maritime activity.

857 (118) "Order" means an order of the commissioner.

858 (119) "Outline of coverage" means a summary that explains an accident and health  
859 insurance policy.

860 (120) "Participating" means a plan of insurance under which the insured is entitled to  
861 receive a dividend representing a share of the surplus of the insurer.

862 (121) "Participation," as used in a health benefit plan, means a requirement relating to  
863 the minimum percentage of eligible employees that must be enrolled in relation to the total  
864 number of eligible employees of an employer reduced by each eligible employee who  
865 voluntarily declines coverage under the plan because the employee:

866 (a) has other group health care insurance coverage; or

867 (b) receives:

868 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social  
869 Security Amendments of 1965; or

- 870 (ii) another government health benefit.
- 871 (122) "Person" includes:
- 872 (a) an individual;
- 873 (b) a partnership;
- 874 (c) a corporation;
- 875 (d) an incorporated or unincorporated association;
- 876 (e) a joint stock company;
- 877 (f) a trust;
- 878 (g) a limited liability company;
- 879 (h) a reciprocal;
- 880 (i) a syndicate; or
- 881 (j) another similar entity or combination of entities acting in concert.
- 882 (123) "Personal lines insurance" means property and casualty insurance coverage sold
- 883 for primarily noncommercial purposes to:
- 884 (a) an individual; or
- 885 (b) a family.
- 886 (124) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 887 (125) "Plan year" means:
- 888 (a) the year that is designated as the plan year in:
- 889 (i) the plan document of a group health plan; or
- 890 (ii) a summary plan description of a group health plan;
- 891 (b) if the plan document or summary plan description does not designate a plan year or
- 892 there is no plan document or summary plan description:
- 893 (i) the year used to determine deductibles or limits;
- 894 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 895 or
- 896 (iii) the employer's taxable year if:
- 897 (A) the plan does not impose deductibles or limits on a yearly basis; and



898 (B) (I) the plan is not insured; or  
899 (II) the insurance policy is not renewed on an annual basis; or  
900 (c) in a case not described in Subsection (125)(a) or (b), the calendar year.  
901 (126) (a) "Policy" means a document, including any attached endorsement or  
902 application that:  
903 (i) purports to be an enforceable contract; and  
904 (ii) memorializes in writing some or all of the terms of an insurance contract.  
905 (b) "Policy" includes a service contract issued by:  
906 (i) a motor club under Chapter 11, Motor Clubs;  
907 (ii) a service contract provided under Chapter 6a, Service Contracts; and  
908 (iii) a corporation licensed under:  
909 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or  
910 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.  
911 (c) "Policy" does not include:  
912 (i) a certificate under a group insurance contract; or  
913 (ii) a document that does not purport to have legal effect.  
914 (127) "Policyholder" means ~~the~~ a person who controls a policy, binder, or oral  
915 contract by ownership, premium payment, or otherwise.  
916 (128) "Policy illustration" means a presentation or depiction that includes  
917 nonguaranteed elements of a policy of life insurance over a period of years.  
918 (129) "Policy summary" means a synopsis describing the elements of a life insurance  
919 policy.  
920 (130) "Preexisting condition," with respect to a health benefit plan:  
921 (a) means a condition that was present before the effective date of coverage, whether  
922 or not medical advice, diagnosis, care, or treatment was recommended or received before that  
923 day; and  
924 (b) does not include a condition indicated by genetic information unless an actual  
925 diagnosis of the condition by a physician has been made.

- 926 (131) (a) "Premium" means the monetary consideration for an insurance policy.
- 927 (b) "Premium" includes, however designated:
- 928 (i) an assessment;
- 929 (ii) a membership fee;
- 930 (iii) a required contribution; or
- 931 (iv) monetary consideration.
- 932 (c) (i) "Premium" does not include consideration paid to a third party administrator for
- 933 the third party administrator's services.
- 934 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
- 935 insurance on the risks administered by the third party administrator.
- 936 (132) "Principal officers" ~~[of]~~ for a corporation means the officers designated under
- 937 Subsection 31A-5-203(3).
- 938 (133) "Proceeding" includes an action or special statutory proceeding.
- 939 (134) "Professional liability insurance" means insurance against legal liability incident
- 940 to the practice of a profession and provision of a professional service.
- 941 (135) (a) Except as provided in Subsection (135)(b), "property insurance" means
- 942 insurance against loss or damage to real or personal property of every kind and any interest in
- 943 that property:
- 944 (i) from all hazards or causes; and
- 945 (ii) against loss consequential upon the loss or damage including vehicle
- 946 comprehensive and vehicle physical damage coverages.
- 947 (b) "Property insurance" does not include:
- 948 (i) inland marine insurance ~~[as defined in Subsection (81)]~~; and
- 949 (ii) ocean marine insurance ~~[as defined under Subsection (117)]~~.
- 950 (136) "Qualified long-term care insurance contract" or "federally tax qualified
- 951 long-term care insurance contract" means:
- 952 (a) an individual or group insurance contract that meets the requirements of Section
- 953 7702B(b), Internal Revenue Code; or

954 (b) the portion of a life insurance contract that provides long-term care insurance:  
955 (i) (A) by rider; or  
956 (B) as a part of the contract; and  
957 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue  
958 Code.  
959 (137) "Qualified United States financial institution" means an institution that:  
960 (a) is:  
961 (i) organized under the laws of the United States or any state; or  
962 (ii) in the case of a United States office of a foreign banking organization, licensed  
963 under the laws of the United States or any state;  
964 (b) is regulated, supervised, and examined by a United States federal or state authority  
965 having regulatory authority over a bank or trust company; and  
966 (c) meets the standards of financial condition and standing that are considered  
967 necessary and appropriate to regulate the quality of a financial institution whose letters of  
968 credit will be acceptable to the commissioner as determined by:  
969 (i) the commissioner by rule; or  
970 (ii) the Securities Valuation Office of the National Association of Insurance  
971 Commissioners.  
972 (138) (a) "Rate" means:  
973 (i) the cost of a given unit of insurance; or  
974 (ii) for [~~property-casualty~~] property or casualty insurance, that cost of insurance per  
975 exposure unit either expressed as:  
976 (A) a single number; or  
977 (B) a pure premium rate, adjusted before the application of individual risk variations  
978 based on loss or expense considerations to account for the treatment of:  
979 (I) expenses;  
980 (II) profit; and  
981 (III) individual insurer variation in loss experience.

982 (b) "Rate" does not include a minimum premium.

983 (139) (a) Except as provided in Subsection (139)(b), "rate service organization" means  
984 a person who assists an insurer in rate making or filing by:

- 985 (i) collecting, compiling, and furnishing loss or expense statistics;
- 986 (ii) recommending, making, or filing rates or supplementary rate information; or
- 987 (iii) advising about rate questions, except as an attorney giving legal advice.

988 (b) "Rate service organization" does not mean:

- 989 (i) an employee of an insurer;
- 990 (ii) a single insurer or group of insurers under common control;
- 991 (iii) a joint underwriting group; or
- 992 (iv) ~~[a natural person]~~ an individual serving as an actuarial or legal consultant.

993 (140) "Rating manual" means any of the following used to determine initial and  
994 renewal policy premiums:

- 995 (a) a manual of rates;
- 996 (b) a classification;
- 997 (c) a rate-related underwriting rule; and
- 998 (d) a rating formula that describes steps, policies, and procedures for determining  
999 initial and renewal policy premiums.

1000 (141) "Received by the department" means:

1001 (a) ~~[except as provided in Subsection (141)(b);]~~ the date delivered to and stamped  
1002 received by the department, ~~[whether]~~ if delivered~~[-(i)]~~ in person; ~~[or]~~  
1003 ~~[(ii) electronically; and]~~  
1004 ~~[(b) if delivered to the department by a delivery service, the delivery service's~~  
1005 ~~postmark date or pick-up date unless otherwise stated in:]~~

- 1006 (b) the post mark date, if delivered by mail;
- 1007 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 1008 (d) the received date recorded on an item delivered, if delivered by:
- 1009 (i) facsimile;

- 1010            (ii) email; or
- 1011            (iii) another electronic method; or
- 1012            (e) a date specified in:
- 1013            (i) a statute;
- 1014            (ii) a rule; or
- 1015            (iii) [~~a specific filing~~] an order.
- 1016            (142) "Reciprocal" or "interinsurance exchange" means an unincorporated association
- 1017 of persons:
- 1018            (a) operating through an attorney-in-fact common to all of the persons; and
- 1019            (b) exchanging insurance contracts with one another that provide insurance coverage
- 1020 on each other.
- 1021            (143) "Reinsurance" means an insurance transaction where an insurer, for
- 1022 consideration, transfers any portion of the risk it has assumed to another insurer. In referring
- 1023 to reinsurance transactions, this title sometimes refers to:
- 1024            (a) the insurer transferring the risk as the "ceding insurer"; and
- 1025            (b) the insurer assuming the risk as the:
- 1026            (i) "assuming insurer"; or
- 1027            (ii) "assuming reinsurer."
- 1028            (144) "Reinsurer" means a person licensed in this state as an insurer with the authority
- 1029 to assume reinsurance.
- 1030            (145) "Residential dwelling liability insurance" means insurance against liability
- 1031 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that
- 1032 is a detached single family residence or multifamily residence up to four units.
- 1033            (146) (a) "Retrocession" means reinsurance with another insurer of a liability assumed
- 1034 under a reinsurance contract.
- 1035            (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a
- 1036 liability assumed under a reinsurance contract.
- 1037            (147) "Rider" means an endorsement to:

- 1038 (a) an insurance policy; or
- 1039 (b) an insurance certificate.
- 1040 (148) (a) "Security" means a:
- 1041 (i) note;
- 1042 (ii) stock;
- 1043 (iii) bond;
- 1044 (iv) debenture;
- 1045 (v) evidence of indebtedness;
- 1046 (vi) certificate of interest or participation in a profit-sharing agreement;
- 1047 (vii) collateral-trust certificate;
- 1048 (viii) preorganization certificate or subscription;
- 1049 (ix) transferable share;
- 1050 (x) investment contract;
- 1051 (xi) voting trust certificate;
- 1052 (xii) certificate of deposit for a security;
- 1053 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1054 payments out of production under such a title or lease;
- 1055 (xiv) commodity contract or commodity option;
- 1056 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1057 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1058 in Subsections (148)(a)(i) through (xiv); or
- 1059 (xvi) another interest or instrument commonly known as a security.
- 1060 (b) "Security" does not include:
- 1061 (i) any of the following under which an insurance company promises to pay money in
- 1062 a specific lump sum or periodically for life or some other specified period:
- 1063 (A) insurance;
- 1064 (B) an endowment policy; or
- 1065 (C) an annuity contract; or

- 1066 (ii) a burial certificate or burial contract.
- 1067 (149) "Secondary medical condition" means a complication related to an exclusion  
1068 from coverage in accident and health insurance.
- 1069 (150) "Self-insurance" means an arrangement under which a person provides for  
1070 spreading its own risks by a systematic plan.
- 1071 (a) Except as provided in this Subsection (150), "self-insurance" does not include an  
1072 arrangement under which a number of persons spread their risks among themselves.
- 1073 (b) "Self-insurance" includes:
- 1074 (i) an arrangement by which a governmental entity undertakes to indemnify an  
1075 employee for liability arising out of the employee's employment; and
- 1076 (ii) an arrangement by which a person with a managed program of self-insurance and  
1077 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or  
1078 employees for liability or risk [~~which~~ that is related to the relationship or employment.
- 1079 (c) "Self-insurance" does not include an arrangement with an independent contractor.
- 1080 (151) "Sell" means to exchange a contract of insurance:
- 1081 (a) by any means;
- 1082 (b) for money or its equivalent; and
- 1083 (c) on behalf of an insurance company.
- 1084 (152) "Short-term care insurance" means an insurance policy or rider advertised,  
1085 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,  
1086 but that provides coverage for less than 12 consecutive months for each covered person.
- 1087 (153) "Significant break in coverage" means a period of 63 consecutive days during  
1088 each of which an individual does not have creditable coverage.
- 1089 (154) "Small employer," in connection with a health benefit plan, means an employer  
1090 who, with respect to a calendar year and to a plan year:
- 1091 (a) employed an average of at least two employees but not more than 50 eligible  
1092 employees on each business day during the preceding calendar year; and
- 1093 (b) employs at least two employees on the first day of the plan year.

1094 (155) "Special enrollment period," in connection with a health benefit plan, has the  
1095 same meaning as provided in federal regulations adopted pursuant to the Health Insurance  
1096 Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936.

1097 (156) (a) "Subsidiary" of a person means an affiliate controlled by that person either  
1098 directly or indirectly through one or more affiliates or intermediaries.

1099 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting  
1100 shares are owned by that person either alone or with its affiliates, except for the minimum  
1101 number of shares the law of the subsidiary's domicile requires to be owned by directors or  
1102 others.

1103 (157) Subject to Subsection (83)(b), "surety insurance" includes:

1104 (a) a guarantee against loss or damage resulting from the failure of a principal to pay  
1105 or perform the principal's obligations to a creditor or other obligee;

1106 (b) bail bond insurance; and

1107 (c) fidelity insurance.

1108 (158) (a) "Surplus" means the excess of assets over the sum of paid-in capital and  
1109 liabilities.

1110 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that is designated by  
1111 the insurer as permanent.

1112 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require  
1113 that mutuals doing business in this state maintain specified minimum levels of permanent  
1114 surplus.

1115 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is  
1116 [essentially] the same as the minimum required capital requirement that applies to stock  
1117 insurers.

1118 (c) "Excess surplus" means:

1119 (i) for a life insurer, accident and health insurer, health organization, or property and  
1120 casualty insurer as defined in Section 31A-17-601, the lesser of:

1121 (A) that amount of an insurer's or health organization's total adjusted capital[~~;~~as



1122 ~~defined in Subsection (161),]~~ that exceeds the product of:

1123 (I) 2.5; and

1124 (II) the sum of the insurer's or health organization's minimum capital or permanent  
1125 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1126 (B) that amount of an insurer's or health organization's total adjusted capital~~[,as~~  
1127 ~~defined in Subsection (161),]~~ that exceeds the product of:

1128 (I) 3.0; and

1129 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1130 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title  
1131 insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1132 (A) 1.5; and

1133 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1134 (159) "Third party administrator" or "administrator" means a person who collects  
1135 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of  
1136 the state in connection with insurance coverage, annuities, or service insurance coverage,  
1137 except:

1138 (a) a union on behalf of its members;

1139 (b) a person administering a:

1140 (i) pension plan subject to the federal Employee Retirement Income Security Act of  
1141 1974;

1142 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1143 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1144 (c) an employer on behalf of the employer's employees or the employees of one or  
1145 more of the subsidiary or affiliated corporations of the employer;

1146 (d) an insurer licensed under Chapter 5, 7, 8, 9, or 14, but only for a line of insurance  
1147 for which the insurer holds a license in this state; or

1148 (e) a person:

1149 (i) licensed or exempt from licensing under:

1150 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and  
1151 Reinsurance Intermediaries; or

1152 (B) Chapter 26, Insurance Adjusters; and

1153 (ii) whose activities are limited to those authorized under the license the person holds  
1154 or for which the person is exempt.

1155 (160) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner  
1156 of real or personal property or the holder of liens or encumbrances on that property, or others  
1157 interested in the property against loss or damage suffered by reason of liens or encumbrances  
1158 upon, defects in, or the unmarketability of the title to the property, or invalidity or  
1159 unenforceability of any liens or encumbrances on the property.

1160 (161) "Total adjusted capital" means the sum of an insurer's or health organization's  
1161 statutory capital and surplus as determined in accordance with:

1162 (a) the statutory accounting applicable to the annual financial statements required to  
1163 be filed under Section 31A-4-113; and

1164 (b) another item provided by the RBC instructions, as RBC instructions is defined in  
1165 Section 31A-17-601.

1166 (162) (a) "Trustee" means "director" when referring to the board of directors of a  
1167 corporation.

1168 (b) "Trustee," when used in reference to an employee welfare fund, means an  
1169 individual, firm, association, organization, joint stock company, or corporation, whether  
1170 acting individually or jointly and whether designated by that name or any other, that is  
1171 charged with or has the overall management of an employee welfare fund.

1172 (163) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"  
1173 means an insurer:

1174 (i) not holding a valid certificate of authority to do an insurance business in this state;  
1175 or

1176 (ii) transacting business not authorized by a valid certificate.

1177 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1178 (i) holding a valid certificate of authority to do an insurance business in this state; and  
1179 (ii) transacting business as authorized by a valid certificate.

1180 (164) "Underwrite" means the authority to accept or reject risk on behalf of the  
1181 insurer.

1182 (165) "Vehicle liability insurance" means insurance against liability resulting from or  
1183 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle  
1184 comprehensive or vehicle physical damage coverage under Subsection (135).

1185 (166) "Voting security" means a security with voting rights, and includes a security  
1186 convertible into a security with a voting right associated with the security.

1187 (167) "Waiting period" for a health benefit plan means the period that must pass  
1188 before coverage for an individual, who is otherwise eligible to enroll under the terms of the  
1189 health benefit plan, can become effective.

1190 (168) "Workers' compensation insurance" means:

1191 (a) insurance for indemnification of an employer against liability for compensation  
1192 based on:

1193 (i) a compensable accidental injury; and

1194 (ii) occupational disease disability;

1195 (b) employer's liability insurance incidental to workers' compensation insurance and  
1196 written in connection with workers' compensation insurance; and

1197 (c) insurance assuring to a person entitled to workers' compensation benefits the  
1198 compensation provided by law.

1199 Section 2. Section **31A-2-203** is amended to read:

1200 **31A-2-203. Examinations and alternatives.**

1201 (1) (a) [~~Whenever~~] When the commissioner determines that information is needed  
1202 about a matter related to the enforcement of this title, the commissioner may examine the  
1203 affairs and condition of:

1204 (i) a licensee under this title;

1205 (ii) an applicant for a license under this title;

1206 (iii) a person or organization of persons doing or in process of organizing to do an  
1207 insurance business in this state; or

1208 (iv) a person who is not, but ~~[should]~~ is required to be, licensed under this title.

1209 (b) When reasonably necessary for an examination under Subsection (1)(a), the  
1210 commissioner may examine:

1211 (i) so far as it relates to the examinee, an account, record, document, or evidence of a  
1212 transaction of:

1213 (A) the insurer or other licensee;

1214 (B) an officer or other person who has executive authority over or is in charge of any  
1215 segment of the examinee's affairs; or

1216 (C) an affiliate of the examinee; or

1217 (ii) a third party model or product used by the examinee.

1218 (c) (i) On demand, an examinee under Subsection (1)(a) shall make available to the  
1219 commissioner for examination:

1220 (A) the examinee's own account, record, file, document, or evidence of a transaction;  
1221 and

1222 (B) to the extent reasonably necessary for an examination, an account, record, file,  
1223 document, or evidence of a transaction of a person described under Subsection (1)(b).

1224 (ii) Except as provided in Subsection (1)(c)(iii), failure to make an item described in  
1225 Subsection (1)(c)(i) available is concealment of records under Subsection 31A-27a-207(1)(e).

1226 (iii) If ~~[the]~~ an examinee is unable to obtain an account, record, file, document, or  
1227 evidence of a transaction from a person described under Subsection (1)(b), that failure is not  
1228 concealment of records if the examinee immediately terminates the relationship with the other  
1229 person.

1230 (d) (i) ~~[Neither the]~~ The commissioner ~~[nor]~~ or an examiner may not remove an  
1231 account, record, file, document, evidence of a transaction, or other property of ~~[the]~~ an  
1232 examinee from the examinee's offices unless:

1233 (A) the examinee consents in writing; or

- 1234 (B) a court grants permission.
- 1235 (ii) The commissioner may make and remove a copy or abstract of the following
- 1236 described in Subsection (1)(d)(i):
- 1237 (A) an account;
- 1238 (B) a record;
- 1239 (C) a file;
- 1240 (D) a document;
- 1241 (E) evidence of a transaction; or
- 1242 (F) other property.
- 1243 (2) (a) Subject to the other provisions of this section, the commissioner shall examine
- 1244 as needed and as otherwise provided by law:
- 1245 (i) every insurer, both domestic and nondomestic;
- 1246 (ii) every licensed rate service organization; and
- 1247 (iii) any other licensee.
- 1248 (b) The commissioner shall examine an insurer, both domestic and nondomestic, no
- 1249 less frequently than once every five years, but the commissioner may use in lieu an
- 1250 examination under Subsection (4) to satisfy this requirement.
- 1251 (c) The commissioner shall revoke the certificate of authority of an insurer or the
- 1252 license of a rate service organization that has not been examined, or submitted an acceptable
- 1253 in lieu report under Subsection (4), within the past five years.
- 1254 (d) (i) Any 25 persons who are policyholders, shareholders, or creditors of a domestic
- 1255 insurer may by verified petition demand a hearing under Section 31A-2-301 to determine
- 1256 whether the commissioner should conduct an unscheduled examination of the insurer.
- 1257 (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an
- 1258 opportunity in the hearing to present evidence that an examination of the insurer is necessary.
- 1259 (iii) If the evidence justifies an examination, the commissioner shall order an
- 1260 examination.
- 1261 (e) (i) If the board of directors of a domestic insurer requests that the commissioner

1262 examine the insurer, the commissioner shall examine the insurer as soon as reasonably  
1263 possible.

1264 (ii) If the examination requested under this Subsection (2)(e) is conducted within two  
1265 years after completion of a comprehensive examination by the commissioner, costs of the  
1266 requested examination may not be deducted from premium taxes under Section 59-9-102  
1267 unless the commissioner's order specifically provides for the deduction.

1268 (f) A bail bond surety company, as defined in Section 31A-35-102, is exempt from:

1269 (i) the five-year examination requirement in Subsection (2)(b);

1270 (ii) the revocation under Subsection (2)(c); and

1271 (iii) Subsections (2)(d) and (2)(e).

1272 (3) (a) The commissioner may order an independent audit or examination by one or  
1273 more technical experts, including a certified public accountant or actuary:

1274 (i) in lieu of all or part of an examination under Subsection (1) or (2); or

1275 (ii) in addition to an examination under Subsection (1) or (2).

1276 (b) An audit or evaluation under this Subsection (3) is subject to Subsection (5),  
1277 Section 31A-2-204, and Subsection 31A-2-205(4).

1278 (4) (a) In lieu of all or a part of an examination under this section, the commissioner  
1279 may accept the report of an examination made by:

1280 (i) the insurance department of another state; or

1281 (ii) another government agency in:

1282 (A) this state;

1283 (B) the federal government; or

1284 (C) another state.

1285 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by  
1286 the commissioner under this Subsection (4) may use:

1287 (i) an audit [~~already made~~] completed by a certified public accountant; or

1288 (ii) an actuarial evaluation made by an actuary approved by the commissioner.

1289 (5) (a) An examination may be comprehensive or limited with respect to the

1290 examinee's affairs and condition. The commissioner shall determine the nature and scope of  
1291 ~~[each]~~ an examination, taking into account all relevant factors, including:

1292 (i) the length of time the examinee has been licensed in this state;

1293 (ii) the nature of the business being examined;

1294 (iii) the nature of the accounting or other records available;

1295 (iv) one or more reports from:

1296 (A) independent auditors; and

1297 (B) self-certification entities; and

1298 (v) the nature of examinations performed elsewhere.

1299 (b) The examination of an alien insurer is limited to one or more insurance

1300 transactions and assets in the United States, unless the commissioner orders otherwise after

1301 finding that extraordinary circumstances necessitate a broader examination.

1302 (6) To effectively administer this section, the commissioner:

1303 (a) shall:

1304 (i) maintain one or more effective financial condition and market regulation

1305 surveillance systems including:

1306 (A) financial and market analysis; and

1307 (B) a review of insurance regulatory information system reports;

1308 (ii) employ a priority scheduling method that focuses on insurers and other licensees

1309 most in need of examination; and

1310 (iii) use examination management techniques similar to those outlined in the Financial

1311 Condition Examination Handbook of the National Association of Insurance Commissioners;

1312 and

1313 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1314 may make rules pertaining to:

1315 (i) a financial condition and market regulation surveillance system~~[-];~~ and

1316 (ii) annual financial reporting requirements similar to those outlined in the Annual

1317 Financial Reporting Model Regulation of the National Association of Insurance

1318 Commissioners.

1319 Section 3. Section **31A-5-412** is amended to read:

1320 **31A-5-412. Committees of directors.**

1321 (1) (a) If provided for in the articles or bylaws of a corporation, the board, by  
1322 resolution adopted by a majority of the full board, may designate one or more committees.

1323 [~~Each of these committees~~]

1324 (b) A committee designated under this Subsection (1) shall consist of three or more  
1325 directors serving at the pleasure of the board.

1326 (c) The board may designate one or more directors as alternate members of [~~any~~] a  
1327 committee to substitute for an absent member at any meeting of the committee.

1328 (d) The designation of a committee and delegation of authority to [~~it~~] the committee  
1329 does not relieve the board or [~~any~~] a director of responsibility imposed by law upon [~~it or him~~  
1330 by law] the board or director.

1331 (2) (a) (i) Except for [~~corporations~~] a corporation described under Subsection  
1332 31A-5-407(4), [~~every~~] a corporation shall have an audit committee.

1333 (ii) A corporation's entire board constitutes the audit committee if the corporation:

1334 (A) is described under Subsection 31A-5-407(4); and

1335 (B) does not have an audit committee that complies with this Subsection (2).

1336 (b) [~~No~~] If a corporation is required to have an audit committee under Subsection  
1337 (2)(a), a member of the audit committee may not be an inside director as defined under  
1338 Subsection 31A-5-407(3).

1339 (c) [~~The~~] An audit committee shall maintain an overview of the audit activities,  
1340 systems, and staff of the company and of the activities of the outside auditors, in order to  
1341 advise the board on the adequacy of fiscal control. [~~The~~]

1342 (d) A corporation shall give an audit committee [~~has~~] direct and private access to  
1343 company data and personnel as that committee considers necessary[~~, and~~].

1344 (e) An audit committee may meet privately with the outside directors as [~~it~~] the audit  
1345 committee sees fit.



1346            (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1347 commissioner may make rules pertaining to audit committee requirements similar to those  
1348 outlined in the Annual Financial Reporting Model Regulation of the National Association of  
1349 Insurance Commissioners.

1350            (3) (a) When the board is not in session, a committee may exercise the powers of the  
1351 board in the management of the business and affairs of the corporation to the extent authorized  
1352 in the resolution or in the articles or bylaws, except action regarding:

1353            ~~(a)~~ (i) compensation or indemnification of ~~any~~ a person who is:

1354            (A) a director~~;~~;

1355            (B) a principal officer~~;~~; or

1356            (C) one of the three most highly paid employees;

1357            ~~(b)~~ (ii) benefits or payments requiring shareholder or policyholder approval;

1358            ~~(c)~~ (iii) approval of a contract requiring board approval under Section 31A-5-414~~;~~  
1359 ~~or~~;

1360            (iv) approval of ~~any other~~ a transaction in which a director has a material interest  
1361 adverse to the corporation;

1362            ~~(d)~~ (v) amendment of the articles or bylaws;

1363            ~~(e)~~ (vi) merger or consolidation under Section 31A-5-501, 31A-5-502, or  
1364 31A-5-503~~;~~;

1365            (vii) conversion under Section 31A-5-505, 31A-5-506, 31A-5-507, or 31A-5-509~~;~~;

1366            (viii) voluntary dissolution under Section 31A-5-504~~;~~~~or~~;

1367            (ix) transfer of business or assets under Section 31A-5-508;

1368            ~~(f)~~ (x) any other decision requiring shareholder or policyholder approval;

1369            ~~(g)~~ (xi) amendment or repeal of an action taken by the full board, which by its terms  
1370 is not subject to amendment or repeal by a committee;

1371            ~~(h)~~ (xii) dividends or other distributions to shareholders, policyholders, or voting  
1372 members other than in the routine implementation of a policy ~~determinations~~ determination  
1373 of the full board;

1374            ~~(i)~~ (xiii) selection of a principal ~~[officers]~~ officer; and  
1375            ~~(j)~~ (xiv) filling ~~[vacancies]~~ a vacancy on the board or on a committee created under  
1376 Subsection (1), except that the articles or bylaws may provide for a temporary ~~[appointments]~~  
1377 appointment to fill ~~[vacancies]~~ a vacancy on the board or a committee. ~~[These temporary~~  
1378 appointments]

1379            (b) A temporary appointment provided for in Subsection (3)(a)(xiv) may last only until  
1380 the end of the next board meeting.

1381            ~~(4) [At the next meeting following action by any committee, the]~~ The full board shall  
1382 review ~~[any]~~ a transaction in which an officer has a material financial interest adverse to the  
1383 corporation at the next board meeting after the transaction.

1384            Section 4. Section **31A-8-215** is amended to read:

1385            **31A-8-215. Management.**

1386            Chapter 5, Part 4, Management of Insurance Corporations, applies to organizations,  
1387 except that for purposes of this chapter, ~~[Subsection]~~ Subsections 31A-5-412(3)~~(e)~~(a)(vi)  
1388 through (ix) shall be read: "corporate reorganizations under Section 31A-8-216."

1389            Section 5. Section **31A-20-108** is amended to read:

1390            **31A-20-108. Single risk limitation.**

1391            (1) This section applies to all lines of insurance, including ocean marine and  
1392 reinsurance, except:

1393            (a) title insurance;

1394            (b) workers' compensation insurance;

1395            (c) occupational disease insurance; ~~[and]~~

1396            (d) employers' liability insurance~~[-];~~ and

1397            (e) health insurance.

1398            (2) (a) Except as provided under Subsections (3) and (4) and under Section  
1399 31A-20-109, an insurer authorized to do an insurance business in Utah may not expose itself  
1400 to loss on a single risk in an amount exceeding 10% of its capital and surplus.

1401            (b) The commissioner may adopt rules to calculate surplus under this section.

1402 (c) An insurer may deduct the portion of a risk reinsured by a reinsurance contract  
1403 worthy of a reserve credit under Sections 31A-17-404 through 31A-17-404.4 in determining  
1404 the limitation of risk under this section.

1405 (3) (a) The commissioner may adopt rules, after hearings held with notice provided  
1406 under Section 31A-2-303, to specify the maximum exposure to which an assessable mutual  
1407 may subject itself.

1408 (b) The rules described in Subsection (3)(a) may provide for classifications of  
1409 insurance and insurers to preserve the solidity of insurers.

1410 (4) As used in this section, a "single risk" includes all losses reasonably expected as a  
1411 result of the same event.

1412 (5) A company transacting fidelity or surety insurance may expose itself to a risk or  
1413 hazard in excess of the amount prescribed in Subsection (2), if the commissioner, after  
1414 considering all the facts and circumstances, approves the risk.

1415 Section 6. Section **31A-22-404** is amended to read:

1416 **31A-22-404. Suicide.**

1417 (1) (a) Suicide is not a defense to a claim under a life insurance policy that is in force  
1418 [~~as to a policyholder or certificate holder~~] for two years from the date of issuance of the later  
1419 of:

1420 (i) the policy; or

1421 (ii) the certificate.

1422 (b) Subsection (1)(a) applies whether:

1423 (i) the insured's death by suicide is voluntary or involuntary; or

1424 (ii) the insured is sane or insane.

1425 (c) If a suicide occurs within the two-year period described in Subsection (1)(a), the  
1426 insurer shall pay to the beneficiary an amount not less than the premium paid less the  
1427 following:

1428 (i) a dividend paid;

1429 (ii) an indebtedness; and

1430 (iii) a partial withdrawal.

1431 (2) (a) If after a life insurance policy is in effect the policy allows the ~~[insured to~~  
1432 ~~obtain]~~ policyholder to purchase a death benefit that is larger than when the policy was  
1433 originally effective for an additional premium, the payment of the additional increment of  
1434 benefit may be limited in the event of a suicide within a two-year period beginning on the day  
1435 on which the increment increase takes effect.

1436 (b) If a suicide occurs within the two-year period described in Subsection (2)(a), the  
1437 insurer shall pay to the beneficiary an amount not less than the additional premium paid for  
1438 the additional increment of benefit.

1439 (3) For a survivorship life insurance policy, this section applies when within two years  
1440 from the day on which the survivorship life insurance policy is issued:

1441 (a) the death of all insureds results from suicide; or

1442 (b) the death of the surviving insured results from suicide.

1443 ~~[(3)]~~ (4) This section does not apply to:

1444 (a) a policy insuring against death by accident only; or

1445 (b) an accident or double indemnity provision of an insurance policy.

1446 Section 7. Section **31A-22-620** is amended to read:

1447 **31A-22-620. Medicare Supplement Insurance Minimum Standards Act.**

1448 (1) As used in this section:

1449 (a) "Applicant" means:

1450 (i) in the case of an individual Medicare supplement policy, the person who seeks to  
1451 contract for insurance benefits; and

1452 (ii) in the case of a group Medicare supplement policy, the proposed certificate holder.

1453 (b) "Certificate" means any certificate delivered or issued for delivery in this state  
1454 under a group Medicare supplement policy.

1455 (c) "Certificate form" means the form on which the certificate is delivered or issued  
1456 for delivery by the issuer.

1457 (d) "Issuer" includes insurance companies, fraternal benefit societies, health care

1458 service plans, health maintenance organizations, and any other entity delivering, or issuing for  
1459 delivery in this state, Medicare supplement policies or certificates.

1460 (e) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the  
1461 Social Security Amendments of 1965, as then constituted or later amended.

1462 (f) "Medicare Supplement Policy":

1463 (i) means a group or individual policy of disability insurance, other than a policy  
1464 issued pursuant to a contract under Section 1876 of the federal Social Security Act, 42 U.S.C.  
1465 Section 1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C.  
1466 Section 1395ss(g)(1), that is advertised, marketed, or designed primarily as a supplement to  
1467 reimbursements under Medicare for the hospital, medical, or surgical expenses of persons  
1468 eligible for Medicare; and

1469 (ii) does not include Medicare Advantage plans established under Medicare Part C,  
1470 outpatient prescription drug plans established under Medicare Part D, or any health care  
1471 prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A)  
1472 of the Social Security Act.

1473 (g) "Policy form" means the form on which the policy is delivered or issued for  
1474 delivery by the issuer.

1475 (2) (a) Except as otherwise specifically provided, this section applies to:

1476 (i) all Medicare supplement policies delivered or issued for delivery in this state on or  
1477 after the effective date of this section;

1478 (ii) all certificates issued under group Medicare supplement policies, that have been  
1479 delivered or issued for delivery in this state on or after the effective date of this section; and

1480 (iii) policies or certificates that were in force prior to the effective date of this section,  
1481 with respect to requirements for benefits, claims payment, and policy reporting practice under  
1482 Subsection (3)(d), and loss ratios under Subsection (4).

1483 (b) This section does not apply to a policy of one or more employers or labor  
1484 organizations, or of the trustees of a fund established by one or more employers or labor  
1485 organizations, or a combination of employers and labor unions, for employees or former

1486 employees or a combination of employees and former employees, or for members or former  
1487 members of the labor organizations, or a combination of members and former members of  
1488 labor organizations.

1489 (c) This section does not prohibit, nor does it apply to insurance policies or health care  
1490 benefit plans, including group conversion policies, provided to Medicare eligible persons that  
1491 are not marketed or held out to be Medicare supplement policies or benefit plans.

1492 (3) (a) A Medicare supplement policy or certificate in force in the state may not  
1493 contain benefits that duplicate benefits provided by Medicare.

1494 (b) Notwithstanding any other provision of law of this state, a Medicare supplement  
1495 policy or certificate may not exclude or limit benefits for loss incurred more than six months  
1496 from the effective date of coverage because it involved a preexisting condition. The policy or  
1497 certificate may not define a preexisting condition more restrictively than: "A condition for  
1498 which medical advice was given or treatment was recommended by or received from a  
1499 physician within six months before the effective date of coverage."

1500 (c) The commissioner shall adopt rules to establish specific standards for policy  
1501 provisions of Medicare supplement policies and certificates. The standards adopted shall be in  
1502 addition to and in accordance with applicable laws of this state. A requirement of this title  
1503 relating to minimum required policy benefits, other than the minimum standards contained in  
1504 this section, may not apply to Medicare supplement policies and certificates. The standards  
1505 may include:

- 1506 (i) terms of renewability;  
1507 (ii) initial and subsequent conditions of eligibility;  
1508 (iii) nonduplication of coverage;  
1509 (iv) probationary periods;  
1510 (v) benefit limitations, exceptions, and reductions;  
1511 (vi) elimination periods;  
1512 (vii) requirements for replacement;  
1513 (viii) recurrent conditions; and

- 1514 (ix) definitions of terms.
- 1515 (d) The commissioner shall adopt rules establishing minimum standards for benefits,  
1516 claims payment, marketing practices, compensation arrangements, and reporting practices for  
1517 Medicare supplement policies and certificates.
- 1518 (e) The commissioner may adopt rules to conform Medicare supplement policies and  
1519 certificates to the requirements of federal law and regulations, including:
- 1520 (i) requiring refunds or credits if the policies do not meet loss ratio requirements;
- 1521 (ii) establishing a uniform methodology for calculating and reporting loss ratios;
- 1522 (iii) assuring public access to policies, premiums, and loss ratio information of issuers  
1523 of Medicare supplement insurance;
- 1524 (iv) establishing a process for approving or disapproving policy forms and certificate  
1525 forms and proposed premium increases;
- 1526 (v) establishing a policy for holding public hearings prior to approval of premium  
1527 increases; ~~and~~
- 1528 (vi) establishing standards for Medicare select policies and certificates~~[-]; and~~  
1529 (vii) nondiscrimination for genetic testing or genetic information.
- 1530 (f) The commissioner may adopt rules that prohibit policy provisions not otherwise  
1531 specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair,  
1532 or unfairly discriminatory to any person insured or proposed to be insured under a Medicare  
1533 supplement policy or certificate.
- 1534 (4) Medicare supplement policies shall return to policyholders benefits that are  
1535 reasonable in relation to the premium charged. The commissioner shall make rules to  
1536 establish minimum standards for loss ratios of Medicare supplement policies on the basis of  
1537 incurred claims experience, or incurred health care expenses where coverage is provided by a  
1538 health maintenance organization on a service basis rather than on a reimbursement basis, and  
1539 earned premiums in accordance with accepted actuarial principles and practices.
- 1540 (5) (a) To provide for full and fair disclosure in the sale of Medicare supplement  
1541 policies, a Medicare supplement policy or certificate may not be delivered in this state unless

1542 an outline of coverage is delivered to the applicant at the time application is made.

1543 (b) The commissioner shall prescribe the format and content of the outline of coverage  
1544 required by Subsection (5)(a).

1545 (c) For purposes of this section, "format" means style arrangements and overall  
1546 appearance, including such items as the size, color, and prominence of type and arrangement  
1547 of text and captions. The outline of coverage shall include:

1548 (i) a description of the principal benefits and coverage provided in the policy;

1549 (ii) a statement of the renewal provisions, including any reservation by the issuer of a  
1550 right to change premiums; and disclosure of the existence of any automatic renewal premium  
1551 increases based on the policyholder's age; and

1552 (iii) a statement that the outline of coverage is a summary of the policy issued or  
1553 applied for and that the policy should be consulted to determine governing contractual  
1554 provisions.

1555 (d) The commissioner may make rules for captions or notice if the commissioner finds  
1556 that the rules are:

1557 (i) in the public interest; and

1558 (ii) designed to inform prospective insureds that particular insurance coverages are not  
1559 Medicare supplement coverages, for all accident and health insurance policies sold to persons  
1560 eligible for Medicare, other than:

1561 (A) a medicare supplement policy; or

1562 (B) a disability income policy.

1563 (e) The commissioner may prescribe by rule a standard form and the contents of an  
1564 informational brochure for persons eligible for Medicare, that is intended to improve the  
1565 buyer's ability to select the most appropriate coverage and improve the buyer's understanding  
1566 of Medicare. Except in the case of direct response insurance policies, the commissioner may  
1567 require by rule that the informational brochure be provided concurrently with delivery of the  
1568 outline of coverage to any prospective insureds eligible for Medicare. With respect to direct  
1569 response insurance policies, the commissioner may require by rule that the prescribed



1570 brochure be provided upon request to any prospective insureds eligible for Medicare, but in no  
1571 event later than the time of policy delivery.

1572 (f) The commissioner may adopt reasonable rules to govern the full and fair disclosure  
1573 of the information in connection with the replacement of accident and health policies,  
1574 subscriber contracts, or certificates by persons eligible for Medicare.

1575 (6) Notwithstanding Subsection (1), Medicare supplement policies and certificates  
1576 shall have a notice prominently printed on the first page of the policy or certificate, or attached  
1577 to the front page, stating in substance that the applicant has the right to return the policy or  
1578 certificate within 30 days of its delivery and to have the premium refunded if, after  
1579 examination of the policy or certificate, the applicant is not satisfied for any reason. Any  
1580 refund made pursuant to this section shall be paid directly to the applicant by the issuer in a  
1581 timely manner.

1582 (7) Every issuer of Medicare supplement insurance policies or certificates in this state  
1583 shall provide a copy of any Medicare supplement advertisement intended for use in this state,  
1584 whether through written or broadcast medium, to the commissioner for review.

1585 (8) The commissioner may adopt rules to conform Medicare and Medicare supplement  
1586 policies and certificates to the marketing requirements of federal law and regulation.

1587 Section 8. Section **31A-22-1602** is amended to read:

1588 **31A-22-1602. Genetic testing restrictions.**

1589 ~~[With]~~ Except as provided under Section 31A-22-620, with respect to [matters] a  
1590 matter related to genetic testing and private genetic information, an insurer shall comply with  
1591 ~~[Section 26-45-104 and the other]~~ the applicable provisions of Title 26, Chapter 45, Genetic  
1592 Testing Privacy Act, including Section 26-45-104.

1593 Section 9. Section **31A-23a-102** is amended to read:

1594 **31A-23a-102. Definitions.**

1595 As used in this chapter:

1596 (1) "Bail bond producer" means a person who:

1597 (a) is appointed by:

- 1598 (i) a surety insurer that issues bail bonds; or  
1599 (ii) a bail bond surety company licensed under Chapter 35, Bail Bond Act;  
1600 (b) is designated to execute or countersign undertakings of bail in connection with a  
1601 judicial [~~proceedings~~] proceeding; and  
1602 (c) receives or is promised money or other things of value for engaging in an act  
1603 described in Subsection (1)(b).  
1604 (2) "Escrow" means a license subline of authority in conjunction with the title  
1605 insurance line of authority that allows a person to conduct escrow as defined in Section  
1606 31A-1-301.  
1607 (3) "Home state" means [~~any~~] a state or territory of the United States or the District of  
1608 Columbia in which an insurance producer:  
1609 (a) maintains the insurance producer's principal:  
1610 (i) place of residence; or  
1611 (ii) place of business; and  
1612 (b) is licensed to act as an insurance producer.  
1613 (4) "Insurer" is as defined in Section 31A-1-301, except that the following persons or  
1614 similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:  
1615 (a) [~~all~~] a risk retention [~~groups~~] group as defined in:  
1616 (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;  
1617 (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and  
1618 (iii) Chapter 15, Part 2, Risk Retention Groups Act;  
1619 (b) [~~all~~] a residual market [~~pools and~~] pool;  
1620 (c) a joint underwriting [~~authorities or associations~~] authority or association; and  
1621 [~~(c) all~~] (d) a captive [~~insurers~~] insurer.  
1622 (5) "License" is defined in Section 31A-1-301.  
1623 (6) (a) "Managing general agent" means [~~any~~] a person that:  
1624 (i) manages all or part of the insurance business of an insurer, including the  
1625 management of a separate division, department, or underwriting office;

1626 (ii) acts as an agent for the insurer whether it is known as a managing general agent,  
1627 manager, or other similar term;

1628 (iii) [~~with or without the authority, either separately or together with affiliates, directly~~  
1629 ~~or indirectly~~] produces and underwrites an amount of gross direct written premium equal to, or  
1630 more than 5% of, the policyholder surplus as reported in the last annual statement of the  
1631 insurer in any one quarter or year[~~;~~ ~~and~~];

1632 (A) with or without the authority;

1633 (B) separately or together with an affiliate; and

1634 (C) directly or indirectly; and

1635 (iv) (A) adjusts or pays claims in excess of an amount determined by the  
1636 commissioner; or

1637 (B) negotiates reinsurance on behalf of the insurer.

1638 (b) Notwithstanding Subsection (6)(a), the following persons may not be considered as  
1639 managing general agent for the purposes of this chapter:

1640 (i) an employee of the insurer;

1641 (ii) a United States manager of the United States branch of an alien insurer;

1642 (iii) an underwriting manager that, pursuant to contract:

1643 (A) manages all the insurance operations of the insurer;

1644 (B) is under common control with the insurer;

1645 (C) is subject to Chapter 16, Insurance Holding Companies; and

1646 (D) is not compensated based on the volume of premiums written; and

1647 (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal  
1648 insurer or inter-insurance exchange under powers of attorney.

1649 (7) "Negotiate" means the act of conferring directly with or offering advice directly to  
1650 a purchaser or prospective purchaser of a particular contract of insurance concerning [~~any of~~  
1651 ~~the~~] a substantive [~~benefits, terms, or conditions~~] benefit, term, or condition of the contract if  
1652 the person engaged in that act:

1653 (a) sells insurance; or

1654 (b) obtains insurance from insurers for purchasers.

1655 (8) "Reinsurance intermediary" means:

1656 (a) a reinsurance intermediary-broker; or

1657 (b) a reinsurance intermediary-manager.

1658 (9) "Reinsurance intermediary-broker" means a person other than an officer or  
1659 employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or  
1660 places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority  
1661 or power to bind reinsurance on behalf of the insurer.

1662 (10) (a) "Reinsurance intermediary-manager" means a person who:

1663 (i) has authority to bind or who manages all or part of the assumed reinsurance  
1664 business of a reinsurer, including the management of a separate division, department, or  
1665 underwriting office; and

1666 (ii) acts as an agent for the reinsurer whether the person is known as a reinsurance  
1667 intermediary-manager, manager, or other similar term.

1668 (b) Notwithstanding Subsection (10)(a), the following persons may not be considered  
1669 reinsurance intermediary-managers for the purpose of this chapter with respect to the  
1670 reinsurer:

1671 (i) an employee of the reinsurer;

1672 (ii) a United States manager of the United States branch of an alien reinsurer;

1673 (iii) an underwriting manager that, pursuant to contract:

1674 (A) manages all the reinsurance operations of the reinsurer;

1675 (B) is under common control with the reinsurer;

1676 (C) is subject to Chapter 16, Insurance Holding Companies; and

1677 (D) is not compensated based on the volume of premiums written; and

1678 (iv) the manager of a group, association, pool, or organization of insurers that:

1679 (A) engage in joint underwriting or joint reinsurance; and

1680 (B) are subject to examination by the insurance commissioner of the state in which the  
1681 manager's principal business office is located.

- 1682 (11) "Search" means a license subline of authority in conjunction with the title  
1683 insurance line of authority that allows a person to issue title insurance commitments or  
1684 policies on behalf of a title insurer.
- 1685 (12) "Sell" means to exchange a contract of insurance:
- 1686 (a) by any means;
- 1687 (b) for money or its equivalent; and
- 1688 (c) on behalf of an insurance company.
- 1689 (13) "Solicit" means:
- 1690 (a) attempting to sell insurance;
- 1691 (b) asking or urging a person to apply for:
- 1692 (i) a particular kind of insurance; and
- 1693 (ii) insurance from a particular insurance company;
- 1694 (c) advertising insurance, including advertising for the purpose of obtaining leads for  
1695 the sale of insurance; or
- 1696 (d) holding oneself out as being in the insurance business.
- 1697 (14) "Terminate" means:
- 1698 (a) the cancellation of the relationship between:
- 1699 [~~(i) an insurance producer; and~~]
- 1700 [~~(ii) a particular insurer; or~~]
- 1701 (i) an individual licensee or agency licensee and a particular insurer; or
- 1702 (ii) an individual licensee and a particular agency licensee; or
- 1703 (b) the termination of [~~the producer's~~]:
- 1704 (i) an individual licensee's or agency licensee's authority to transact insurance on  
1705 behalf of a particular insurance company[-]; or
- 1706 (ii) an individual licensee's authority to transact insurance on behalf of a particular  
1707 agency licensee.
- 1708 (15) "Title marketing representative" means a person who:
- 1709 (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

- 1710 (i) title insurance; or
- 1711 (ii) escrow services; and
- 1712 (b) does not have a search or escrow license as provided in Section 31A-23a-106.
- 1713 (16) "Uniform application" means the version of the National Association of Insurance
- 1714 Commissioner's uniform application for resident and nonresident producer licensing at the
- 1715 time the application is filed.
- 1716 (17) "Uniform business entity application" means the version of the National
- 1717 Association of Insurance Commissioner's uniform business entity application for resident and
- 1718 nonresident business entities at the time the application is filed.
- 1719 Section 10. Section **31A-23a-104** is amended to read:
- 1720 **31A-23a-104. Application for individual license -- Application for agency license.**
- 1721 (1) This section applies to an initial or renewal license as a:
- 1722 (a) producer;
- 1723 (b) limited line producer;
- 1724 (c) customer service representative;
- 1725 (d) consultant;
- 1726 (e) managing general agent; or
- 1727 (f) reinsurance intermediary.
- 1728 (2) (a) Subject to Subsection (2)(b), an application for an initial or renewal individual
- 1729 license shall be:
- 1730 (i) made to the commissioner on forms and in a manner the commissioner prescribes;
- 1731 and
- 1732 (ii) accompanied by a license fee that is not refunded if the application:
- 1733 (A) is denied; or
- 1734 (B) if incomplete, is never completed by the applicant.
- 1735 (b) An application described in this Subsection (2) shall provide:
- 1736 (i) information about the applicant's identity;
- 1737 (ii) the applicant's Social Security number;

1738 (iii) the applicant's personal history, experience, education, and business record;  
1739 (iv) whether the applicant is 18 years of age or older;  
1740 (v) whether the applicant has committed an act that is a ground for denial, suspension,  
1741 or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and  
1742 (vi) any other information the commissioner reasonably requires.  
1743 (3) The commissioner may require ~~[any documents]~~ a document reasonably necessary  
1744 to verify the information contained in an application filed under this section.  
1745 (4) An applicant's Social Security number contained in an application filed under this  
1746 section is a private record under Section 63G-2-302.  
1747 (5) (a) Subject to Subsection (5)(b), an application for an initial or renewal agency  
1748 license shall be:  
1749 (i) made to the commissioner on forms and in a manner the commissioner prescribes;  
1750 and  
1751 (ii) accompanied by a license fee that is not refunded if the application:  
1752 (A) is denied; or  
1753 (B) if incomplete, is never completed by the applicant.  
1754 (b) An application described in Subsection (5)(a) shall provide:  
1755 (i) information about the applicant's identity;  
1756 (ii) the applicant's federal employer identification number;  
1757 (iii) the designated responsible licensed producer;  
1758 (iv) the identity of all owners, partners, officers, and directors;  
1759 (v) whether the applicant has committed an act that is a ground for denial, suspension,  
1760 or revocation as set forth in Section 31A-23a-105 or 31A-23a-111; and  
1761 (vi) any other information the commissioner reasonably requires.  
1762 Section 11. Section **31A-23a-105** is amended to read:  
1763 **31A-23a-105. General requirements for individual and agency license issuance**  
1764 **and renewal.**  
1765 (1) (a) The commissioner shall issue or renew a license to a person described in

1766 Subsection (1)(b) to act as:

1767 (i) a producer[;];

1768 (ii) a limited line producer[;];

1769 (iii) a customer service representative[;];

1770 (iv) a consultant[;];

1771 (v) a managing general agent[;]; or

1772 (vi) a reinsurance intermediary [~~to any person~~].

1773 (b) The commissioner shall issue or renew a license under Subsection (1)(a) to a

1774 person who, as to the license type and line of authority classification applied for under Section

1775 31A-23a-106:

1776 (a) satisfies the application requirements under Section 31A-23a-104;

1777 (b) satisfies the character requirements under Section 31A-23a-107;

1778 (c) satisfies any applicable continuing education requirements under Section

1779 31A-23a-202;

1780 (d) satisfies any applicable examination requirements under Section 31A-23a-108;

1781 (e) satisfies any applicable training period requirements under Section 31A-23a-203;

1782 (f) has not committed an act that is a ground for denial, suspension, or revocation as

1783 provided in Section 31A-23a-111;

1784 [~~(f)~~] (g) if a nonresident:

1785 (i) complies with Section 31A-23a-109; and

1786 (ii) holds an active similar license in that person's state of residence;

1787 [~~(g)~~] (h) if an applicant for a title insurance producer license, satisfies the requirements

1788 of Sections 31A-23a-203 and 31A-23a-204;

1789 [~~(h)~~] (i) if an applicant for a license to act as a viatical settlement provider or viatical

1790 settlement producer, satisfies the requirements of Section 31A-23a-117; and

1791 [~~(i)~~] (j) pays the applicable fees under Section 31A-3-103.

1792 (2) (a) This Subsection (2) applies to the following persons:

1793 (i) an applicant for a pending:



- 1794 (A) individual or agency producer license;
- 1795 (B) limited line producer license;
- 1796 (C) customer service representative license;
- 1797 (D) consultant license;
- 1798 (E) managing general agent license; or
- 1799 (F) reinsurance intermediary license; or
- 1800 (ii) a licensed:
  - 1801 (A) individual or agency producer;
  - 1802 (B) limited line producer;
  - 1803 (C) customer service representative;
  - 1804 (D) consultant;
  - 1805 (E) managing general agent; or
  - 1806 (F) reinsurance intermediary.
- 1807 (b) A person described in Subsection (2)(a) shall report to the commissioner:
  - 1808 (i) ~~any~~ an administrative action taken against the person:
    - 1809 (A) in another jurisdiction; or
    - 1810 (B) by another regulatory agency in this state; and
  - 1811 (ii) ~~any~~ a criminal prosecution taken against the person in any jurisdiction.
- 1812 (c) The report required by Subsection (2)(b) shall:
  - 1813 (i) be filed:
    - 1814 (A) at the time the person files the application for an individual or agency license; and
    - 1815 (B) for an action or prosecution that occurs on or after the day on which the person
    - 1816 files the application:
      - 1817 (I) for an administrative action, within 30 days of the final disposition of the
      - 1818 administrative action; or
      - 1819 (II) for a criminal prosecution, within 30 days of the initial appearance before a court;
  - 1820 and
  - 1821 (ii) include a copy of the complaint or other relevant legal documents related to the

1822 action or prosecution described in Subsection (2)(b).

1823 (3) (a) The department may require a person applying for a license or for consent to  
1824 engage in the business of insurance to submit to a criminal background check as a condition  
1825 of receiving a license or consent.

1826 (b) A person, if required to submit to a criminal background check under Subsection  
1827 (3)(a), shall:

1828 (i) submit a fingerprint card in a form acceptable to the department; and

1829 (ii) consent to a fingerprint background check by:

1830 (A) the Utah Bureau of Criminal Identification; and

1831 (B) the Federal Bureau of Investigation.

1832 (c) For a person who submits a fingerprint card and consents to a fingerprint  
1833 background check under Subsection (3)(b), the department may request:

1834 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
1835 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

1836 (ii) complete Federal Bureau of Investigation criminal background checks through the  
1837 national criminal history system.

1838 (d) Information obtained by the department from the review of criminal history  
1839 records received under this Subsection (3) shall be used by the department for the purposes of:

1840 (i) determining if a person satisfies the character requirements under Section  
1841 31A-23a-107 for issuance or renewal of a license;

1842 (ii) determining if a person has failed to maintain the character requirements under  
1843 Section 31A-23a-107; and

1844 (iii) preventing ~~persons~~ a person who ~~violate~~ violates the federal Violent Crime  
1845 Control and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in  
1846 the business of insurance in the state.

1847 (e) If the department requests the criminal background information, the department  
1848 shall:

1849 (i) pay to the Department of Public Safety the costs incurred by the Department of

1850 Public Safety in providing the department criminal background information under Subsection  
1851 (3)(c)(i);

1852 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
1853 of Investigation in providing the department criminal background information under  
1854 Subsection (3)(c)(ii); and

1855 (iii) charge the person applying for a license~~[, for renewal of a license,]~~ or for consent  
1856 to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and  
1857 (ii).

1858 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this  
1859 section, a person licensed as one of the following in another state who moves to this state shall  
1860 apply within 90 days of establishing legal residence in this state:

- 1861 (a) insurance producer;
- 1862 (b) limited line producer;
- 1863 (c) customer service representative;
- 1864 (d) consultant;
- 1865 (e) managing general agent; or
- 1866 (f) reinsurance intermediary.

1867 (5) (a) The commissioner may deny a license application for a license listed in  
1868 Subsection (5)(b) if the person applying for the license, as to the license type and line of  
1869 authority classification applied for under Section 31A-23a-106:

1870 (i) fails to satisfy the requirements as set forth in this section; or  
1871 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in  
1872 Section 31A-23a-111.

1873 (b) This Subsection (5) applies to the following licenses:

- 1874 (i) producer;
- 1875 (ii) limited line producer;
- 1876 (iii) customer service representative;
- 1877 (iv) consultant;

1878 (v) managing general agent; or

1879 (vi) reinsurance intermediary.

1880 [~~(5)~~] (6) Notwithstanding the other provisions of this section, the commissioner may:

1881 (a) issue a license to an applicant for a license for a title insurance line of authority

1882 only with the concurrence of the Title and Escrow Commission; and

1883 (b) renew a license for a title insurance line of authority only with the concurrence of

1884 the Title and Escrow Commission.

1885 Section 12. Section **31A-23a-106** is amended to read:

1886 **31A-23a-106. License types.**

1887 (1) (a) A resident or nonresident license issued under this chapter shall be issued under

1888 the license types described under Subsection (2).

1889 (b) [~~License types~~] A license type and [~~lines~~] a line of authority pertaining to [~~each~~] a

1890 license type describe the type of licensee and the lines of business that a licensee may sell,

1891 solicit, or negotiate. [~~License types are~~] A license type is intended to describe the matters to

1892 be considered under any education, examination, and training required of a license

1893 [~~applicants~~] applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.

1894 (2) (a) A producer license type includes the following lines of authority:

1895 (i) life insurance, including a nonvariable [~~contracts~~] contract;

1896 (ii) variable contracts, including variable life and annuity, if the producer has the life

1897 insurance line of authority;

1898 (iii) accident and health insurance, including [~~contracts~~] a contract issued to

1899 [~~policyholders~~] a policyholder under Chapter 7, Nonprofit Health Service Insurance

1900 Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1901 (iv) property insurance;

1902 (v) casualty insurance, including a surety [~~and~~] or other [~~bonds~~] bond;

1903 (vi) title insurance under one or more of the following categories:

1904 (A) search, including authority to act as a title marketing representative;

1905 (B) escrow, including authority to act as a title marketing representative; and

1906 [~~(C)~~] search and escrow, including authority to act as a title marketing representative;  
1907 and]  
1908 [~~(D)~~] (C) title marketing representative only;  
1909 [~~(vii)~~] workers' compensation insurance;]  
1910 [~~(viii)~~] (vii) personal lines insurance; and  
1911 [~~(ix)~~] (viii) surplus lines, if the producer has the property or casualty or both lines of  
1912 authority.

1913 (b) A limited line producer license type includes the following limited lines of  
1914 authority:

- 1915 (i) limited line credit insurance;
- 1916 (ii) travel insurance;
- 1917 (iii) motor club insurance;
- 1918 (iv) car rental related insurance;
- 1919 (v) legal expense insurance; [~~and~~]
- 1920 (vi) crop insurance;
- 1921 (vii) self-service storage insurance; and
- 1922 [~~(vi)~~] (viii) bail bond producer.

1923 (c) A customer service representative license type includes the following lines of  
1924 authority, if held by the customer service representative's employer producer:

- 1925 (i) life insurance, including a nonvariable [~~contracts~~] contract;
- 1926 (ii) accident and health insurance, including [~~contracts~~] a contract issued to  
1927 [~~policyholders~~] a policyholder under Chapter 7, Nonprofit Health Service Insurance  
1928 Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 1929 (iii) property insurance;
- 1930 (iv) casualty insurance, including a surety [~~and~~] or other [~~bonds;~~] bond;
- 1931 [~~(v)~~] workers' compensation insurance;]
- 1932 [~~(vi)~~] (v) personal lines insurance; and
- 1933 [~~(vii)~~] (vi) surplus lines, if the employer producer has the property or casualty or both

1934 lines of authority.

1935 (d) A consultant license type includes the following lines of authority:

1936 (i) life insurance, including a nonvariable ~~[contracts]~~ contract;

1937 (ii) variable contracts, including variable life and annuity, if the consultant has the life

1938 insurance line of authority;

1939 (iii) accident and health insurance, including ~~[contracts]~~ a contract issued to

1940 ~~[policyholders]~~ a policyholder under Chapter 7, Nonprofit Health Service Insurance

1941 Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1942 (iv) property insurance;

1943 (v) casualty insurance, including a surety ~~[and]~~ or other ~~[bonds;]~~ bond; and

1944 ~~[(vi) workers' compensation insurance; and]~~

1945 ~~[(vii)]~~ (vi) personal lines insurance.

1946 (e) A managing general agent license type includes the following lines of authority:

1947 (i) life insurance, including a nonvariable ~~[contracts]~~ contract;

1948 (ii) variable contracts, including variable life and annuity, if the managing general

1949 agent has the life insurance line of authority;

1950 (iii) accident and health insurance, including ~~[contracts]~~ a contract issued to

1951 ~~[policyholders]~~ a policyholder under Chapter 7, Nonprofit Health Service Insurance

1952 Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1953 (iv) property insurance;

1954 (v) casualty insurance, including a surety ~~[and]~~ or other ~~[bonds;]~~ bond; and

1955 ~~[(vi) workers' compensation insurance; and]~~

1956 ~~[(vii)]~~ (vi) personal lines insurance.

1957 (f) A reinsurance intermediary license type includes the following lines of authority:

1958 (i) life insurance, including a nonvariable ~~[contracts]~~ contract;

1959 (ii) variable contracts, including variable life and annuity, if the reinsurance

1960 intermediary has the life insurance line of authority;

1961 (iii) accident and health insurance, including ~~[contracts]~~ a contract issued to

1962 [~~policyholders~~] a policyholder under Chapter 7, Nonprofit Health Service Insurance  
 1963 Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;  
 1964 (iv) property insurance;  
 1965 (v) casualty insurance, including a surety [~~and~~] or other [~~bonds;~~] bond; and  
 1966 [~~(vi) workers' compensation insurance; and~~]  
 1967 [~~(vii)] (vi) personal lines insurance.~~  
 1968 (g) A holder of licenses under Subsections (2)(a), (d), (e), and (f) has all qualifications  
 1969 necessary to act as a holder of a license under Subsections (2)(b) and (c).  
 1970 (3) (a) The commissioner may by rule recognize other producer, limited line producer,  
 1971 customer service representative, consultant, managing general agent, or reinsurance  
 1972 intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a)  
 1973 through (f).  
 1974 (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and  
 1975 Escrow Commission may by rule, with the concurrence of the commissioner and subject to  
 1976 Section 31A-2-404, recognize other categories for a title insurance producer line of authority  
 1977 not listed under Subsection (2)(a)(vi).  
 1978 (4) The variable contracts, including variable life and annuity line of authority  
 1979 requires:  
 1980 (a) licensure as a registered agent or broker by the National Association of Securities  
 1981 Dealers; and  
 1982 (b) current registration with a securities [~~broker/dealer~~] broker-dealer.  
 1983 (5) A surplus lines producer is a producer who has a surplus lines line of authority.  
 1984 Section 13. Section **31A-23a-111** is amended to read:  
 1985 **31A-23a-111. Revocation, suspension, surrender, lapsing, limiting, or otherwise**  
 1986 **terminating a license -- Rulemaking for renewal or reinstatement.**  
 1987 (1) A license type issued under this chapter remains in force until:  
 1988 (a) revoked or suspended under Subsection (5);  
 1989 (b) surrendered to the commissioner and accepted by the commissioner in lieu of

1990 administrative action;

1991 (c) the licensee dies or is adjudicated incompetent as defined under:

1992 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

1993 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and

1994 Minors;

1995 (d) lapsed under Section 31A-23a-113; or

1996 (e) voluntarily surrendered.

1997 (2) The following may be reinstated within one year after the day on which the license

1998 is [~~inactivated~~] no longer in force:

1999 (a) a lapsed license; or

2000 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may

2001 not be reinstated after the license period in which the license is voluntarily surrendered.

2002 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a

2003 license, submission and acceptance of a voluntary surrender of a license does not prevent the

2004 department from pursuing additional disciplinary or other action authorized under:

2005 (a) this title; or

2006 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah

2007 Administrative Rulemaking Act.

2008 (4) A line of authority issued under this chapter remains in force until:

2009 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;

2010 or

2011 (b) the supporting license type:

2012 (i) is revoked or suspended under Subsection (5); [~~or~~]

2013 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of

2014 administrative action[-];

2015 (iii) the licensee dies or is adjudicated incompetent as defined under:

2016 (A) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

2017 (B) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and



2018 Minors:

2019 (iv) lapsed under Section 31A-23a-113; or

2020 (v) voluntarily surrendered.

2021 (5) (a) If the commissioner makes a finding under Subsection (5)(b), [~~after~~] as part of  
2022 an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the  
2023 commissioner may:

2024 (i) revoke:

2025 (A) a license; or

2026 (B) a line of authority;

2027 (ii) suspend for a specified period of 12 months or less:

2028 (A) a license; or

2029 (B) a line of authority; [~~or~~]

2030 (iii) limit in whole or in part:

2031 (A) a license; or

2032 (B) a line of authority[~~;~~]; or

2033 (iv) deny a license application.

2034 (b) The commissioner may take an action described in Subsection (5)(a) if the  
2035 commissioner finds that the licensee:

2036 (i) is unqualified for a license or line of authority under [~~Sections~~] Section  
2037 31A-23a-104 [~~and~~], 31A-23a-105, or 31A-23a-107;

2038 (ii) violates:

2039 (A) an insurance statute;

2040 (B) a rule that is valid under Subsection 31A-2-201(3); or

2041 (C) an order that is valid under Subsection 31A-2-201(4);

2042 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other  
2043 delinquency proceedings in any state;

2044 (iv) fails to pay [~~any~~] a final judgment rendered against the person in this state within  
2045 60 days after the day on which the judgment became final;

- 2046 (v) fails to meet the same good faith obligations in claims settlement that is required of
- 2047 admitted insurers;
- 2048 (vi) is affiliated with and under the same general management or interlocking
- 2049 directorate or ownership as another insurance producer that transacts business in this state
- 2050 without a license;
- 2051 (vii) refuses:
- 2052 (A) to be examined; or
- 2053 (B) to produce its accounts, records, and files for examination;
- 2054 (viii) has an officer who refuses to:
- 2055 (A) give information with respect to the insurance producer's affairs; or
- 2056 (B) perform any other legal obligation as to an examination;
- 2057 (ix) provides information in the license application that is:
- 2058 (A) incorrect;
- 2059 (B) misleading;
- 2060 (C) incomplete; or
- 2061 (D) materially untrue;
- 2062 (x) violates an insurance law, valid rule, or valid order of another state's insurance
- 2063 department;
- 2064 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 2065 (xii) improperly withholds, misappropriates, or converts [~~any~~] monies or properties
- 2066 received in the course of doing insurance business;
- 2067 (xiii) intentionally misrepresents the terms of an actual or proposed:
- 2068 (A) insurance contract;
- 2069 (B) application for insurance; or
- 2070 (C) viatical settlement;
- 2071 (xiv) is convicted of a felony;
- 2072 (xv) admits or is found to have committed an insurance unfair trade practice or fraud;
- 2073 (xvi) in the conduct of business in this state or elsewhere;

- 2074 (A) uses fraudulent, coercive, or dishonest practices; or  
2075 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;  
2076 (xvii) has an insurance license, or its equivalent, denied, suspended, or revoked in  
2077 another state, province, district, or territory;  
2078 (xviii) forges another's name to:  
2079 (A) an application for insurance; or  
2080 (B) a document related to an insurance transaction;  
2081 (xix) improperly uses notes or another reference material to complete an examination  
2082 for an insurance license;  
2083 (xx) knowingly accepts insurance business from an individual who is not licensed;  
2084 (xxi) fails to comply with an administrative or court order imposing a child support  
2085 obligation;  
2086 (xxii) fails to:  
2087 (A) pay state income tax; or  
2088 (B) comply with an administrative or court order directing payment of state income  
2089 tax;  
2090 (xxiii) violates or permits others to violate the federal Violent Crime Control and Law  
2091 Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or  
2092 (xxiv) engages in a method or practice in the conduct of business that endangers the  
2093 legitimate interests of customers and the public.  
2094 (c) For purposes of this section, if a license is held by an agency, both the agency itself  
2095 and any [~~natural person named on~~] individual designated under the license are considered to  
2096 be the holders of the license.  
2097 (d) If [~~a natural person named on~~] an individual designated under the agency license  
2098 commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting  
2099 the [~~natural person's~~] individual's license, the commissioner may suspend, revoke, or limit the  
2100 license of:  
2101 (i) the [~~natural person~~] individual;

- 2102 (ii) the agency, if the agency:
- 2103 (A) is reckless or negligent in its supervision of the [~~natural person~~] individual; or
- 2104 (B) knowingly participates in the act or failure to act that is the ground for suspending,
- 2105 revoking, or limiting the license; or
- 2106 (iii) (A) the [~~natural person~~] individual; and
- 2107 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).
- 2108 (6) A licensee under this chapter is subject to the penalties for acting as a licensee
- 2109 without a license if:
- 2110 (a) the licensee's license is:
- 2111 (i) revoked;
- 2112 (ii) suspended;
- 2113 (iii) limited;
- 2114 (iv) surrendered in lieu of administrative action;
- 2115 (v) lapsed; or
- 2116 (vi) voluntarily surrendered; and
- 2117 (b) the licensee:
- 2118 (i) continues to act as a licensee; or
- 2119 (ii) violates the terms of the license limitation.
- 2120 (7) A licensee under this chapter shall immediately report to the commissioner:
- 2121 (a) a revocation, suspension, or limitation of the person's license in another state, the
- 2122 District of Columbia, or a territory of the United States;
- 2123 (b) the imposition of a disciplinary sanction imposed on that person by another state,
- 2124 the District of Columbia, or a territory of the United States; or
- 2125 (c) a judgment or injunction entered against that person on the basis of conduct
- 2126 involving:
- 2127 (i) fraud;
- 2128 (ii) deceit;
- 2129 (iii) misrepresentation; or

- 2130 (iv) a violation of an insurance law or rule.
- 2131 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender
- 2132 a license in lieu of administrative action may specify a time, not to exceed five years, within
- 2133 which the former licensee may not apply for a new license.
- 2134 (b) If no time is specified in [~~the~~] an order or agreement described in Subsection
- 2135 (8)(a), the former licensee may not apply for a new license for five years from the day on
- 2136 which the order or agreement is made without the express approval by the commissioner.
- 2137 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
- 2138 a license issued under this part if so ordered by a court.
- 2139 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
- 2140 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2141 Section 14. Section **31A-23a-113** is amended to read:
- 2142 **31A-23a-113. License lapse and voluntary surrender.**
- 2143 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:
- 2144 (i) pay when due a fee under Section 31A-3-103;
- 2145 (ii) complete continuing education requirements under Section 31A-23a-202 before
- 2146 submitting the license renewal application;
- 2147 (iii) submit a completed renewal application as required by Section 31A-23a-104;
- 2148 (iv) submit additional documentation required to complete the licensing process as
- 2149 related to a specific license type or line of authority; or
- 2150 (v) maintain an active license in a resident state if the licensee is a nonresident
- 2151 licensee.
- 2152 (b) (i) A licensee whose license lapses due to the following may request an action
- 2153 described in Subsection (1)(b)(ii):
- 2154 (A) military service;
- 2155 (B) voluntary service for a period of time designated by the person for whom the
- 2156 licensee provides voluntary service; or
- 2157 (C) some other extenuating circumstances, such as long-term medical disability.

2158 (ii) A licensee described in Subsection (1)(b)(i) may request:  
 2159 (A) reinstatement of the license no later than one year after the day on which the  
 2160 license lapses; and

2161 (B) waiver of any of the following imposed for failure to comply with renewal  
 2162 procedures:

- 2163 (I) an examination requirement;
- 2164 (II) reinstatement fees set under Section 31A-3-103;
- 2165 (III) continuing education requirements; or
- 2166 (IV) other sanction imposed for failure to comply with renewal procedures.

2167 (2) If a license [~~type or line of authority~~] issued under this chapter is voluntarily  
 2168 surrendered, the license or line of authority may be reinstated [~~within one year~~]:

- 2169 (a) during the license period in which the license is voluntarily surrendered; and
- 2170 (b) no later than one year after the day on which the license [~~or line of authority is~~  
 2171 ~~inactivated~~] is voluntarily surrendered.

2172 Section 15. Section **31A-23a-115** is amended to read:

2173 **31A-23a-115. Appointment of individual and agency insurance producer, limited**  
 2174 **line producer, or managing general agent -- Reports and lists.**

2175 (1) (a) An insurer shall appoint [~~a natural person~~] an individual or agency [~~that has an~~  
 2176 with whom it has a contract as an insurance producer, limited line producer, or managing  
 2177 general agent [~~license~~] to act [~~as an insurance producer, limited line producer, or managing~~  
 2178 ~~general agent on the insurer's behalf prior to any producer, limited line producer, or managing~~  
 2179 ~~general agent doing~~] on the insurer's behalf in order for the licensee to do business for the  
 2180 insurer in this state.

2181 (b) An insurer shall report to the commissioner, at intervals and in the form the  
 2182 commissioner establishes by rule:

- 2183 (i) [~~all~~] a new [~~appointments~~] appointment; and
- 2184 [~~(ii) all terminations of appointments.~~]
- 2185 (ii) a termination of appointment.

2186 (2) (a) (i) An insurer shall report to the commissioner the cause of termination of an  
2187 appointment[-] if:

2188 (A) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b);

2189 or

2190 (B) the insurer has knowledge that the individual or agency licensee is found to have  
2191 engaged in an activity described in Subsection 31A-23a-111(5)(b) by:

2192 (I) a court;

2193 (II) a government body; or

2194 (III) a self-regulatory organization, which the commissioner may define by rule made  
2195 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2196 (ii) The information provided to the commissioner under this Subsection (2) is a  
2197 private record under Title 63G, Chapter 2, Government Records Access and Management Act.

2198 (b) An insurer is immune from civil action, civil penalty, or damages if the insurer  
2199 complies in good faith with this Subsection (2) in reporting to the commissioner the cause of  
2200 termination of an appointment.

2201 (c) Notwithstanding any other provision in this section, an insurer is not immune from  
2202 any action or resulting penalty imposed on the reporting insurer as a result of proceedings  
2203 brought by or on behalf of the department if the action is based on evidence other than the  
2204 report submitted in compliance with this Subsection (2).

2205 (3) If an insurer appoints an agency, the insurer need not appoint, report, or pay  
2206 appointment reporting fees for [~~natural persons~~] an individual designated on the agency's  
2207 license under Section 31A-23a-302.

2208 (4) If an insurer lists a licensee in a report submitted under Subsection (2), there is a  
2209 rebuttable presumption that in placing a risk with the insurer the appointed licensee or any of  
2210 the licensee's licensed employees [~~acted~~] act on behalf of the insurer.

2211 Section 16. Section **31A-23a-203** is amended to read:

2212 **31A-23a-203. Training period requirements.**

2213 (1) A producer is eligible to add the surplus lines of authority to the person's

2214 producer's license if the producer:

2215 (a) has passed the applicable examination;

2216 (b) has been a producer with property and casualty lines of authority for at least three  
2217 years during the four years immediately preceding the date of application; and

2218 (c) has paid the applicable fee under Section 31A-3-103.

2219 (2) A person is eligible to become a consultant only if the person has acted in a  
2220 capacity that would provide the person with preparation to act as an insurance consultant for a  
2221 period aggregating not less than three years during the four years immediately preceding the  
2222 date of application.

2223 (3) The training periods required under this section apply only to ~~[natural persons]~~ an  
2224 individual applying for ~~[licenses]~~ a license under this chapter.

2225 Section 17. Section **31A-23a-204** is amended to read:

2226 **31A-23a-204. Special requirements for title insurance producers and agencies.**

2227 A title insurance producer, including an agency, shall be licensed in accordance with  
2228 this chapter, with the additional requirements listed in this section.

2229 (1) (a) A person that receives a new license under this title ~~[on or after July 1, 2007]~~ as  
2230 a title insurance agency, shall at the time of licensure be owned or managed by one or more  
2231 ~~[natural persons]~~ individuals who are licensed ~~[with the following lines of authority]~~ for at  
2232 least three of the five years immediately proceeding the date on which the title insurance  
2233 agency applies for a license~~[-(i)]~~ with both [a]:

2234 ~~[(A)]~~ (i) a search line of authority; and

2235 ~~[(B)]~~ (ii) an escrow line of authority[-or].

2236 ~~[(ii) a search and escrow line of authority.]~~

2237 (b) A title insurance agency subject to Subsection (1)(a) may comply with Subsection  
2238 (1)(a) by having the title insurance agency owned or managed by:

2239 (i) one or more ~~[natural persons]~~ individuals who are licensed with the search line of  
2240 authority for the time period provided in Subsection (1)(a); and

2241 (ii) one or more ~~[natural persons]~~ individuals who are licensed with the escrow line of



2242 authority for the time period provided in Subsection (1)(a).

2243 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,  
2244 exempt an attorney with real estate experience from the experience requirements in Subsection  
2245 (1)(a).

2246 (2) (a) A title insurance agency or producer appointed by an insurer shall maintain:

2247 (i) a fidelity bond;

2248 (ii) a professional liability insurance policy; or

2249 (iii) a financial protection:

2250 (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and

2251 (B) that the commissioner considers adequate.

2252 (b) The bond, insurance, or financial protection required by this Subsection (2):

2253 (i) shall be supplied under a contract approved by the commissioner to provide  
2254 protection against the improper performance of any service in conjunction with the issuance of  
2255 a contract or policy of title insurance; and

2256 (ii) be in a face amount no less than \$50,000.

2257 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,  
2258 exempt title insurance producers from the requirements of this Subsection (2) upon a finding  
2259 that, and only so long as, the required policy or bond is generally unavailable at reasonable  
2260 rates.

2261 (3) ~~[(a)]~~ A title insurance agency or producer appointed by an insurer ~~[shall]~~ may  
2262 maintain a reserve fund to the extent ~~[required by this Subsection (3)]~~ monies were deposited  
2263 before July 1, 2008, and not withdrawn to the income of the title insurance producer.

2264 ~~[(b) On or after July 1, 2008, a title insurance agency or producer may not deposit~~  
2265 ~~monies to a reserve fund required by this Subsection (3).]~~

2266 ~~[(c) On or after July 1, 2008, a title insurance agency or producer for the portion of the~~  
2267 ~~assets held in the reserve fund over the preceding ten years may:]~~

2268 ~~[(i) withdraw from the reserve fund in accordance with a time schedule adopted by the~~  
2269 ~~title insurance agency or producer that allows:]~~

2270 ~~[(A) all the monies to be withdrawn in one year; or]~~  
2271 ~~[(B) the monies to be withdrawn in equal partial withdrawals of principal over a time~~  
2272 ~~period of two years, three years, four years, five years, or ten years; and]~~  
2273 ~~[(ii) restore the amounts withdrawn to the income of the title insurance producer.]~~  
2274 ~~[(d) The title insurance producer may withdraw interest from the reserve fund related~~  
2275 ~~to the principal amount as it accrues.]~~  
2276 ~~[(e) (i) A disbursement may not be made from the reserve fund except as provided in~~  
2277 ~~Subsection (3)(c) unless the title insurance producer ceases doing business as a result of:]~~  
2278 ~~[(A) a sale of assets;]~~  
2279 ~~[(B) a merger of the producer with another producer;]~~  
2280 ~~[(C) a termination of the producer's license;]~~  
2281 ~~[(D) an insolvency; or]~~  
2282 ~~[(E) any cessation of business by the producer.]~~  
2283 ~~[(ii) A disbursement from the reserve fund may be made only to settle a claim arising~~  
2284 ~~from the improper performance of the title insurance producer in providing services defined in~~  
2285 ~~Section 31A-23a-406.]~~  
2286 ~~[(iii) The commissioner shall be notified ten days before any disbursement from the~~  
2287 ~~reserve fund.]~~  
2288 ~~[(iv) The notice required by this Subsection (3)(c) shall contain:]~~  
2289 ~~[(A) the amount of claim;]~~  
2290 ~~[(B) the nature of the claim; and]~~  
2291 ~~[(C) the name of the payee.]~~  
2292 ~~[(f) (i) Except as provided in Subsection (3)(c), the reserve fund shall be maintained by~~  
2293 ~~the title insurance producer or the title insurance producer's representative for a period of two~~  
2294 ~~years after the day on which the title insurance producer ceases doing business.]~~  
2295 ~~[(ii) Any assets remaining in the reserve fund at the end of the two years specified in~~  
2296 ~~Subsection (3)(c)(i) may be withdrawn and restored to the former title insurance producer.]~~  
2297 (4) ~~[Any]~~ An examination for licensure shall include questions regarding the search

2298 and examination of title to real property.

2299 (5) A title insurance producer may not perform the functions of escrow unless the title  
2300 insurance producer has been examined on the fiduciary duties and procedures involved in  
2301 those functions.

2302 (6) The Title and Escrow Commission shall adopt rules, subject to Section 31A-2-404,  
2303 after consulting with the department and the department's test administrator, establishing an  
2304 examination for a license that will satisfy this section.

2305 (7) A license may be issued to a title insurance producer who has qualified:

2306 (a) to perform only searches and examinations of title as specified in Subsection (4);

2307 (b) to handle only escrow arrangements as specified in Subsection (5); or

2308 (c) to act as a title marketing representative.

2309 (8) (a) A person licensed to practice law in Utah is exempt from the requirements of  
2310 Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

2311 (b) In determining the number of policies issued by a person licensed to practice law  
2312 in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues  
2313 a policy to more than one party to the same closing, the person is considered to have issued  
2314 only one policy.

2315 (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or  
2316 not, shall maintain a trust account separate from a law firm trust account for all title and real  
2317 estate escrow transactions.

2318 Section 18. Section **31A-23a-302** is amended to read:

2319 **31A-23a-302. Agency designations.**

2320 (1) An agency shall designate [~~a natural person~~] an individual that has [~~a~~] an  
2321 individual producer, limited line producer, customer service representative, consultant,  
2322 managing general agent, or reinsurance intermediary license to act on [~~its~~] the agency's behalf  
2323 [~~prior to~~] in order for the licensee [~~doing~~] to do business for the agency in this state.

2324 (2) An agency shall report to the commissioner, at intervals and in the form the  
2325 commissioner establishes by rule:

2326 (a) ~~[all]~~ a new ~~[designations]~~ designation; and

2327 (b) ~~[all]~~ a terminated ~~[designations]~~ designation.

2328 (3) (a) An agency licensed under this chapter shall report to the commissioner the  
2329 cause of termination of a designation~~[-]~~ if:

2330 (i) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b);

2331 or

2332 (ii) the agency has knowledge that the individual licensee is found to have engaged in  
2333 an activity described in Subsection 31A-23a-111(5)(b) by:

2334 (A) a court;

2335 (B) a government body; or

2336 (C) a self-regulatory organization, which the commissioner may define by rule made  
2337 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2338 (b) The information provided the commissioner under Subsection (3)(a) is a private  
2339 record under Title 63G, Chapter 2, Government Records Access and Management Act.

2340 (c) An agency is immune from civil action, civil penalty, or damages if the agency  
2341 complies in good faith with this Subsection (3) in reporting to the commissioner the cause of  
2342 termination of a designation.

2343 (d) Notwithstanding any other provision in this section, an agency is not immune from  
2344 ~~[any]~~ an action or resulting penalty imposed on the reporting agency as a result of proceedings  
2345 brought by or on behalf of the department if the action is based on evidence other than the  
2346 report submitted in compliance with this Subsection (3).

2347 (4) An agency licensed under this chapter may act in ~~[the capacities]~~ a capacity for  
2348 which it is licensed only through ~~[natural persons who are]~~ an individual who is licensed under  
2349 this chapter to act in the same ~~[capacities]~~ capacity.

2350 (5) An agency licensed under this chapter shall designate and report to the  
2351 commissioner ~~[by rule]~~ in accordance with any rule made by the commissioner the name of ~~[at~~  
2352 ~~least one natural person]~~ the designated responsible licensed individual who has authority to  
2353 act on behalf of the agency in all matters pertaining to compliance with this title and orders of

2354 the commissioner.

2355 (6) If an agency designates a licensee in reports submitted under Subsection (2) ~~or (5)~~,  
 2356 there is a rebuttable presumption that the designated licensee ~~[acted]~~ acts on behalf of the  
 2357 agency.

2358 (7) (a) When a license is held by an agency, both the agency itself and any individual  
 2359 designated under the agency license shall be considered to be the holder of the agency license  
 2360 for purposes of this section.

2361 (b) If an individual designated under the agency license commits an act or fails to  
 2362 perform a duty that is a ground for suspending, revoking, or limiting the agency license, the  
 2363 commissioner may suspend, revoke, or limit the license of:

2364 (i) the individual;

2365 (ii) the agency, if the agency:

2366 (A) is reckless or negligent in its supervision of the individual; or

2367 (B) knowingly participates in the act or failure to act that is the ground for suspending,  
 2368 revoking, or limiting the license; or

2369 (iii) (A) the individual; and

2370 (B) the agency if the agency meets the requirements of Subsection (7)(b)(ii).

2371 Section 19. Section **31A-23a-409** is amended to read:

2372 **31A-23a-409. Trust obligation for monies collected.**

2373 (1) (a) ~~[Every]~~ Subject to Subsection (7), a licensee is a trustee for [all funds] monies  
 2374 received or collected for forwarding to insurers or to insureds.

2375 (b) ~~(i) Except [for amounts necessary to pay bank charges, and except for funds paid~~  
 2376 ~~by insureds and belonging in part to the licensee as fees or commissions] as provided in~~  
 2377 Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

2378 ~~[(i)] (A) the licensee's own [funds] monies; or~~

2379 ~~[(ii) funds] (B) monies held in any other capacity.~~

2380 (ii) This Subsection (1)(b) does not apply to:

2381 (A) amounts necessary to pay bank charges; and

2382           (B) monies paid by insureds and belonging in part to the licensee as a fee or  
2383 commission.

2384           (c) Except as provided under Subsection (4), ~~every~~ a licensee owes to insureds and  
2385 insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or  
2386 insureds through the licensee.

2387           (d) (i) Unless ~~the funds~~ monies are sent to the appropriate payee by the close of the  
2388 next business day after their receipt, the licensee shall deposit them in an account authorized  
2389 under Subsection (2).

2390           (ii) ~~Funds~~ Monies deposited under this Subsection (1)(d) shall remain in an account  
2391 authorized under Subsection (2) until sent to the appropriate payee.

2392           (2) ~~Funds~~ Monies required to be deposited under Subsection (1) shall be deposited:

2393           (a) in a federally insured trust account in a depository institution, as defined in Section  
2394 7-1-103, which:

2395           (i) has an office in this state, if the licensee depositing the monies is a resident  
2396 licensee;

2397           (ii) has federal deposit insurance; and

2398           (iii) is authorized by its primary regulator to engage in the trust business, as defined by  
2399 Section 7-5-1, in this state; or

2400           (b) in some other account, approved by the commissioner by rule or order, providing  
2401 safety comparable to federally insured trust accounts.

2402           (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the  
2403 amount of the federal insurance on the accounts.

2404           (4) A trust account into which ~~funds~~ monies are deposited may be interest bearing.  
2405 The interest accrued on the account may be paid to the licensee, so long as the licensee  
2406 otherwise complies with this section and with the contract with the insurer.

2407           (5) A ~~financial~~ depository institution or other organization holding trust funds under  
2408 this section may not offset or impound trust account funds against debts and obligations  
2409 incurred by the licensee.

2410 (6) ~~[Any]~~ A licensee who, not being lawfully entitled ~~[thereto]~~ to do so, diverts or  
 2411 appropriates any portion of the ~~[funds]~~ monies held under Subsection (1) to the licensee's own  
 2412 use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. Section 76-6-412 applies in  
 2413 determining the classification of the offense. Sanctions under Section 31A-2-308 also apply.

2414 (7) A nonresident licensee:

2415 (a) shall comply with Subsection (1)(a) by complying with the trust account  
 2416 requirements of the nonresident licensee's home state; and

2417 (b) is not required to comply with the other provisions of this section.

2418 Section 20. Section **31A-23a-410** is amended to read:

2419 **31A-23a-410. Insurer's liability if insured pays premium to a licensee or group**  
 2420 **policyholder.**

2421 (1) Subject to Subsections (2) and (5), as between the insurer and the insured, the  
 2422 insurer is considered to have received the premium and is liable to the insured for losses  
 2423 covered by the insurance and for any unearned premiums upon cancellation of the insurance if  
 2424 an insurer, including a surplus lines insurer:

2425 (a) ~~[has assumed]~~ assumes a risk; and

2426 (b) the premium for that insurance ~~[has been]~~ is received by:

2427 (i) a licensee who placed the insurance;

2428 (ii) a group policyholder;

2429 (iii) an employer who deducts part or all of the premium from an employee's wages or  
 2430 salary; or

2431 (iv) an employer who pays all or part of the premium for an employee.

2432 (2) Subsection (1) does not apply if:

2433 (a) the insured pays a licensee, knowing the licensee does not intend to submit the  
 2434 premium to the insurer; or

2435 (b) the insured has premium withheld from the insured's wages or salary knowing the  
 2436 employer does not intend to submit it to the insurer.

2437 (3) (a) In the case of an employer who has received the premium by deducting all or

2438 part of it from the wages or salaries of the certificate holders, the insurer may terminate its  
2439 liability by giving notice of coverage termination to:

2440 (i) the certificate holders [reasonable notice of coverage termination.];

2441 (ii) the policyholder; and

2442 (iii) the producer, if any, for the policy.

2443 (b) The insurer may not send the notice required by Subsection (3)(a) to a certificate  
2444 holder before 20 days after the day on which premium is due and unpaid.

2445 (c) The liability of the insurer for the losses covered by the insurance terminates at the  
2446 later of:

2447 ~~[(a)]~~ (i) the last day of the coverage period for which premium has been withheld by  
2448 the employer; [or]

2449 ~~[(b) 15]~~ (ii) ten days after the date the insurer mails [actual] notice to the certificate  
2450 holder that coverage has terminated[~~, but in the event~~]; or

2451 (iii) if the insurer fails to provide [actual] notice as required by this Subsection (3),  
2452 [then the liability of the insurer for losses described in Subsection (1) shall terminate] 45 days  
2453 from the last date for which premium [was] is received. [While the insurer shall be liable for  
2454 losses as herein provided, the provisions of this section apply only to apportion the liability for  
2455 those losses described and do not operate to extend any insurance contract policy or coverage  
2456 beyond its date of termination nor alter or amend provisions thereof.]

2457 (4) Despite an employer's collection of premium under Subsection (1), the  
2458 responsibility of an insurer to continue to cover the losses covered by the insurance to group  
2459 policy certificate holders terminates upon the effective date of notice from the policyholder  
2460 that:

2461 (a) coverage of a similar kind and quality has been obtained from another insurer; or

2462 (b) the policyholder is electing to voluntarily terminate the certificate holder's  
2463 coverage and has given the employees notice of the termination.

2464 (5) If the insurer is obligated to pay ~~[any claims]~~ a claim pursuant to ~~[the provisions~~  
2465 ~~of]~~ this section, the licensee or employer who received the premium and failed to forward it



2466 [~~shall be~~] is obligated to the insurer for the entire unpaid premium due under the policy [of  
2467 insurance] together with reasonable expenses of suit and reasonable [attorney's] attorney fees.

2468 (6) If, under an employee health insurance plan, an employee builds up credit for  
2469 future coverage because the employee has not used the policy protection, or in some other  
2470 way, the insurer is obligated to the employee for that future coverage earned while the policy  
2471 was in full effect.

2472 (7) (a) Notwithstanding that an insurer is liable for losses as provided in this section,  
2473 this section applies only to apportion the liability for the losses described in this section.

2474 (b) This section does not:

2475 (i) extend a policy or coverage beyond its date of termination; or

2476 (ii) alter or amend a provision of a policy.

2477 Section 21. Section **31A-23a-504** is amended to read:

2478 **31A-23a-504. Sharing commissions.**

2479 (1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter  
2480 or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if  
2481 the licensee knows that the person is licensed under this chapter as to the particular type of  
2482 insurance to act in Utah as:

2483 (i) a producer;

2484 (ii) a limited line producer;

2485 (iii) a customer service representative;

2486 (iv) a consultant;

2487 (v) a managing general agent; or

2488 (vi) a reinsurance intermediary.

2489 (b) A person may only accept commission compensation or other compensation as a  
2490 person described in Subsections (1)(a)(i) through (vi) that is directly or indirectly the result of  
2491 ~~any~~ an insurance transaction if that person is licensed under this chapter to act as described  
2492 in Subsection (1)(a).

2493 (2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or

2494 receive ~~[any]~~ a commission or other compensation that is directly or indirectly the result of  
2495 ~~[any]~~ an insurance transaction.

2496 (b) A consultant may share a consultant fee or other compensation received for  
2497 consulting services performed within Utah only:

2498 (i) with another consultant licensed under this chapter; and

2499 (ii) to the extent that the other consultant contributed to the services performed.

2500 (3) This section does not prohibit:

2501 (a) the payment of renewal commissions to former licensees under this chapter, former  
2502 Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency  
2503 sales agreement[-];

2504 ~~[(4) This section does not prohibit]~~

2505 (b) compensation paid to or received by a person for referral of a potential customer  
2506 that seeks to purchase or obtain an opinion or advice on an insurance product if:

2507 ~~[(a)]~~ (i) the person is not licensed to sell insurance;

2508 ~~[(b)]~~ (ii) the person does not sell or provide opinions or advice on the product; and

2509 ~~[(c)]~~ (iii) the compensation does not depend on whether the referral results in a  
2510 purchase or sale[-]; or

2511 (c) the payment or assignment of a commission, service fee, brokerage, or other  
2512 valuable consideration to an agency or a person who does not sell, solicit, or negotiate  
2513 insurance in this state, unless the payment would constitute an inducement or commission  
2514 rebate under Section 31A-23a-402.

2515 ~~[(5)]~~ (4) (a) In selling a policy of title insurance, sharing of commissions under  
2516 Subsection (1) may not occur if it will result in:

2517 (i) an unlawful rebate;

2518 (ii) compensation in connection with controlled business; or

2519 (iii) payment of a forwarding fee or finder's fee.

2520 (b) A person may share compensation for the issuance of a title insurance policy only  
2521 to the extent that the person contributed to the search and examination of the title or other

2522 services connected with the title insurance policy.

2523 ~~[(6)]~~ (5) This section does not apply to a bail bond [~~producers~~] producer or bail  
2524 enforcement [~~agents~~] agent as defined in Section 31A-35-102.

2525 Section 22. Section **31A-25-203** is amended to read:

2526 **31A-25-203. General requirements for license issuance.**

2527 (1) The commissioner shall issue a license to act as a third party administrator to a  
2528 person who:

2529 (a) satisfies the character requirements under Section 31A-25-204;

2530 (b) satisfies the financial responsibility requirement under Section 31A-25-205;

2531 (c) has not committed an act that is a ground for denial, suspension, or revocation  
2532 provided in Section 31A-25-208;

2533 ~~[(e)]~~ (d) if a nonresident, complies with Section 31A-25-206; and

2534 ~~[(d)]~~ (e) pays the applicable fees under Section 31A-3-103.

2535 ~~[(2) The license of a third party administrator licensed under former Title 31, Chapter~~  
2536 ~~15a, is continued under this chapter.]~~

2537 ~~[(3)]~~ (2) (a) This Subsection ~~[(3)]~~ (2) applies to the following persons:

2538 (i) an applicant for a third party administrator's license; or

2539 (ii) a licensed third party administrator.

2540 (b) A person described in Subsection ~~[(3)]~~ (2)(a) shall report to the commissioner:

2541 (i) an administrative action taken against the person:

2542 (A) in another jurisdiction; or

2543 (B) by another regulatory agency in this state; and

2544 (ii) a criminal prosecution taken against the person in any jurisdiction.

2545 (c) The report required by Subsection ~~[(3)]~~ (2)(b) shall:

2546 (i) be filed:

2547 (A) at the time the person applies for a third party administrator's license; and

2548 (B) ~~[for]~~ if an action or prosecution ~~[that]~~ occurs on or after the day on which the  
2549 person applies for a third party administrator license:

2550 (I) for an administrative action, within 30 days of the final disposition of the  
2551 administrative action; or

2552 (II) for a criminal prosecution, within 30 days of the initial appearance before a court;  
2553 and

2554 (ii) include a copy of the complaint or other relevant legal documents related to the  
2555 action or prosecution described in Subsection [~~(3)~~] (2)(b).

2556 [~~(4)~~] (3) (a) The department may require a person applying for a license or for consent  
2557 to engage in the business of insurance to submit to a criminal background check as a condition  
2558 of receiving a license or consent.

2559 (b) A person, if required to submit to a criminal background check under Subsection  
2560 [~~(4)~~] (3)(a), shall:

2561 (i) submit a fingerprint card in a form acceptable to the department; and

2562 (ii) consent to a fingerprint background check by:

2563 (A) the Utah Bureau of Criminal Identification; and

2564 (B) the Federal Bureau of Investigation.

2565 (c) For a person who submits a fingerprint card and consents to a fingerprint  
2566 background check under Subsection [~~(4)~~] (3)(b), the department may request concerning a  
2567 person applying for a third party administrator's license:

2568 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
2569 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

2570 (ii) complete Federal Bureau of Investigation criminal background checks through the  
2571 national criminal history system.

2572 (d) Information obtained by the department from the review of criminal history  
2573 records received under this Subsection [~~(4)~~] (3) shall be used by the department for the  
2574 purposes of:

2575 (i) determining if a person satisfies the character requirements under Section  
2576 31A-25-204 for issuance or renewal of a license;

2577 (ii) determining if a person has failed to maintain the character requirements under

2578 Section 31A-25-204; and  
2579 (iii) preventing [~~persons~~] a person who [~~violate~~] violates the federal Violent Crime  
2580 Control and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in  
2581 the business of insurance in the state.

2582 (e) If the department requests the criminal background information, the department  
2583 shall:

2584 (i) pay to the Department of Public Safety the costs incurred by the Department of  
2585 Public Safety in providing the department criminal background information under Subsection  
2586 [~~(4)~~] (3)(c)(i);

2587 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
2588 of Investigation in providing the department criminal background information under  
2589 Subsection [~~(4)~~] (3)(c)(ii); and

2590 (iii) charge the person applying for a license[~~, for renewal of a license,~~] or for consent  
2591 to engage in the business of insurance a fee equal to the aggregate of Subsections [~~(4)~~]  
2592 (3)(e)(i) and (ii).

2593 (4) The commissioner may deny a license application to act as a third party  
2594 administrator to a person who:

2595 (a) fails to satisfy the requirements of this section; or

2596 (b) commits an act that is a ground for denial, suspension, or revocation provided in  
2597 Section 31A-25-208.

2598 Section 23. Section **31A-25-208** is amended to read:

2599 **31A-25-208. Revocation, suspension, surrender, lapsing, limiting, or otherwise**  
2600 **terminating a license -- Rulemaking for renewal and reinstatement.**

2601 (1) A license type issued under this chapter remains in force until:

2602 (a) revoked or suspended under Subsection (4);

2603 (b) surrendered to the commissioner and accepted by the commissioner in lieu of  
2604 administrative action;

2605 (c) the licensee dies or is adjudicated incompetent as defined under:

- 2606 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or  
2607 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and  
2608 Minors;  
2609 (d) lapsed under Section 31A-25-210; or  
2610 (e) voluntarily surrendered.
- 2611 (2) The following may be reinstated within one year after the day on which the license  
2612 is [~~inactivated~~] no longer in force:
- 2613 (a) a lapsed license; or  
2614 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may  
2615 not be reinstated after the license period in which the license is voluntarily surrendered.
- 2616 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a  
2617 license, submission and acceptance of a voluntary surrender of a license does not prevent the  
2618 department from pursuing additional disciplinary or other action authorized under:
- 2619 (a) this title; or  
2620 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah  
2621 Administrative Rulemaking Act.
- 2622 (4) (a) If the commissioner makes a finding under Subsection (4)(b), [~~after~~] as part of  
2623 an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the  
2624 commissioner may:
- 2625 (i) revoke a license;  
2626 (ii) suspend a license for a specified period of 12 months or less; [~~or~~]  
2627 (iii) limit a license in whole or in part[~~;~~]; or  
2628 (iv) deny a license application.
- 2629 (b) The commissioner may take an action described in Subsection (4)(a) if the  
2630 commissioner finds that the licensee:
- 2631 (i) is unqualified for a license under [~~Sections~~] Section 31A-25-202 [and],  
2632 31A-25-203, or 31A-25-204;  
2633 (ii) has violated:

- 2634 (A) an insurance statute;
- 2635 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 2636 (C) an order that is valid under Subsection 31A-2-201(4);
- 2637 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
- 2638 delinquency proceedings in any state;
- 2639 (iv) fails to pay [~~any~~] a final judgment rendered against the person in this state within
- 2640 60 days after the day on which the judgment became final;
- 2641 (v) fails to meet the same good faith obligations in claims settlement that is required of
- 2642 admitted insurers;
- 2643 (vi) is affiliated with and under the same general management or interlocking
- 2644 directorate or ownership as another third party administrator that transacts business in this
- 2645 state without a license;
- 2646 (vii) refuses:
- 2647 (A) to be examined; or
- 2648 (B) to produce its accounts, records, and files for examination;
- 2649 (viii) has an officer who refuses to:
- 2650 (A) give information with respect to the third party administrator's affairs; or
- 2651 (B) perform any other legal obligation as to an examination;
- 2652 (ix) provides information in the license application that is:
- 2653 (A) incorrect;
- 2654 (B) misleading;
- 2655 (C) incomplete; or
- 2656 (D) materially untrue;
- 2657 (x) has violated an insurance law, valid rule, or valid order of another state's insurance
- 2658 department;
- 2659 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- 2660 (xii) has improperly withheld, misappropriated, or converted [~~any~~] monies or
- 2661 properties received in the course of doing insurance business;

- 2662 (xiii) has intentionally misrepresented the terms of an actual or proposed:
- 2663 (A) insurance contract; or
- 2664 (B) application for insurance;
- 2665 (xiv) has been convicted of a felony;
- 2666 (xv) has admitted or been found to have committed [~~any~~] an insurance unfair trade
- 2667 practice or fraud;
- 2668 (xvi) in the conduct of business in this state or elsewhere has:
- 2669 (A) used fraudulent, coercive, or dishonest practices; or
- 2670 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- 2671 (xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in
- 2672 any other state, province, district, or territory;
- 2673 (xviii) has forged another's name to:
- 2674 (A) an application for insurance; or
- 2675 (B) a document related to an insurance transaction;
- 2676 (xix) has improperly used notes or any other reference material to complete an
- 2677 examination for an insurance license;
- 2678 (xx) has knowingly accepted insurance business from an individual who is not
- 2679 licensed;
- 2680 (xxi) has failed to comply with an administrative or court order imposing a child
- 2681 support obligation;
- 2682 (xxii) has failed to:
- 2683 (A) pay state income tax; or
- 2684 (B) comply with [~~any~~] an administrative or court order directing payment of state
- 2685 income tax;
- 2686 (xxiii) has violated or permitted others to violate the federal Violent Crime Control
- 2687 and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or
- 2688 (xxiv) has engaged in methods and practices in the conduct of business that endanger
- 2689 the legitimate interests of customers and the public.



2690 (c) For purposes of this section, if a license is held by an agency, both the agency itself  
2691 and any [~~natural person named on~~] individual designated under the license are considered to  
2692 be the holders of the agency license.

2693 (d) If [~~a natural person named on~~] an individual designated under the agency license  
2694 commits [~~any~~] an act or fails to perform [~~any~~] a duty that is a ground for suspending,  
2695 revoking, or limiting the [~~natural person's~~] individual's license, the commissioner may  
2696 suspend, revoke, or limit the license of:

2697 (i) the [~~natural person~~] individual;

2698 (ii) the agency if the agency:

2699 (A) is reckless or negligent in its supervision of the [~~natural person~~] individual; or

2700 (B) knowingly participated in the act or failure to act that is the ground for  
2701 suspending, revoking, or limiting the license; or

2702 (iii) (A) the [~~natural person~~] individual; and

2703 (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

2704 (5) A licensee under this chapter is subject to the penalties for acting as a licensee  
2705 without a license if:

2706 (a) the licensee's license is:

2707 (i) revoked;

2708 (ii) suspended;

2709 (iii) limited;

2710 (iv) surrendered in lieu of administrative action;

2711 (v) lapsed; or

2712 (vi) voluntarily surrendered; and

2713 (b) the licensee:

2714 (i) continues to act as a licensee; or

2715 (ii) violates the terms of the license limitation.

2716 (6) A licensee under this chapter shall immediately report to the commissioner:

2717 (a) a revocation, suspension, or limitation of the person's license in any other state, the

2718 District of Columbia, or a territory of the United States;

2719 (b) the imposition of a disciplinary sanction imposed on that person by any other state,  
2720 the District of Columbia, or a territory of the United States; or

2721 (c) a judgment or injunction entered against the person on the basis of conduct  
2722 involving:

2723 (i) fraud;

2724 (ii) deceit;

2725 (iii) misrepresentation; or

2726 (iv) a violation of an insurance law or rule.

2727 (7) (a) An order revoking a license under Subsection (4) or an agreement to surrender  
2728 a license in lieu of administrative action may specify a time, not to exceed five years, within  
2729 which the former licensee may not apply for a new license.

2730 (b) If no time is specified in the order or agreement described in Subsection (7)(a), the  
2731 former licensee may not apply for a new license for five years from the day on which the order  
2732 or agreement is made without the express approval of the commissioner.

2733 (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of  
2734 a license issued under this part if so ordered by the court.

2735 (9) The commissioner shall by rule prescribe the license renewal and reinstatement  
2736 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2737 Section 24. Section **31A-25-210** is amended to read:

2738 **31A-25-210. License lapse and voluntary surrender.**

2739 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:

2740 (i) pay when due a fee under Section 31A-3-103;

2741 (ii) submit a completed renewal application as required by Section 31A-25-202;

2742 (iii) produce, when due, evidence of compliance with the financial responsibility  
2743 requirement under Section 31A-25-205; or

2744 (iv) maintain an active license in a resident state if the licensee is a nonresident  
2745 licensee.

2746 (b) (i) A licensee whose license lapses due to the following may request an action  
2747 described in Subsection (1)(b)(ii):

2748 (A) military service;

2749 (B) voluntary service for a period of time designated by the person for whom the  
2750 licensee provides voluntary service; or

2751 (C) some other extenuating circumstances, such as long-term medical disability.

2752 (ii) A licensee described in Subsection (1)(b)(i) may request:

2753 (A) reinstatement of the license no later than one year from the day on which the  
2754 license lapses; and

2755 (B) waiver of any of the following imposed for failure to comply with renewal  
2756 procedures:

2757 (I) an examination requirement;

2758 (II) reinstatement fees set under Section 31A-3-103; or

2759 (III) other sanction imposed for failure to comply with renewal procedures.

2760 (2) If a license issued under this chapter is voluntarily surrendered, the license may be  
2761 reinstated [~~within one year~~]:

2762 (a) during the license period in which the license is voluntarily surrendered; and

2763 (b) no later than one year after the day on which the license is [~~inactivated~~] voluntarily  
2764 surrendered.

2765 Section 25. Section **31A-26-203** is amended to read:

2766 **31A-26-203. Adjuster's license required.**

2767 (1) The commissioner shall issue a license to act as an independent adjuster or public  
2768 adjuster to a person who, as to the license classification applied for under Section 31A-26-204:

2769 (a) satisfies the character requirements under Section 31A-26-205;

2770 (b) satisfies the applicable continuing education requirements under Section  
2771 31A-26-206;

2772 (c) satisfies the applicable examination requirements under Section 31A-26-207;

2773 (d) has not committed an act that is a ground for denial, suspension, or revocation

2774 provided for in Section 31A-26-213;

2775 [~~(d)~~] (e) if a nonresident, complies with Section 31A-26-208; and

2776 [~~(e)~~] (f) pays the applicable fees under Section 31A-3-103.

2777 (2) (a) This Subsection (2) applies to the following persons:

2778 (i) an applicant for:

2779 (A) an independent adjuster's license; or

2780 (B) a public adjuster's license;

2781 (ii) a licensed independent adjuster; or

2782 (iii) a licensed public adjuster.

2783 (b) A person described in Subsection (2)(a) shall report to the commissioner:

2784 (i) an administrative action taken against the person:

2785 (A) in another jurisdiction; or

2786 (B) by another regulatory agency in this state; and

2787 (ii) a criminal prosecution taken against the person in any jurisdiction.

2788 (c) The report required by Subsection (2)(b) shall:

2789 (i) be filed:

2790 (A) at the time the person applies for an adjustor's license; and

2791 (B) [~~for~~] if an action or prosecution [~~that~~] occurs on or after the day on which the  
2792 person applies for an adjustor's license:

2793 (I) for an administrative action, within 30 days of the final disposition of the  
2794 administrative action; or

2795 (II) for a criminal prosecution, within 30 days of the initial appearance before a court;

2796 and

2797 (ii) include a copy of the complaint or other relevant legal documents related to the  
2798 action or prosecution described in Subsection (2)(b).

2799 (3) (a) The department may require a person applying for a license or for consent to  
2800 engage in the business of insurance to submit to a criminal background check as a condition  
2801 of receiving a license or consent.

2802 (b) A person, if required to submit to a criminal background check under Subsection  
2803 (3)(a), shall:

2804 (i) submit a fingerprint card in a form acceptable to the department; and

2805 (ii) consent to a fingerprint background check by:

2806 (A) the Utah Bureau of Criminal Identification; and

2807 (B) the Federal Bureau of Investigation.

2808 (c) For a person who submits a fingerprint card and consents to a fingerprint  
2809 background check under Subsection (3)(b), the department may request concerning a person  
2810 applying for an independent or public adjuster's license:

2811 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
2812 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

2813 (ii) complete Federal Bureau of Investigation criminal background checks through the  
2814 national criminal history system.

2815 (d) Information obtained by the department from the review of criminal history  
2816 records received under this Subsection (3) shall be used by the department for the purposes of:

2817 (i) determining if a person satisfies the character requirements under Section  
2818 31A-26-205 for issuance or renewal of a license;

2819 (ii) determining if a person has failed to maintain the character requirements under  
2820 Section [~~31A-25-204~~] 31A-26-205; and

2821 (iii) preventing [~~persons~~] a person who [~~violate~~] violates the federal Violent Crime  
2822 Control and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034, from engaging in  
2823 the business of insurance in the state.

2824 (e) If the department requests the criminal background information, the department  
2825 shall:

2826 (i) pay to the Department of Public Safety the costs incurred by the Department of  
2827 Public Safety in providing the department criminal background information under Subsection  
2828 (3)(c)(i);

2829 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau

2830 of Investigation in providing the department criminal background information under  
2831 Subsection (3)(c)(ii); and

2832 (iii) charge the person applying for a license ~~[, for renewal of a license,]~~ or for consent  
2833 to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and  
2834 (ii).

2835 (4) The commissioner may deny a license application to act as an independent adjuster  
2836 or public adjuster to a person who, as to the license classification applied for under Section  
2837 31A-26-204:

2838 (a) fails to satisfy the requirements in this section; or

2839 (b) commits an act that is a ground for denial, suspension, or revocation provided for  
2840 in Section 31A-26-213.

2841 ~~[(4)]~~ (5) Notwithstanding the other provisions of this section, the commissioner may:

2842 (a) issue a license to an applicant for a license for a title insurance classification only  
2843 with the concurrence of the Title and Escrow Commission; or

2844 (b) renew a license for a title insurance classification only with the concurrence of the  
2845 Title and Escrow Commission.

2846 Section 26. Section **31A-26-204** is amended to read:

2847 **31A-26-204. License classifications.**

2848 A resident or nonresident license issued under this chapter shall be issued under the  
2849 classifications described under Subsections (1), (2), and (3). ~~[These classifications are~~  
2850 ~~intended to describe]~~ A classification describes the matters to be considered under ~~[any]~~ a  
2851 prerequisite education [and] or examination required of license applicants under Sections  
2852 31A-26-206 and 31A-26-207.

2853 (1) Independent adjuster license classifications include:

2854 (a) accident and health insurance, including related service insurance under Chapter 7,  
2855 Nonprofit Health Service Insurance ~~[Corporation]~~ Corporations, or Chapter 8, Health  
2856 Maintenance Organizations and Limited Health Plans;

2857 (b) property and ~~[liability]~~ casualty insurance, ~~[which includes:]~~ including a surety or

2858 other bond:  
2859        [~~(i) property insurance;~~]  
2860        [~~(ii) liability insurance;~~]  
2861        [~~(iii) surety bonds; and~~]  
2862        [~~(iv) policies containing combinations or variations of these coverages;~~]  
2863        [~~(e) service insurance;~~]  
2864        [~~(d) title insurance;~~]  
2865        [~~(e) credit insurance; and~~]  
2866        (c) crop insurance; and  
2867        [~~(f)~~] (d) workers' compensation insurance.  
2868        (2) Public adjuster license classifications include:  
2869        (a) accident and health insurance, including related service insurance under Chapter 7  
2870 or 8;  
2871        (b) property and [~~liability~~] casualty insurance, [~~which includes;~~] including a surety or  
2872 other bond:  
2873        [~~(i) property insurance;~~]  
2874        [~~(ii) liability insurance;~~]  
2875        [~~(iii) surety bonds; and~~]  
2876        [~~(iv) policies containing combinations or variations of these coverages;~~]  
2877        [~~(e) service insurance;~~]  
2878        [~~(d) title insurance;~~]  
2879        [~~(e) credit insurance; and~~]  
2880        (c) crop insurance; and  
2881        [~~(f)~~] (d) workers' compensation insurance.  
2882        (3) (a) The commissioner may by rule:  
2883        (i) recognize other independent adjuster or public adjuster license classifications as to  
2884 other kinds of insurance not listed under Subsection (1); and  
2885        (ii) create license classifications that grant only part of the authority arising under

2886 another license class.

2887 (b) Notwithstanding Subsection (3)(a), for purpose of title insurance, the Title and  
2888 Escrow Commission may make the rules provided for in Subsection (3)(a), subject to Section  
2889 31A-2-404.

2890 Section 27. Section **31A-26-210** is amended to read:

2891 **31A-26-210. Reports from organizations licensed as adjusters.**

2892 ~~[(1) Organizations licensed as adjusters under Section 31A-26-203 shall report to the~~  
2893 ~~commissioner, at the times and in the detail and form as prescribed by rule, every change in~~  
2894 ~~the list of natural person adjusters authorized to act in that position for the organization.]~~

2895 ~~[(2) Each organization licensed as an adjuster shall, at the time of paying its license~~  
2896 ~~continuation fee under Section 31A-3-103, report to the commissioner, in the form established~~  
2897 ~~by the commissioner by rule, all natural person adjusters acting in that position for the~~  
2898 ~~organization.]~~

2899 ~~[(3) Organizations]~~

2900 (1) An organization licensed as an adjuster under Section 31A-26-203 shall designate  
2901 an individual who has an individual adjuster license to act on the organization's behalf in order  
2902 for the licensee to do business for the organization in this state.

2903 (2) An organization licensed under this chapter shall report to the commissioner, at  
2904 intervals and in the form the commissioner establishes by rule:

2905 (a) a new designation; and

2906 (b) a terminated designation.

2907 (3) (a) An organization licensed under this chapter shall report to the commissioner  
2908 the cause of termination of a designation if:

2909 (i) the reason for termination is a reason described in Subsection 31A-26-213(5)(b); or

2910 (ii) the organization has knowledge that the individual licensee is found to have

2911 engaged in an activity described in Subsection 31A-26-213(5)(b) by:

2912 (A) a court;

2913 (B) a government body; or



2914 (C) a self-regulatory organization, which the commissioner may define by rule made  
2915 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2916 (b) The information provided the commissioner under Subsection (3)(a) is a private  
2917 record under Title 63G, Chapter 2, Government Records Access and Management Act.

2918 (c) An organization is immune from civil action, civil penalty, or damages if the  
2919 organization complies in good faith with this Subsection (3) in reporting to the commissioner  
2920 the cause of termination of a designation.

2921 (d) Notwithstanding any other provision in this section, an organization is not immune  
2922 from an action or resulting penalty imposed on the reporting organization as a result of a  
2923 proceeding brought by or on behalf of the department if the action is based on evidence other  
2924 than the report submitted in compliance with this Subsection (3).

2925 (4) An organization licensed under this chapter may act in a capacity for which it is  
2926 licensed only through an individual who is licensed under this chapter to act in the same  
2927 capacity.

2928 (5) An organization licensed under this chapter shall designate and report promptly to  
2929 the commissioner the name of [at least one natural person] the designated responsible licensed  
2930 individual who has authority to act on behalf of the organization in all matters pertaining to  
2931 compliance with this title and orders of the commissioner.

2932 (6) If an agency designates a licensee in a report submitted under Subsection (2) or  
2933 (5), there is a rebuttable presumption that the designated licensee acts on behalf of the agency.

2934 ~~[(4) Where]~~ (7) (a) When a license is held by an organization, both the organization  
2935 itself and [any persons named on] an individual designated under the license shall, for  
2936 purposes of this section, be considered to be the holders of the organization license.

2937 (b) If [a person named on] an individual designated under the organization license  
2938 commits [any] an act or fails to perform [any] a duty [which] that is a ground for suspending,  
2939 revoking, or limiting the organization license, the commissioner may suspend, revoke, or limit  
2940 the license of [that person or the organization, or both.];

2941 (i) that individual;

- 2942 (ii) the organization, if the organization:
- 2943 (A) is reckless or negligent in its supervision of the individual; or
- 2944 (B) knowingly participates in the act or failure to act that is the ground for suspending,
- 2945 revoking, or limiting the license; or
- 2946 (iii) (A) the individual; and
- 2947 (B) the organization, if the organization meets the requirements of Subsection
- 2948 (7)(b)(ii).

2949 Section 28. Section **31A-26-213** is amended to read:

2950 **31A-26-213. Revocation, suspension, surrender, lapsing, limiting, or otherwise**  
2951 **terminating a license -- Rulemaking for renewal or reinstatement.**

- 2952 (1) A license type issued under this chapter remains in force until:
- 2953 (a) revoked or suspended under Subsection (5);
- 2954 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
- 2955 administrative action;
- 2956 (c) the licensee dies or is adjudicated incompetent as defined under:
- 2957 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- 2958 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
- 2959 Minors;
- 2960 (d) lapsed under Section 31A-26-214.5; or
- 2961 (e) voluntarily surrendered.

2962 (2) The following may be reinstated within one year after the day on which the license  
2963 is [~~inactivated~~] no longer in force:

- 2964 (a) a lapsed license; or
- 2965 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
- 2966 not be reinstated after the license period in which it is voluntarily surrendered.

2967 (3) Unless otherwise stated in the written agreement for the voluntary surrender of a  
2968 license, submission and acceptance of a voluntary surrender of a license does not prevent the  
2969 department from pursuing additional disciplinary or other action authorized under:

2970 (a) this title; or  
2971 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah  
2972 Administrative Rulemaking Act.  
2973 (4) A license classification issued under this chapter remains in force until:  
2974 (a) the qualifications pertaining to a license classification are no longer met by the  
2975 licensee; or  
2976 (b) the supporting license type:  
2977 (i) is revoked or suspended under Subsection (5); or  
2978 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of  
2979 administrative action.  
2980 (5) (a) If the commissioner makes a finding under Subsection (5)(b) [~~after~~] as part of  
2981 an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the  
2982 commissioner may:  
2983 (i) revoke:  
2984 (A) a license; or  
2985 (B) a license classification;  
2986 (ii) suspend for a specified period of 12 months or less:  
2987 (A) a license; or  
2988 (B) a license classification; [~~or~~]  
2989 (iii) limit in whole or in part:  
2990 (A) a license; or  
2991 (B) a license classification[~~;~~]; or  
2992 (iv) deny a license application.  
2993 (b) The commissioner may take an action described in Subsection (5)(a) if the  
2994 commissioner finds that the licensee:  
2995 (i) is unqualified for a license or license classification under [~~Sections~~] Section  
2996 31A-26-202, 31A-26-203, [~~and~~] 31A-26-204, or 31A-26-205;  
2997 (ii) has violated:

- 2998 (A) an insurance statute;
- 2999 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 3000 (C) an order that is valid under Subsection 31A-2-201(4);
- 3001 (iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other
- 3002 delinquency proceedings in any state;
- 3003 (iv) fails to pay [~~any~~] a final judgment rendered against the person in this state within
- 3004 60 days after the judgment became final;
- 3005 (v) fails to meet the same good faith obligations in claims settlement that is required of
- 3006 admitted insurers;
- 3007 (vi) is affiliated with and under the same general management or interlocking
- 3008 directorate or ownership as another insurance adjuster that transacts business in this state
- 3009 without a license;
- 3010 (vii) refuses:
- 3011 (A) to be examined; or
- 3012 (B) to produce its accounts, records, and files for examination;
- 3013 (viii) has an officer who refuses to:
- 3014 (A) give information with respect to the insurance adjuster's affairs; or
- 3015 (B) perform any other legal obligation as to an examination;
- 3016 (ix) provides information in the license application that is:
- 3017 (A) incorrect;
- 3018 (B) misleading;
- 3019 (C) incomplete; or
- 3020 (D) materially untrue;
- 3021 (x) has violated [~~any~~] an insurance law, valid rule, or valid order of another state's
- 3022 insurance department;
- 3023 (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- 3024 (xii) has improperly withheld, misappropriated, or converted [~~any~~] monies or
- 3025 properties received in the course of doing insurance business;

3026 (xiii) has intentionally misrepresented the terms of an actual or proposed:  
3027 (A) insurance contract; or  
3028 (B) application for insurance;  
3029 (xiv) has been convicted of a felony;  
3030 (xv) has admitted or been found to have committed [~~any~~] an insurance unfair trade  
3031 practice or fraud;  
3032 (xvi) in the conduct of business in this state or elsewhere has:  
3033 (A) used fraudulent, coercive, or dishonest practices; or  
3034 (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;  
3035 (xvii) has had an insurance license, or its equivalent, denied, suspended, or revoked in  
3036 any other state, province, district, or territory;  
3037 (xviii) has forged another's name to:  
3038 (A) an application for insurance; or  
3039 (B) [~~any~~] a document related to an insurance transaction;  
3040 (xix) has improperly used notes or any other reference material to complete an  
3041 examination for an insurance license;  
3042 (xx) has knowingly accepted insurance business from an individual who is not  
3043 licensed;  
3044 (xxi) has failed to comply with an administrative or court order imposing a child  
3045 support obligation;  
3046 (xxii) has failed to:  
3047 (A) pay state income tax; or  
3048 (B) comply with [~~any~~] an administrative or court order directing payment of state  
3049 income tax;  
3050 (xxiii) has violated or permitted others to violate the federal Violent Crime Control  
3051 and Law Enforcement Act of 1994, 18 U.S.C. Secs. 1033 and 1034; or  
3052 (xxiv) has engaged in methods and practices in the conduct of business that endanger  
3053 the legitimate interests of customers and the public.

3054 (c) For purposes of this section, if a license is held by an agency, both the agency itself  
3055 and any ~~[natural person named on]~~ individual designated under the license are considered to  
3056 be the holders of the license.

3057 (d) If ~~[a natural person named on]~~ an individual designated under the agency license  
3058 commits ~~[any]~~ an act or fails to perform ~~[any]~~ a duty that is a ground for suspending,  
3059 revoking, or limiting the ~~[natural person's]~~ individual's license, the commissioner may  
3060 suspend, revoke, or limit the license of:

3061 (i) the ~~[natural person]~~ individual;

3062 (ii) the agency, if the agency:

3063 (A) is reckless or negligent in its supervision of the ~~[natural person]~~ individual; or

3064 (B) knowingly participated in the act or failure to act that is the ground for  
3065 suspending, revoking, or limiting the license; or

3066 (iii) (A) the ~~[natural person]~~ individual; and

3067 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

3068 (6) A licensee under this chapter is subject to the penalties for conducting an  
3069 insurance business without a license if:

3070 (a) the licensee's license is:

3071 (i) revoked;

3072 (ii) suspended;

3073 (iii) limited;

3074 (iv) surrendered in lieu of administrative action;

3075 (v) lapsed; or

3076 (vi) voluntarily surrendered; and

3077 (b) the licensee:

3078 (i) continues to act as a licensee; or

3079 (ii) violates the terms of the license limitation.

3080 (7) A licensee under this chapter shall immediately report to the commissioner:

3081 (a) a revocation, suspension, or limitation of the person's license in any other state, the

3082 District of Columbia, or a territory of the United States;

3083 (b) the imposition of a disciplinary sanction imposed on that person by any other state,  
3084 the District of Columbia, or a territory of the United States; or

3085 (c) a judgment or injunction entered against that person on the basis of conduct  
3086 involving:

3087 (i) fraud;

3088 (ii) deceit;

3089 (iii) misrepresentation; or

3090 (iv) a violation of an insurance law or rule.

3091 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender  
3092 a license in lieu of administrative action may specify a time not to exceed five years within  
3093 which the former licensee may not apply for a new license.

3094 (b) If no time is specified in the order or agreement described in Subsection (8)(a), the  
3095 former licensee may not apply for a new license for five years without the express approval of  
3096 the commissioner.

3097 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of  
3098 a license issued under this part if so ordered by a court.

3099 (10) The commissioner shall by rule prescribe the license renewal and reinstatement  
3100 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3101 Section 29. Section **31A-26-214.5** is amended to read:

3102 **31A-26-214.5. License lapse and voluntary surrender.**

3103 (1) (a) A license issued under this chapter shall lapse if the licensee fails to:

3104 (i) pay when due a fee under Section 31A-3-103;

3105 (ii) complete continuing education requirements under Section 31A-26-206 before  
3106 submitting the license renewal application;

3107 (iii) submit a completed renewal application as required by Section 31A-26-202;

3108 (iv) submit additional documentation required to complete the licensing process as  
3109 related to a specific license type or license classification; or

3110 (v) maintain an active license in a resident state if the licensee is a nonresident  
3111 licensee.

3112 (b) (i) A licensee whose license lapses due to the following may request an action  
3113 described in Subsection (1)(b)(ii):

3114 (A) military service;

3115 (B) voluntary service for a period of time designated by the person for whom the  
3116 licensee provides voluntary service; or

3117 (C) some other extenuating circumstances, such as long-term medical disability.

3118 (ii) A licensee described in Subsection (1)(b)(i) may request:

3119 (A) reinstatement of the license no later than one year after the day on which the  
3120 license lapses; and

3121 (B) waiver of any of the following imposed for failure to comply with renewal  
3122 procedures:

3123 (I) an examination requirement;

3124 (II) reinstatement fees set under Section 31A-3-103;

3125 (III) continuing education requirements; or

3126 (IV) other sanction imposed for failure to comply with renewal procedures.

3127 (2) If a license [~~type or license classification~~] issued under this chapter is voluntarily  
3128 surrendered, the license [~~type or license classification~~] may be reinstated [~~within one year~~];

3129 (a) during the license period in which it is voluntarily surrendered; and

3130 (b) no later than one year after the day on which the license [~~type or license~~  
3131 classification is inactivated] is voluntarily surrendered.

3132 Section 30. Section **31A-35-405** is amended to read:

3133 **31A-35-405. Issuance of license -- Denial -- Right of appeal.**

3134 (1) Upon a determination by the board that a person applying for a bail bond surety  
3135 company license meets the requirements for issuance of a license under this chapter, the  
3136 commissioner shall issue to that person a bail bond surety company license.

3137 (2) (a) If the commissioner denies an application for a bail bond surety company



3138 license under this chapter, the commissioner shall provide prompt written notification to the  
3139 person applying for licensure:

- 3140 (i) stating the grounds for denial; and
- 3141 (ii) notifying the person applying for licensure as a bail bond surety company that:
- 3142 (A) the person is entitled to a hearing if that person wants to contest the denial; and
- 3143 (B) if the person wants a hearing, the person shall submit the request in writing to the  
3144 commissioner within ~~[30]~~ 15 days after the issuance of the denial.

3145 (b) The department shall schedule a hearing described in Subsection (2)(a) ~~[shall be~~  
3146 ~~scheduled not]~~ no later than 60 days after the commissioner's receipt of the request.

- 3147 (c) The department shall hear the appeal, and may:
- 3148 (i) return the case to the commissioner for reconsideration;
- 3149 (ii) modify the commissioner's decision; or
- 3150 (iii) reverse the commissioner's decision.

3151 (3) A decision under this section is subject to review under Title 63G, Chapter 4,  
3152 Administrative Procedures Act.

3153 Section 31. Section ~~31A-35-406~~ is amended to read:

3154 **31A-35-406. Renewal and reinstatement.**

3155 (1) (a) To renew its license under this chapter, on or before the last day of the month in  
3156 which the license expires a bail bond surety company shall:

- 3157 (i) complete and submit a renewal application to the department; and
- 3158 (ii) pay the department the applicable renewal fee established in accordance with  
3159 Section 63J-1-303.

3160 (b) A bail bond surety company shall renew its license under this chapter annually as  
3161 established by department rule, regardless of when the license is issued.

3162 ~~[(2) A bail bond surety company may renew a bail bond surety company license not~~  
3163 ~~renewed under Subsection (1) within 30 days after the expiration date by:]~~

3164 ~~[(a) submitting a renewal application required by Subsection (1); and]~~

3165 ~~[(b) paying a late renewal fee established in accordance with Section 63J-1-303;]~~

3166            [~~(3)~~] (2) A bail bond surety company may apply for reinstatement of an expired bail  
3167 bond surety company license [~~between 31 days and six months~~] within one year following the  
3168 expiration of the license under Subsection (1) by:

- 3169            (a) submitting the renewal application required by Subsection (1); and
- 3170            (b) paying a license reinstatement fee established in accordance with Section  
3171 63J-1-303.

3172            [~~(4)~~] (3) If a bail bond surety company license has been expired for more than [~~six~~  
3173 ~~months~~] one year, the person applying for reinstatement of the bail bond surety license shall:

- 3174            (a) submit [~~an~~] a new application form to the commissioner; and
- 3175            (b) pay the application fee established in accordance with Section 63J-1-303.

3176            [~~(5)~~] (4) If a bail bond surety company license is suspended, the applicant may not  
3177 submit an application for a bail bond surety company license until after the end of the period  
3178 of suspension.

3179            [~~(6)~~] (5) Fees collected under this section shall be deposited in the restricted account  
3180 created in Section 31A-35-407.

3181            Section 32. Section **31A-37-502** is amended to read:

3182            **31A-37-502. Examination.**

3183            (1) (a) As provided in this section, the commissioner or a person appointed by the  
3184 commissioner, shall examine each captive insurance company in each three-year period.

3185            (b) The three-year period described in Subsection (1)(a) shall be determined on the  
3186 basis of three full annual accounting periods of operation.

3187            (c) The examination is to be made as of:

- 3188            (i) December 31 of the full three-year period; or
- 3189            (ii) the last day of the month of an annual accounting period authorized for a captive  
3190 insurance company under this section.

3191            (d) In addition to an examination required under this Subsection (1), the  
3192 commissioner, or a person appointed by the commissioner may examine a captive insurance  
3193 company whenever the commissioner determines it to be prudent.

3194 (2) During an examination under this section the commissioner, or a person appointed  
3195 by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance  
3196 company to ascertain:

3197 (a) the financial condition of the captive insurance company;

3198 (b) the ability of the captive insurance company to fulfill the obligations of the captive  
3199 insurance company; and

3200 (c) whether the captive insurance company has complied with this chapter.

3201 (3) The commissioner upon application may enlarge the three-year period described in  
3202 Subsection (1) to five years, if a captive insurance company is subject to a comprehensive  
3203 annual audit during that period:

3204 (a) of a scope satisfactory to the commissioner; and

3205 (b) performed by independent auditors approved by the commissioner.

3206 (4) The commissioner may accept a comprehensive annual independent audit in lieu  
3207 of an examination:

3208 (a) of a scope satisfactory to the commissioner; and

3209 (b) performed by an independent auditor approved by the commissioner.

3210 [~~4~~] (5) A captive insurance company that is inspected and examined under this  
3211 section shall pay, as provided in Subsection 31A-37-202(6)(b), the expenses and charges of an  
3212 inspection and examination.

3213 Section 33. Section **31A-37a-402** is amended to read:

3214 **31A-37a-402. Permitted reinsurance.**

3215 (1) (a) A special purpose financial captive insurance company may reinsure only the  
3216 risks of a ceding insurer, pursuant to a reinsurance contract.

3217 (b) A special purpose financial captive insurance company may not issue a contract of  
3218 insurance or a contract for assumption of risk or indemnification of loss other than a  
3219 reinsurance contract described in Subsection (1)(a).

3220 (2) Unless otherwise approved in advance by the commissioner, a special purpose  
3221 financial captive insurance company may not assume or retain exposure to insurance or

3222 reinsurance losses for its own account that are not funded by:

3223       (a) proceeds from a special purpose financial captive insurance company insurance

3224 securitization;

3225       (b) a letter of credit; [~~or~~]

3226       (c) an asset described in Subsection 31A-37a-102(1)(c);

3227       (d) a premium or another amount payable by the ceding insurer to the special purpose

3228 financial captive insurance company pursuant to the reinsurance contract; [~~and~~] or

3229       (e) a return on investment of an item described in Subsections (2)(a) through (d).

3230       (3) (a) A reinsurance contract shall contain a provision reasonably required or

3231 approved by the commissioner.

3232       (b) A requirement described in Subsection (3)(a) shall take into account the laws

3233 applicable to the ceding insurer regarding the ceding insurer taking credit for the reinsurance

3234 provided under the reinsurance contract.

3235       (4) Subject to the prior approval of the commissioner, a special purpose financial

3236 captive insurance company may cede risks assumed through a reinsurance contract to one or

3237 more reinsurers through the purchase of reinsurance.

3238       (5) (a) This Subsection (5) applies to a contract or commercial activity that:

3239       (i) relates to or is incidental to a reinsurance contract; and

3240       (ii) is necessary to fulfill the purposes of:

3241       (A) a reinsurance contract;

3242       (B) insurance securitization; and

3243       (C) this chapter.

3244       (b) A special purpose financial captive insurance company may engage in a contract

3245 or commercial activity described in Subsection (5)(a) if the contract or commercial activity is:

3246       (i) in the special purpose financial captive insurance company's plan of operation; or

3247       (ii) approved in advance by the commissioner.

3248       (c) A contract or commercial activity described in Subsection (5)(a) includes:

3249       (i) entering into a reinsurance contract;

3250 (ii) issuing a special purpose financial captive insurance company security;

3251 (iii) complying with a term of a contract or security described in Subsection (5)(c)(i)

3252 or (ii);

3253 (iv) entering into:

3254 (A) a trust;

3255 (B) a guaranteed investment contract;

3256 (C) a swap;

3257 (D) a derivative transaction;

3258 (E) a tax transaction;

3259 (F) an administration transaction;

3260 (G) a reimbursement transaction; or

3261 (H) a fiscal agent transaction;

3262 (v) complying with a trust indenture, reinsurance, or retrocession; and

3263 (vi) another agreement necessary or incidental to effect an insurance securitization in

3264 compliance with:

3265 (A) the special purpose financial captive insurance company's plan of operation; and

3266 (B) this chapter.

3267 (6) Unless otherwise approved in advance by the commissioner, a reinsurance contract

3268 may not contain a provision for payment by the special purpose financial captive insurance

3269 company in discharge of its obligations under the reinsurance contract to a person other than

3270 the ceding insurer or any receiver of the ceding insurer.

3271 (7) A special purpose financial captive insurance company shall notify the

3272 commissioner immediately of an action by a ceding insurer or another person to foreclose on

3273 or otherwise take possession of collateral provided by the special purpose financial captive

3274 insurance company to secure an obligation of the special purpose financial captive insurance

3275 company.

3276 Section 34. Section **35A-4-312** is amended to read:

3277 **35A-4-312. Records.**

3278 (1) (a) An employing unit shall keep true and accurate work records containing any  
3279 information the department may prescribe by rule.

3280 (b) A record shall be open to inspection and subject to being copied by the division or  
3281 its authorized representatives at a reasonable time and as often as may be necessary.

3282 (c) An employing unit shall make a record available in the state for three years after the  
3283 calendar year in which the services are rendered.

3284 (2) The division may require from an employing unit a sworn or unsworn report with  
3285 respect to a person employed by the employing unit that the division considers necessary for  
3286 the effective administration of this chapter.

3287 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,  
3288 information obtained under this chapter or obtained from an individual may not be published  
3289 or open to public inspection in any manner revealing the employing unit's or individual's  
3290 identity.

3291 (4) (a) The information obtained by the division under this section may not be used in  
3292 court or admitted into evidence in an action or proceeding, except:

3293 (i) in an action or proceeding arising out of this chapter;

3294 (ii) if the Labor Commission enters into a written agreement with the division under  
3295 Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

3296 (A) Title 34, Chapter 23, Employment of Minors;

3297 (B) Title 34, Chapter 28, Payment of Wages;

3298 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

3299 (D) Title 34A, Utah Labor Code; or

3300 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and  
3301 Section 63G-2-207.

3302 (b) The information obtained by the division under this section shall be disclosed to:

3303 (i) a party to an unemployment insurance hearing before an administrative law judge  
3304 of the department or a review by the Workforce Appeals Board to the extent necessary for the  
3305 proper presentation of the party's case; or

3306 (ii) an employer, upon request in writing for any information concerning a claim for a  
3307 benefit with respect to a former employee of the employer.

3308 (5) The information obtained by the division under this section may be disclosed to:

3309 (a) an employee of the department in the performance of the employee's duties in  
3310 administering this chapter or other programs of the department;

3311 (b) an employee of the Labor Commission for the purpose of carrying out the  
3312 programs administered by the Labor Commission;

3313 (c) an employee of the Department of Commerce for the purpose of carrying out the  
3314 programs administered by the Department of Commerce;

3315 (d) an employee of the governor's office or another state governmental agency  
3316 administratively responsible for statewide economic development, to the extent necessary for  
3317 economic development policy analysis and formulation;

3318 (e) an employee of another governmental agency that is specifically identified and  
3319 authorized by federal or state law to receive the information for the purposes stated in the law  
3320 authorizing the employee of the agency to receive the information;

3321 (f) an employee of a governmental agency or workers' compensation insurer to the  
3322 extent the information will aid in:

3323 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

3324 (A) a workers' compensation program; or

3325 (B) public assistance funds; or

3326 (ii) the recovery of overpayments of workers' compensation or public assistance funds;

3327 (g) an employee of a law enforcement agency to the extent the disclosure is necessary  
3328 to avoid a significant risk to public safety or in aid of a felony criminal investigation;

3329 (h) an employee of the State Tax Commission or the Internal Revenue Service for the  
3330 purposes of:

3331 (i) audit verification or simplification;

3332 (ii) state or federal tax compliance;

3333 (iii) verification of a code or classification of the:

3334 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of  
3335 the President, Office of Management and Budget; or

3336 (B) 2002 North American Industry Classification System of the federal Executive  
3337 Office of the President, Office of Management and Budget; and

3338 (iv) statistics;

3339 (i) an employee or contractor of the department or an educational institution, or other  
3340 governmental entity engaged in workforce investment and development activities under the  
3341 Workforce Investment Act of 1998 for the purpose of:

3342 (i) coordinating services with the department;

3343 (ii) evaluating the effectiveness of those activities; and

3344 (iii) measuring performance;

3345 (j) an employee of the Governor's Office of Economic Development, for the purpose of  
3346 periodically publishing in the Directory of Business and Industry, the name, address, telephone  
3347 number, number of employees by range, code or classification of an employer, and type of  
3348 ownership of Utah employers;

3349 (k) the public for any purpose following a written waiver by all interested parties of  
3350 their rights to nondisclosure; ~~or~~

3351 (l) an individual whose wage data is submitted to the department by an employer, so  
3352 long as no information other than the individual's wage data and the identity of the employer  
3353 who submitted the information is provided to the individual[-]; or

3354 (m) an employee of the Insurance Department for the purpose of administering Title  
3355 31A, Chapter 40, Professional Employer Organization Licensing Act.

3356 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),  
3357 with the exception of Subsections (5)(a) and (g), shall be made only if:

3358 (a) the division determines that the disclosure will not have a negative effect on:

3359 (i) the willingness of employers to report wage and employment information; or

3360 (ii) the willingness of individuals to file claims for unemployment benefits; and

3361 (b) the agency enters into a written agreement with the division in accordance with



3362 rules made by the department.

3363 (7) (a) The employees of a division of the department other than the Workforce  
3364 Development and Information Division and the Unemployment Insurance Division or an  
3365 agency receiving private information from the division under this chapter are subject to the  
3366 same requirements of privacy and confidentiality and to the same penalties for misuse or  
3367 improper disclosure of the information as employees of the division.

3368 (b) Use of private information obtained from the department by a person, or for a  
3369 purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

3370 Section 35. Section **63G-2-302** is amended to read:

3371 **63G-2-302. Private records.**

3372 (1) The following records are private:

3373 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
3374 social services, welfare benefits, or the determination of benefit levels;

3375 (b) records containing data on individuals describing medical history, diagnosis,  
3376 condition, treatment, evaluation, or similar medical data;

3377 (c) records of publicly funded libraries that when examined alone or with other records  
3378 identify a patron;

3379 (d) records received or generated for a Senate or House Ethics Committee concerning  
3380 any alleged violation of the rules on legislative ethics, prior to the meeting, and after the  
3381 meeting, if the ethics committee meeting was closed to the public;

3382 (e) records received or generated for a Senate confirmation committee concerning  
3383 character, professional competence, or physical or mental health of an individual:

3384 (i) if prior to the meeting, the chair of the committee determines release of the records:

3385 (A) reasonably could be expected to interfere with the investigation undertaken by the  
3386 committee; or

3387 (B) would create a danger of depriving a person of a right to a fair proceeding or  
3388 impartial hearing; and

3389 (ii) after the meeting, if the meeting was closed to the public;

3390 (f) employment records concerning a current or former employee of, or applicant for  
3391 employment with, a governmental entity that would disclose that individual's home address,  
3392 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
3393 deductions;

3394 (g) records or parts of records under Section 63G-2-303 that a current or former  
3395 employee identifies as private according to the requirements of that section;

3396 (h) that part of a record indicating a person's Social Security number or federal  
3397 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
3398 31A-26-202, 58-1-301, 61-1-4, or 61-2-6;

3399 (i) that part of a voter registration record identifying a voter's driver license or  
3400 identification card number, Social Security number, or last four digits of the Social Security  
3401 number;

3402 (j) a record that:

3403 (i) contains information about an individual;

3404 (ii) is voluntarily provided by the individual; and

3405 (iii) goes into an electronic database that:

3406 (A) is designated by and administered under the authority of the Chief Information  
3407 Officer; and

3408 (B) acts as a repository of information about the individual that can be electronically  
3409 retrieved and used to facilitate the individual's online interaction with a state agency;

3410 (k) information provided to the Commissioner of Insurance under:

3411 (i) Subsection 31A-23a-115(2)(a); [~~or~~]

3412 (ii) Subsection 31A-23a-302(3); [~~and~~] or

3413 (iii) Subsection 31A-26-210(3); and

3414 (l) information obtained through a criminal background check under Title 11, Chapter  
3415 40, Criminal Background Checks by Political Subdivisions Operating Water Systems.

3416 (2) The following records are private if properly classified by a governmental entity:

3417 (a) records concerning a current or former employee of, or applicant for employment

3418 with a governmental entity, including performance evaluations and personal status information  
3419 such as race, religion, or disabilities, but not including records that are public under  
3420 Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

3421 (b) records describing an individual's finances, except that the following are public:

3422 (i) records described in Subsection 63G-2-301(2);

3423 (ii) information provided to the governmental entity for the purpose of complying with  
3424 a financial assurance requirement; or

3425 (iii) records that must be disclosed in accordance with another statute;

3426 (c) records of independent state agencies if the disclosure of those records would  
3427 conflict with the fiduciary obligations of the agency;

3428 (d) other records containing data on individuals the disclosure of which constitutes a  
3429 clearly unwarranted invasion of personal privacy;

3430 (e) records provided by the United States or by a government entity outside the state  
3431 that are given with the requirement that the records be managed as private records, if the  
3432 providing entity states in writing that the record would not be subject to public disclosure if  
3433 retained by it; and

3434 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
3435 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
3436 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

3437 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
3438 records, statements, history, diagnosis, condition, treatment, and evaluation.

3439 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
3440 doctors, or affiliated entities are not private records or controlled records under Section  
3441 63G-2-304 when the records are sought:

3442 (i) in connection with any legal or administrative proceeding in which the patient's  
3443 physical, mental, or emotional condition is an element of any claim or defense; or

3444 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
3445 relies upon the condition as an element of the claim or defense.

3446           (c) Medical records are subject to production in a legal or administrative proceeding  
3447 according to state or federal statutes or rules of procedure and evidence as if the medical  
3448 records were in the possession of a nongovernmental medical care provider.