

**Senator Wayne L. Niederhauser** proposes the following substitute bill:

**INSURANCE RELATED AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Wayne L. Niederhauser

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**LONG TITLE**

**General Description:**

This bill modifies the Insurance Code and related provisions to make various amendments.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ addresses fees, nonlapsing money, and the creation of restricted accounts;
- ▶ removes outdated language related to reporting;
- ▶ allows a member of the Title and Escrow Commission to continue to serve until replaced;
- ▶ modifies duties of the Title and Escrow Commission;
- ▶ modifies provisions related to variable contract law;
- ▶ modifies provisions related to approval of forms;
- ▶ addresses requirements for purchasing groups;
- ▶ clarifies language related to underinsured motorist coverage;
- 22a **§→ ▶ addresses dependent coverage; ←§**
- ▶ modifies provisions related to catastrophic coverage of mental health conditions;
- ▶ addresses issuance of group or blanket accident and health insurance;
- ▶ modifies Utah's mini-COBRA provisions;

**1st Sub. H.B. 39**



- 26           ▶ addresses special enrollment periods relating to Medicaid and Children's Health  
 27 Insurance Program;  
 28           ▶ addresses provisions related to licensure and insurance adjusting;  
 29           ▶ addresses licensee compensation;  
 30           ▶ modifies definitions related to life settlements;  
 31           ▶ provides for rulemaking and other processes related to surrender of a professional  
 32 employer organization license;  
 33           ▶ addresses the board of directors for the Utah Defined Contribution Risk Adjuster;  
 34 and  
 35           ▶ makes technical and conforming amendments.

36 **Monies Appropriated in this Bill:**

37           None

38 **Other Special Clauses:**

39           This bill provides an effective date **§→ and limited retrospective operation. ←§ .**

40 **Utah Code Sections Affected:**

41 AMENDS:

42           **31A-1-301**, as last amended by Laws of Utah 2009, Chapter 349

43           **31A-2-403**, as last amended by Laws of Utah 2008, Chapter 345

44           **31A-2-404**, as last amended by Laws of Utah 2008, Chapter 382

45           **31A-3-103**, as last amended by Laws of Utah 2009, Chapters 183 and 368

46           **31A-3-104**, as last amended by Laws of Utah 2006, Chapter 117

47           **31A-3-304 (Superseded 07/01/10)**, as last amended by Laws of Utah 2009, Chapter

48 183

49           **31A-3-304 (Effective 07/01/10)**, as last amended by Laws of Utah 2009, Chapter 183

50           **31A-5-217.5**, as enacted by Laws of Utah 1992, Chapter 230

51           **31A-15-208**, as enacted by Laws of Utah 1992, Chapter 258

52           **31A-20-106**, as enacted by Laws of Utah 1985, Chapter 242

53           **31A-21-201**, as last amended by Laws of Utah 2005, Chapter 123

54           **31A-21-301**, as last amended by Laws of Utah 2001, Chapter 116

55           **31A-22-305.3**, as last amended by Laws of Utah 2009, Chapter 231

56           **31A-22-411**, as last amended by Laws of Utah 1991, Chapter 74

56a **§→ 31A-22-610.5, as last amended by Laws of Utah 2008, Chapter 3 ←§**

- 57            **31A-22-625**, as last amended by Laws of Utah 2008, Chapters 345 and 382
- 58            **31A-22-701**, as last amended by Laws of Utah 2007, Chapter 307
- 59            **31A-22-722**, as last amended by Laws of Utah 2009, Chapter 12
- 60            **31A-22-722.5**, as enacted by Laws of Utah 2009, Chapter 274
- 61            **31A-23a-415**, as last amended by Laws of Utah 2007, Chapter 325
- 62            **31A-23a-501**, as last amended by Laws of Utah 2009, Chapters 12 and 274
- 63            **31A-26-201**, as last amended by Laws of Utah 2003, Chapter 298
- 64            **31A-35-401**, as last amended by Laws of Utah 2009, Chapter 183
- 65            **31A-35-406**, as last amended by Laws of Utah 2009, Chapters 183 and 349
- 66            **31A-36-102**, as last amended by Laws of Utah 2009, Chapter 355
- 67            **31A-40-103**, as enacted by Laws of Utah 2008, Chapter 318
- 68            **31A-40-302**, as enacted by Laws of Utah 2008, Chapter 318
- 69            **31A-42-201**, as enacted by Laws of Utah 2009, Chapter 12
- 70            **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

71 ENACTS:

- 72            **31A-3-105**, Utah Code Annotated 1953
- 73            **31A-22-725**, Utah Code Annotated 1953
- 74            **31A-40-307**, Utah Code Annotated 1953

75 **Uncodified Material Affected:**

76 ENACTS UNCODIFIED MATERIAL



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

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

80            **31A-1-301. Definitions.**

81            As used in this title, unless otherwise specified:

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

84            (i) a medical condition including:

85            (A) a medical care expense; or

86            (B) the risk of disability;

87            (ii) accident; or

- 88 (iii) sickness.
- 89 (b) "Accident and health insurance":
- 90 (i) includes a contract with disability contingencies including:
- 91 (A) an income replacement contract;
- 92 (B) a health care contract;
- 93 (C) an expense reimbursement contract;
- 94 (D) a credit accident and health contract;
- 95 (E) a continuing care contract; and
- 96 (F) a long-term care contract; and
- 97 (ii) may provide:
- 98 (A) hospital coverage;
- 99 (B) surgical coverage;
- 100 (C) medical coverage;
- 101 (D) loss of income coverage;
- 102 (E) prescription drug coverage;
- 103 (F) dental coverage; or
- 104 (G) vision coverage.
- 105 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 106 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
- 107 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 108 (3) "Administrator" is defined in Subsection (159).
- 109 (4) "Adult" means an individual who has attained the age of at least 18 years.
- 110 (5) "Affiliate" means a person who controls, is controlled by, or is under common
- 111 control with, another person. A corporation is an affiliate of another corporation, regardless of
- 112 ownership, if substantially the same group of individuals manage the corporations.
- 113 (6) "Agency" means:
- 114 (a) a person other than an individual, including a sole proprietorship by which an
- 115 individual does business under an assumed name; and
- 116 (b) an insurance organization licensed or required to be licensed under Section
- 117 31A-23a-301.
- 118 (7) "Alien insurer" means an insurer domiciled outside the United States.

- 119 (8) "Amendment" means an endorsement to an insurance policy or certificate.
- 120 (9) "Annuity" means an agreement to make periodical payments for a period certain or  
121 over the lifetime of one or more individuals if the making or continuance of all or some of the  
122 series of the payments, or the amount of the payment, is dependent upon the continuance of  
123 human life.
- 124 (10) "Application" means a document:
- 125 (a) (i) completed by an applicant to provide information about the risk to be insured;  
126 and  
127 (ii) that contains information that is used by the insurer to evaluate risk and decide  
128 whether to:
- 129 (A) insure the risk under:
- 130 (I) the coverage as originally offered; or  
131 (II) a modification of the coverage as originally offered; or  
132 (B) decline to insure the risk; or
- 133 (b) used by the insurer to gather information from the applicant before issuance of an  
134 annuity contract.
- 135 (11) "Articles" or "articles of incorporation" means:
- 136 (a) the original articles;  
137 (b) a special law;  
138 (c) a charter;  
139 (d) an amendment;  
140 (e) restated articles;  
141 (f) articles of merger or consolidation;  
142 (g) a trust instrument;  
143 (h) another constitutive document for a trust or other entity that is not a corporation;  
144 and  
145 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 146 (12) "Bail bond insurance" means a guarantee that a person will attend court when  
147 required, up to and including surrender of the person in execution of a sentence imposed under  
148 Subsection 77-20-7(1), as a condition to the release of that person from confinement.
- 149 (13) "Binder" is defined in Section 31A-21-102.

- 150 (14) "Blanket insurance policy" means a group policy covering a defined class of  
151 persons:
- 152 (a) without individual underwriting or application; and
  - 153 (b) that is determined by definition with or without designating each person covered.
- 154 (15) "Board," "board of trustees," or "board of directors" means the group of persons  
155 with responsibility over, or management of, a corporation, however designated.
- 156 (16) "Business entity" means:
- 157 (a) a corporation;
  - 158 (b) an association;
  - 159 (c) a partnership;
  - 160 (d) a limited liability company;
  - 161 (e) a limited liability partnership; or
  - 162 (f) another legal entity.
- 163 (17) "Business of insurance" is defined in Subsection (85).
- 164 (18) "Business plan" means the information required to be supplied to the  
165 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required  
166 when these subsections apply by reference under:
- 167 (a) Section 31A-7-201;
  - 168 (b) Section 31A-8-205; or
  - 169 (c) Subsection 31A-9-205(2).
- 170 (19) (a) "Bylaws" means the rules adopted for the regulation or management of a  
171 corporation's affairs, however designated.
- 172 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a  
173 corporation.
- 174 (20) "Captive insurance company" means:
- 175 (a) an insurer:
    - 176 (i) owned by another organization; and
    - 177 (ii) whose exclusive purpose is to insure risks of the parent organization and an  
178 affiliated company; or
  - 179 (b) in the case of a group or association, an insurer:
    - 180 (i) owned by the insureds; and

- 181 (ii) whose exclusive purpose is to insure risks of:
- 182 (A) a member organization;
- 183 (B) a group member; or
- 184 (C) an affiliate of:
- 185 (I) a member organization; or
- 186 (II) a group member.
- 187 (21) "Casualty insurance" means liability insurance.
- 188 (22) "Certificate" means evidence of insurance given to:
- 189 (a) an insured under a group insurance policy; or
- 190 (b) a third party.
- 191 (23) "Certificate of authority" is included within the term "license."
- 192 (24) "Claim," unless the context otherwise requires, means a request or demand on an
- 193 insurer for payment of a benefit according to the terms of an insurance policy.
- 194 (25) "Claims-made coverage" means an insurance contract or provision limiting
- 195 coverage under a policy insuring against legal liability to claims that are first made against the
- 196 insured while the policy is in force.
- 197 (26) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
- 198 commissioner.
- 199 (b) When appropriate, the terms listed in Subsection (26)(a) apply to the equivalent
- 200 supervisory official of another jurisdiction.
- 201 (27) (a) "Continuing care insurance" means insurance that:
- 202 (i) provides board and lodging;
- 203 (ii) provides one or more of the following:
- 204 (A) a personal service;
- 205 (B) a nursing service;
- 206 (C) a medical service; or
- 207 (D) any other health-related service; and
- 208 (iii) provides the coverage described in this Subsection (27)(a) under an agreement
- 209 effective:
- 210 (A) for the life of the insured; or
- 211 (B) for a period in excess of one year.

212 (b) Insurance is continuing care insurance regardless of whether or not the board and  
213 lodging are provided at the same location as a service described in Subsection (27)(a)(ii).

214 (28) (a) "Control," "controlling," "controlled," or "under common control" means the  
215 direct or indirect possession of the power to direct or cause the direction of the management  
216 and policies of a person. This control may be:

- 217 (i) by contract;
- 218 (ii) by common management;
- 219 (iii) through the ownership of voting securities; or
- 220 (iv) by a means other than those described in Subsections (28)(a)(i) through (iii).

221 (b) There is no presumption that an individual holding an official position with another  
222 person controls that person solely by reason of the position.

223 (c) A person having a contract or arrangement giving control is considered to have  
224 control despite the illegality or invalidity of the contract or arrangement.

225 (d) There is a rebuttable presumption of control in a person who directly or indirectly  
226 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the  
227 voting securities of another person.

228 (29) "Controlled insurer" means a licensed insurer that is either directly or indirectly  
229 controlled by a producer.

230 (30) "Controlling person" means a person that directly or indirectly has the power to  
231 direct or cause to be directed, the management, control, or activities of a reinsurance  
232 intermediary.

233 (31) "Controlling producer" means a producer who directly or indirectly controls an  
234 insurer.

235 (32) (a) "Corporation" means an insurance corporation, except when referring to:

- 236 (i) a corporation doing business:
  - 237 (A) as:
    - 238 (I) an insurance producer;
    - 239 (II) a limited line producer;
    - 240 (III) a consultant;
    - 241 (IV) a managing general agent;
    - 242 (V) a reinsurance intermediary;



- 243 (VI) a third party administrator; or  
244 (VII) an adjuster; and  
245 (B) under:  
246 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and  
247 Reinsurance Intermediaries;  
248 (II) Chapter 25, Third Party Administrators; or  
249 (III) Chapter 26, Insurance Adjusters; or  
250 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance  
251 Holding Companies.  
252 (b) "Stock corporation" means a stock insurance corporation.  
253 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.  
254 (33) (a) "Creditable coverage" has the same meaning as provided in federal regulations  
255 adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L.  
256 104-191, 110 Stat. 1936.  
257 (b) "Creditable coverage" includes coverage that is offered through a public health plan  
258 such as:  
259 (i) the Primary Care Network Program under a Medicaid primary care network  
260 demonstration waiver obtained subject to Section 26-18-3;  
261 (ii) the Children's Health Insurance Program under Section 26-40-106; or  
262 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.  
263 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.  
264 (34) "Credit accident and health insurance" means insurance on a debtor to provide  
265 indemnity for payments coming due on a specific loan or other credit transaction while the  
266 debtor is disabled.  
267 (35) (a) "Credit insurance" means insurance offered in connection with an extension of  
268 credit that is limited to partially or wholly extinguishing that credit obligation.  
269 (b) "Credit insurance" includes:  
270 (i) credit accident and health insurance;  
271 (ii) credit life insurance;  
272 (iii) credit property insurance;  
273 (iv) credit unemployment insurance;

274 (v) guaranteed automobile protection insurance;

275 (vi) involuntary unemployment insurance;

276 (vii) mortgage accident and health insurance;

277 (viii) mortgage guaranty insurance; and

278 (ix) mortgage life insurance.

279 (36) "Credit life insurance" means insurance on the life of a debtor in connection with  
280 an extension of credit that pays a person if the debtor dies.

281 (37) "Credit property insurance" means insurance:

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

283 (b) that protects the property until the debt is paid.

284 (38) "Credit unemployment insurance" means insurance:

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

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

287 (i) specific loan; or

288 (ii) credit transaction.

289 (39) "Creditor" means a person, including an insured, having a claim, whether:

290 (a) matured;

291 (b) unmatured;

292 (c) liquidated;

293 (d) unliquidated;

294 (e) secured;

295 (f) unsecured;

296 (g) absolute;

297 (h) fixed; or

298 (i) contingent.

299 (40) (a) "Customer service representative" means a person that provides an insurance  
300 service and insurance product information:

301 (i) for the customer service representative's:

302 (A) producer; or

303 (B) consultant employer; and

304 (ii) to the customer service representative's employer's:

- 305 (A) customer;
- 306 (B) client; or
- 307 (C) organization.

308 (b) A customer service representative may only operate within the scope of authority of  
309 the customer service representative's producer or consultant employer.

310 (41) "Deadline" means a final date or time:

311 (a) imposed by:

312 (i) statute;

313 (ii) rule; or

314 (iii) order; and

315 (b) by which a required filing or payment must be received by the department.

316 (42) "Deemer clause" means a provision under this title under which upon the  
317 occurrence of a condition precedent, the commissioner is considered to have taken a specific  
318 action. If the statute so provides, a condition precedent may be the commissioner's failure to  
319 take a specific action.

320 (43) "Degree of relationship" means the number of steps between two persons  
321 determined by counting the generations separating one person from a common ancestor and  
322 then counting the generations to the other person.

323 (44) "Department" means the Insurance Department.

324 (45) "Director" means a member of the board of directors of a corporation.

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

327 (a) perform the duties of:

328 (i) that individual's occupation; or

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

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

332 (i) eating;

333 (ii) toileting;

334 (iii) transferring;

335 (iv) bathing; or

- 336 (v) dressing.
- 337 (47) "Disability income insurance" is defined in Subsection (76).
- 338 (48) "Domestic insurer" means an insurer organized under the laws of this state.
- 339 (49) "Domiciliary state" means the state in which an insurer:
- 340 (a) is incorporated;
- 341 (b) is organized; or
- 342 (c) in the case of an alien insurer, enters into the United States.
- 343 (50) (a) "Eligible employee" means:
- 344 (i) an employee who:
- 345 (A) works on a full-time basis; and
- 346 (B) has a normal work week of 30 or more hours; or
- 347 (ii) a person described in Subsection (50)(b).
- 348 (b) "Eligible employee" includes, if the individual is included under a health benefit
- 349 plan of a small employer:
- 350 (i) a sole proprietor;
- 351 (ii) a partner in a partnership; or
- 352 (iii) an independent contractor.
- 353 (c) "Eligible employee" does not include, unless eligible under Subsection (50)(b):
- 354 (i) an individual who works on a temporary or substitute basis for a small employer;
- 355 (ii) an employer's spouse; or
- 356 (iii) a dependent of an employer.
- 357 (51) "Employee" means an individual employed by an employer.
- 358 (52) "Employee benefits" means one or more benefits or services provided to:
- 359 (a) an employee; or
- 360 (b) a dependent of an employee.
- 361 (53) (a) "Employee welfare fund" means a fund:
- 362 (i) established or maintained, whether directly or through a trustee, by:
- 363 (A) one or more employers;
- 364 (B) one or more labor organizations; or
- 365 (C) a combination of employers and labor organizations; and
- 366 (ii) that provides employee benefits paid or contracted to be paid, other than income

367 from investments of the fund:

368 (A) by or on behalf of an employer doing business in this state; or

369 (B) for the benefit of a person employed in this state.

370 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax  
371 revenues.

372 (54) "Endorsement" means a written agreement attached to a policy or certificate to  
373 modify the policy or certificate coverage.

374 (55) "Enrollment date," with respect to a health benefit plan, means:

375 (a) the first day of coverage; or

376 (b) if there is a waiting period, the first day of the waiting period.

377 (56) (a) "Escrow" means:

378 (i) a real estate settlement or real estate closing conducted by a third party pursuant to  
379 the requirements of a written agreement between the parties in a real estate transaction; or

380 (ii) a settlement or closing involving:

381 (A) a mobile home;

382 (B) a grazing right;

383 (C) a water right; or

384 (D) other personal property authorized by the commissioner.

385 (b) "Escrow" includes the act of conducting a:

386 (i) real estate settlement; or

387 (ii) real estate closing.

388 (57) "Escrow agent" means:

389 (a) an insurance producer with:

390 (i) a title insurance line of authority; and

391 (ii) an escrow subline of authority; or

392 (b) a person defined as an escrow agent in Section 7-22-101.

393 (58) (a) "Excludes" is not exhaustive and does not mean that another thing is not also  
394 excluded.

395 (b) The items listed in a list using the term "excludes" are representative examples for  
396 use in interpretation of this title.

397 (59) "Exclusion" means for the purposes of accident and health insurance that an

398 insurer does not provide insurance coverage, for whatever reason, for one of the following:

- 399 (a) a specific physical condition;
- 400 (b) a specific medical procedure;
- 401 (c) a specific disease or disorder; or
- 402 (d) a specific prescription drug or class of prescription drugs.

403 (60) "Expense reimbursement insurance" means insurance:

404 (a) written to provide a payment for an expense relating to hospital confinement  
405 resulting from illness or injury; and

- 406 (b) written:
  - 407 (i) as a daily limit for a specific number of days in a hospital; and
  - 408 (ii) to have a one or two day waiting period following a hospitalization.

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

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

- 412 (i) submitted to the department as required by and in accordance with applicable  
413 statute, rule, or filing order;
- 414 (ii) received by the department within the time period provided in applicable statute,  
415 rule, or filing order; and

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

- 417 (A) Section 31A-3-103; or
- 418 (B) rule.

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

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

- 423 (a) a policy;
- 424 (b) a rate;
- 425 (c) a form;
- 426 (d) a document;
- 427 (e) a plan;
- 428 (f) a manual;

429 (g) an application;

430 (h) a report;

431 (i) a certificate;

432 (j) an endorsement;

433 (k) an actuarial certification;

434 (l) a licensee annual statement;

435 (m) a licensee renewal application;

436 (n) an advertisement; or

437 (o) an outline of coverage.

438 (64) "First party insurance" means an insurance policy or contract in which the insurer  
439 agrees to pay a claim submitted to it by the insured for the insured's losses.

440 (65) "Foreign insurer" means an insurer domiciled outside of this state, including an  
441 alien insurer.

442 (66) (a) "Form" means one of the following prepared for general use:

443 (i) a policy;

444 (ii) a certificate;

445 (iii) an application;

446 (iv) an outline of coverage; or

447 (v) an endorsement.

448 (b) "Form" does not include a document specially prepared for use in an individual  
449 case.

450 (67) "Franchise insurance" means an individual insurance policy provided through a  
451 mass marketing arrangement involving a defined class of persons related in some way other  
452 than through the purchase of insurance.

453 (68) "General lines of authority" include:

454 (a) the general lines of insurance in Subsection (69);

455 (b) title insurance under one of the following sublines of authority:

456 (i) search, including authority to act as a title marketing representative;

457 (ii) escrow, including authority to act as a title marketing representative; and

458 (iii) title marketing representative only;

459 (c) surplus lines;

- 460 (d) workers' compensation; and  
461 (e) any other line of insurance that the commissioner considers necessary to recognize  
462 in the public interest.
- 463 (69) "General lines of insurance" include:  
464 (a) accident and health;  
465 (b) casualty;  
466 (c) life;  
467 (d) personal lines;  
468 (e) property; and  
469 (f) variable contracts, including variable life and annuity.
- 470 (70) "Group health plan" means an employee welfare benefit plan to the extent that the  
471 plan provides medical care:  
472 (a) (i) to an employee; or  
473 (ii) to a dependent of an employee; and  
474 (b) (i) directly;  
475 (ii) through insurance reimbursement; or  
476 (iii) through another method.
- 477 (71) (a) "Group insurance policy" means a policy covering a group of persons that is  
478 issued:  
479 (i) to a policyholder on behalf of the group; and  
480 (ii) for the benefit of a member of the group who is selected under a procedure defined  
481 in:  
482 (A) the policy; or  
483 (B) an agreement that is collateral to the policy.
- 484 (b) A group insurance policy may include a member of the policyholder's family or a  
485 dependent.
- 486 (72) "Guaranteed automobile protection insurance" means insurance offered in  
487 connection with an extension of credit that pays the difference in amount between the  
488 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 489 (73) (a) Except as provided in Subsection (73)(b), "health benefit plan" means a policy  
490 or certificate that:



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

- 522 (ii) short-term accident;
- 523 (iii) fixed indemnity;
- 524 (iv) credit accident and health;
- 525 (v) supplements to liability;
- 526 (vi) workers' compensation;
- 527 (vii) automobile medical payment;
- 528 (viii) no-fault automobile;
- 529 (ix) equivalent self-insurance; or
- 530 (x) a type of accident and health insurance coverage that is a part of or attached to
- 531 another type of policy.

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

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

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

538 (79) "Independently procured insurance" means insurance procured under Section  
539 31A-15-104.

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

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

- 542 (a) property in transit on or over land;
- 543 (b) property in transit over water by means other than boat or ship;
- 544 (c) bailee liability;
- 545 (d) fixed transportation property such as bridges, electric transmission systems, radio
- 546 and television transmission towers and tunnels; and
- 547 (e) personal and commercial property floaters.

548 (82) "Insolvency" means that:

- 549 (a) an insurer is unable to pay its debts or meet its obligations as the debts and
- 550 obligations mature;
- 551 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
- 552 RBC under Subsection 31A-17-601(8)(c); or

- 553 (c) an insurer is determined to be hazardous under this title.
- 554 (83) (a) "Insurance" means:
- 555 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
- 556 persons to one or more other persons; or
- 557 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
- 558 group of persons that includes the person seeking to distribute that person's risk.
- 559 (b) "Insurance" includes:
- 560 (i) a risk distributing arrangement providing for compensation or replacement for
- 561 damages or loss through the provision of a service or a benefit in kind;
- 562 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
- 563 business and not as merely incidental to a business transaction; and
- 564 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
- 565 but with a class of persons who have agreed to share the risk.
- 566 (84) "Insurance adjuster" means a person who directs the investigation, negotiation, or
- 567 settlement of a claim under an insurance policy other than life insurance or an annuity, on
- 568 behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 569 (85) "Insurance business" or "business of insurance" includes:
- 570 (a) providing health care insurance by an organization that is or is required to be
- 571 licensed under this title;
- 572 (b) providing a benefit to an employee in the event of a contingency not within the
- 573 control of the employee, in which the employee is entitled to the benefit as a right, which
- 574 benefit may be provided either:
- 575 (i) by a single employer or by multiple employer groups; or
- 576 (ii) through one or more trusts, associations, or other entities;
- 577 (c) providing an annuity:
- 578 (i) including an annuity issued in return for a gift; and
- 579 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
- 580 and (3);
- 581 (d) providing the characteristic services of a motor club as outlined in Subsection
- 582 (113);
- 583 (e) providing another person with insurance;

584 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,  
585 or surety, a contract or policy of title insurance;

586 (g) transacting or proposing to transact any phase of title insurance, including:

587 (i) solicitation;

588 (ii) negotiation preliminary to execution;

589 (iii) execution of a contract of title insurance;

590 (iv) insuring; [~~and~~]

591 (v) transacting matters subsequent to the execution of the contract and arising out of

592 the contract, including reinsurance; and

593 (vi) transacting or proposing a life settlement; and

594 (h) doing, or proposing to do, any business in substance equivalent to Subsections

595 (85)(a) through (g) in a manner designed to evade this title.

596 (86) "Insurance consultant" or "consultant" means a person who:

597 (a) advises another person about insurance needs and coverages;

598 (b) is compensated by the person advised on a basis not directly related to the insurance  
599 placed; and

600 (c) except as provided in Section 31A-23a-501, is not compensated directly or  
601 indirectly by an insurer or producer for advice given.

602 (87) "Insurance holding company system" means a group of two or more affiliated  
603 persons, at least one of whom is an insurer.

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

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

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

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

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

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

614 (89) (a) "Insured" means a person to whom or for whose benefit an insurer makes a

615 promise in an insurance policy and includes:

616 (i) a policyholder;

617 (ii) a subscriber;

618 (iii) a member; and

619 (iv) a beneficiary.

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

621 (i) applies only to this title; and

622 (ii) does not define the meaning of this word as used in an insurance policy or

623 certificate.

624 (90) (a) "Insurer" means a person doing an insurance business as a principal including:

625 (i) a fraternal benefit society;

626 (ii) an issuer of a gift annuity other than an annuity specified in Subsections

627 31A-22-1305(2) and (3);

628 (iii) a motor club;

629 (iv) an employee welfare plan; and

630 (v) a person purporting or intending to do an insurance business as a principal on that

631 person's own account.

632 (b) "Insurer" does not include a governmental entity to the extent the governmental

633 entity is engaged in an activity described in Section 31A-12-107.

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

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

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

637 (b) that provides indemnity if the debtor is involuntarily unemployed for payments

638 coming due on a:

639 (i) specific loan; or

640 (ii) credit transaction.

641 (93) "Large employer," in connection with a health benefit plan, means an employer

642 who, with respect to a calendar year and to a plan year:

643 (a) employed an average of at least 51 eligible employees on each business day during

644 the preceding calendar year; and

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

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

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

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

652 (b) through special enrollment.

653 (96) (a) Except for a retainer contract or legal assistance described in Section  
654 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a  
655 specified legal expense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

677 (B) water entering through a leak or opening in a building; or  
678 (v) for other loss or damage properly the subject of insurance not within another kind  
679 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

680 (b) "Liability insurance" includes:

681 (i) vehicle liability insurance;

682 (ii) residential dwelling liability insurance; and

683 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,  
684 boiler, machinery, or apparatus of any kind when done in connection with insurance on the  
685 elevator, boiler, machinery, or apparatus.

686 (98) (a) "License" means authorization issued by the commissioner to engage in an  
687 activity that is part of or related to the insurance business.

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

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

690 (i) insurance on a human life; and

691 (ii) insurance pertaining to or connected with human life.

692 (b) The business of life insurance includes:

693 (i) granting a death benefit;

694 (ii) granting an annuity benefit;

695 (iii) granting an endowment benefit;

696 (iv) granting an additional benefit in the event of death by accident;

697 (v) granting an additional benefit to safeguard the policy against lapse; and

698 (vi) providing an optional method of settlement of proceeds.

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

700 (a) is issued for a specific product of insurance; and

701 (b) limits an individual or agency to transact only for that product or insurance.

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

703 (a) credit life;

704 (b) credit accident and health;

705 (c) credit property;

706 (d) credit unemployment;

707 (e) involuntary unemployment;

- 708 (f) mortgage life;
- 709 (g) mortgage guaranty;
- 710 (h) mortgage accident and health;
- 711 (i) guaranteed automobile protection; and
- 712 (j) another form of insurance offered in connection with an extension of credit that:
- 713 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 714 (ii) the commissioner determines by rule should be designated as a form of limited line
- 715 credit insurance.

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

719 (103) "Limited line insurance" includes:

- 720 (a) bail bond;
- 721 (b) limited line credit insurance;
- 722 (c) legal expense insurance;
- 723 (d) motor club insurance;
- 724 (e) rental car-related insurance;
- 725 (f) travel insurance;
- 726 (g) crop insurance;
- 727 (h) self-service storage insurance; and
- 728 (i) another form of limited insurance that the commissioner determines by rule should
- 729 be designated a form of limited line insurance.

730 (104) "Limited lines authority" includes:

- 731 (a) the lines of insurance listed in Subsection (103); and
- 732 (b) a customer service representative.

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

735 (106) (a) "Long-term care insurance" means an insurance policy or rider advertised,  
736 marketed, offered, or designated to provide coverage:

- 737 (i) in a setting other than an acute care unit of a hospital;
- 738 (ii) for not less than 12 consecutive months for a covered person on the basis of:



- 739 (A) expenses incurred;
- 740 (B) indemnity;
- 741 (C) prepayment; or
- 742 (D) another method;
- 743 (iii) for one or more necessary or medically necessary services that are:
- 744 (A) diagnostic;
- 745 (B) preventative;
- 746 (C) therapeutic;
- 747 (D) rehabilitative;
- 748 (E) maintenance; or
- 749 (F) personal care; and
- 750 (iv) that may be issued by:
- 751 (A) an insurer;
- 752 (B) a fraternal benefit society;
- 753 (C) (I) a nonprofit health hospital; and
- 754 (II) a medical service corporation;
- 755 (D) a prepaid health plan;
- 756 (E) a health maintenance organization; or
- 757 (F) an entity similar to the entities described in Subsections (106)(a)(iv)(A) through (E)
- 758 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 759 (b) "Long-term care insurance" includes:
- 760 (i) any of the following that provide directly or supplement long-term care insurance:
- 761 (A) a group or individual annuity or rider; or
- 762 (B) a life insurance policy or rider;
- 763 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 764 (A) cognitive impairment; or
- 765 (B) functional capacity; or
- 766 (iii) a qualified long-term care insurance contract.
- 767 (c) "Long-term care insurance" does not include:
- 768 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 769 (ii) basic hospital expense coverage;

- 770 (iii) basic medical/surgical expense coverage;
- 771 (iv) hospital confinement indemnity coverage;
- 772 (v) major medical expense coverage;
- 773 (vi) income replacement or related asset-protection coverage;
- 774 (vii) accident only coverage;
- 775 (viii) coverage for a specified:
  - 776 (A) disease; or
  - 777 (B) accident;
- 778 (ix) limited benefit health coverage; or
- 779 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 780 lump sum payment:
  - 781 (A) if the following are not conditioned on the receipt of long-term care:
    - 782 (I) benefits; or
    - 783 (II) eligibility; and
  - 784 (B) the coverage is for one or more the following qualifying events:
    - 785 (I) terminal illness;
    - 786 (II) medical conditions requiring extraordinary medical intervention; or
    - 787 (III) permanent institutional confinement.
- 788 (107) "Medical malpractice insurance" means insurance against legal liability incident
- 789 to the practice and provision of a medical service other than the practice and provision of a
- 790 dental service.
- 791 (108) "Member" means a person having membership rights in an insurance
- 792 corporation.
- 793 (109) "Minimum capital" or "minimum required capital" means the capital that must be
- 794 constantly maintained by a stock insurance corporation as required by statute.
- 795 (110) "Mortgage accident and health insurance" means insurance offered in connection
- 796 with an extension of credit that provides indemnity for payments coming due on a mortgage
- 797 while the debtor is disabled.
- 798 (111) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
- 799 or other creditor is indemnified against losses caused by the default of a debtor.
- 800 (112) "Mortgage life insurance" means insurance on the life of a debtor in connection

801 with an extension of credit that pays if the debtor dies.

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

803 (a) licensed under:

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

805 (ii) Chapter 11, Motor Clubs; or

806 (iii) Chapter 14, Foreign Insurers; and

807 (b) that promises for an advance consideration to provide for a stated period of time

808 one or more:

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

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

811 (iii) (A) trip reimbursement;

812 (B) towing services;

813 (C) emergency road services;

814 (D) stolen automobile services;

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

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

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

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

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

820 (b) under which the financing and delivery of medical care is provided, in whole or in

821 part, through a defined set of providers under contract with the insurer, including the financing

822 and delivery of an item paid for as medical care.

823 (116) "Nonparticipating" means a plan of insurance under which the insured is not

824 entitled to receive a dividend representing a share of the surplus of the insurer.

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

826 (a) ships or hulls of ships;

827 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys,

828 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia

829 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

830 (c) earnings such as freight, passage money, commissions, or profits derived from

831 transporting goods or people upon or across the oceans or inland waterways; or

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

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

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

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

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

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

845 (b) receives:

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

848 (ii) another government health benefit.

849 (122) "Person" includes:

850 (a) an individual;

851 (b) a partnership;

852 (c) a corporation;

853 (d) an incorporated or unincorporated association;

854 (e) a joint stock company;

855 (f) a trust;

856 (g) a limited liability company;

857 (h) a reciprocal;

858 (i) a syndicate; or

859 (j) another similar entity or combination of entities acting in concert.

860 (123) "Personal lines insurance" means property and casualty insurance coverage sold  
861 for primarily noncommercial purposes to:

862 (a) an individual; or

- 863 (b) a family.
- 864 (124) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 865 (125) "Plan year" means:
- 866 (a) the year that is designated as the plan year in:
- 867 (i) the plan document of a group health plan; or
- 868 (ii) a summary plan description of a group health plan;
- 869 (b) if the plan document or summary plan description does not designate a plan year or
- 870 there is no plan document or summary plan description:
- 871 (i) the year used to determine deductibles or limits;
- 872 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 873 or
- 874 (iii) the employer's taxable year if:
- 875 (A) the plan does not impose deductibles or limits on a yearly basis; and
- 876 (B) (I) the plan is not insured; or
- 877 (II) the insurance policy is not renewed on an annual basis; or
- 878 (c) in a case not described in Subsection (125)(a) or (b), the calendar year.
- 879 (126) (a) "Policy" means a document, including ~~any~~ an attached endorsement or
- 880 application that:
- 881 (i) purports to be an enforceable contract; and
- 882 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 883 (b) "Policy" includes a service contract issued by:
- 884 (i) a motor club under Chapter 11, Motor Clubs;
- 885 (ii) a service contract provided under Chapter 6a, Service Contracts; and
- 886 (iii) a corporation licensed under:
- 887 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 888 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 889 (c) "Policy" does not include:
- 890 (i) a certificate under a group insurance contract; or
- 891 (ii) a document that does not purport to have legal effect.
- 892 (127) "Policyholder" means a person who controls a policy, binder, or oral contract by
- 893 ownership, premium payment, or otherwise.

894 (128) "Policy illustration" means a presentation or depiction that includes  
895 nonguaranteed elements of a policy of life insurance over a period of years.

896 (129) "Policy summary" means a synopsis describing the elements of a life insurance  
897 policy.

898 (130) "Preexisting condition," with respect to a health benefit plan:

899 (a) means a condition that was present before the effective date of coverage, whether or  
900 not medical advice, diagnosis, care, or treatment was recommended or received before that day;  
901 and

902 (b) does not include a condition indicated by genetic information unless an actual  
903 diagnosis of the condition by a physician has been made.

904 (131) (a) "Premium" means the monetary consideration for an insurance policy.

905 (b) "Premium" includes, however designated:

906 (i) an assessment;

907 (ii) a membership fee;

908 (iii) a required contribution; or

909 (iv) monetary consideration.

910 (c) (i) "Premium" does not include consideration paid to a third party administrator for  
911 the third party administrator's services.

912 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for  
913 insurance on the risks administered by the third party administrator.

914 (132) "Principal officers" for a corporation means the officers designated under  
915 Subsection 31A-5-203(3).

916 (133) "Proceeding" includes an action or special statutory proceeding.

917 (134) "Professional liability insurance" means insurance against legal liability incident  
918 to the practice of a profession and provision of a professional service.

919 (135) (a) Except as provided in Subsection (135)(b), "property insurance" means  
920 insurance against loss or damage to real or personal property of every kind and any interest in  
921 that property:

922 (i) from all hazards or causes; and

923 (ii) against loss consequential upon the loss or damage including vehicle  
924 comprehensive and vehicle physical damage coverages.

- 925 (b) "Property insurance" does not include:
- 926 (i) inland marine insurance; and
- 927 (ii) ocean marine insurance.
- 928 (136) "Qualified long-term care insurance contract" or "federally tax qualified
- 929 long-term care insurance contract" means:
- 930 (a) an individual or group insurance contract that meets the requirements of Section
- 931 7702B(b), Internal Revenue Code; or
- 932 (b) the portion of a life insurance contract that provides long-term care insurance:
- 933 (i) (A) by rider; or
- 934 (B) as a part of the contract; and
- 935 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
- 936 Code.
- 937 (137) "Qualified United States financial institution" means an institution that:
- 938 (a) is:
- 939 (i) organized under the laws of the United States or any state; or
- 940 (ii) in the case of a United States office of a foreign banking organization, licensed
- 941 under the laws of the United States or any state;
- 942 (b) is regulated, supervised, and examined by a United States federal or state authority
- 943 having regulatory authority over a bank or trust company; and
- 944 (c) meets the standards of financial condition and standing that are considered
- 945 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
- 946 will be acceptable to the commissioner as determined by:
- 947 (i) the commissioner by rule; or
- 948 (ii) the Securities Valuation Office of the National Association of Insurance
- 949 Commissioners.
- 950 (138) (a) "Rate" means:
- 951 (i) the cost of a given unit of insurance; or
- 952 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
- 953 expressed as:
- 954 (A) a single number; or
- 955 (B) a pure premium rate, adjusted before the application of individual risk variations

956 based on loss or expense considerations to account for the treatment of:

957 (I) expenses;

958 (II) profit; and

959 (III) individual insurer variation in loss experience.

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

961 (139) (a) Except as provided in Subsection (139)(b), "rate service organization" means

962 a person who assists an insurer in rate making or filing by:

963 (i) collecting, compiling, and furnishing loss or expense statistics;

964 (ii) recommending, making, or filing rates or supplementary rate information; or

965 (iii) advising about rate questions, except as an attorney giving legal advice.

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

967 (i) an employee of an insurer;

968 (ii) a single insurer or group of insurers under common control;

969 (iii) a joint underwriting group; or

970 (iv) an individual serving as an actuarial or legal consultant.

971 (140) "Rating manual" means any of the following used to determine initial and

972 renewal policy premiums:

973 (a) a manual of rates;

974 (b) a classification;

975 (c) a rate-related underwriting rule; and

976 (d) a rating formula that describes steps, policies, and procedures for determining

977 initial and renewal policy premiums.

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

979 (a) the date delivered to and stamped received by the department, if delivered in

980 person;

981 (b) the post mark date, if delivered by mail;

982 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;

983 (d) the received date recorded on an item delivered, if delivered by:

984 (i) facsimile;

985 (ii) email; or

986 (iii) another electronic method; or



987 (e) a date specified in:

988 (i) a statute;

989 (ii) a rule; or

990 (iii) an order.

991 (142) "Reciprocal" or "interinsurance exchange" means an unincorporated association  
992 of persons:

993 (a) operating through an attorney-in-fact common to all of the persons; and

994 (b) exchanging insurance contracts with one another that provide insurance coverage  
995 on each other.

996 (143) "Reinsurance" means an insurance transaction where an insurer, for  
997 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to  
998 reinsurance transactions, this title sometimes refers to:

999 (a) the insurer transferring the risk as the "ceding insurer"; and

1000 (b) the insurer assuming the risk as the:

1001 (i) "assuming insurer"; or

1002 (ii) "assuming reinsurer."

1003 (144) "Reinsurer" means a person licensed in this state as an insurer with the authority  
1004 to assume reinsurance.

1005 (145) "Residential dwelling liability insurance" means insurance against liability  
1006 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is  
1007 a detached single family residence or multifamily residence up to four units.

1008 (146) (a) "Retrocession" means reinsurance with another insurer of a liability assumed  
1009 under a reinsurance contract.

1010 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a  
1011 liability assumed under a reinsurance contract.

1012 (147) "Rider" means an endorsement to:

1013 (a) an insurance policy; or

1014 (b) an insurance certificate.

1015 (148) (a) "Security" means a:

1016 (i) note;

1017 (ii) stock;

- 1018 (iii) bond;
- 1019 (iv) debenture;
- 1020 (v) evidence of indebtedness;
- 1021 (vi) certificate of interest or participation in a profit-sharing agreement;
- 1022 (vii) collateral-trust certificate;
- 1023 (viii) preorganization certificate or subscription;
- 1024 (ix) transferable share;
- 1025 (x) investment contract;
- 1026 (xi) voting trust certificate;
- 1027 (xii) certificate of deposit for a security;
- 1028 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1029 payments out of production under such a title or lease;
- 1030 (xiv) commodity contract or commodity option;
- 1031 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1032 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1033 in Subsections (148)(a)(i) through (xiv); or
- 1034 (xvi) another interest or instrument commonly known as a security.
- 1035 (b) "Security" does not include:
- 1036 (i) any of the following under which an insurance company promises to pay money in a
- 1037 specific lump sum or periodically for life or some other specified period:
- 1038 (A) insurance;
- 1039 (B) an endowment policy; or
- 1040 (C) an annuity contract; or
- 1041 (ii) a burial certificate or burial contract.
- 1042 (149) "Secondary medical condition" means a complication related to an exclusion
- 1043 from coverage in accident and health insurance.
- 1044 (150) "Self-insurance" means an arrangement under which a person provides for
- 1045 spreading its own risks by a systematic plan.
- 1046 (a) Except as provided in this Subsection (150), "self-insurance" does not include an
- 1047 arrangement under which a number of persons spread their risks among themselves.
- 1048 (b) "Self-insurance" includes:

- 1049 (i) an arrangement by which a governmental entity undertakes to indemnify an  
1050 employee for liability arising out of the employee's employment; and
- 1051 (ii) an arrangement by which a person with a managed program of self-insurance and  
1052 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or  
1053 employees for liability or risk that is related to the relationship or employment.
- 1054 (c) "Self-insurance" does not include an arrangement with an independent contractor.
- 1055 (151) "Sell" means to exchange a contract of insurance:
- 1056 (a) by any means;
- 1057 (b) for money or its equivalent; and
- 1058 (c) on behalf of an insurance company.
- 1059 (152) "Short-term care insurance" means an insurance policy or rider advertised,  
1060 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,  
1061 but that provides coverage for less than 12 consecutive months for each covered person.
- 1062 (153) "Significant break in coverage" means a period of 63 consecutive days during  
1063 each of which an individual does not have creditable coverage.
- 1064 (154) "Small employer," in connection with a health benefit plan, means an employer  
1065 who, with respect to a calendar year and to a plan year:
- 1066 (a) employed an average of at least two employees but not more than 50 eligible  
1067 employees on each business day during the preceding calendar year; and
- 1068 (b) employs at least two employees on the first day of the plan year.
- 1069 (155) "Special enrollment period," in connection with a health benefit plan, has the  
1070 same meaning as provided in federal regulations adopted pursuant to the Health Insurance  
1071 Portability and Accountability Act of 1996, Pub. L. [~~No.~~] 104-191, 110 Stat. 1936.
- 1072 (156) (a) "Subsidiary" of a person means an affiliate controlled by that person either  
1073 directly or indirectly through one or more affiliates or intermediaries.
- 1074 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting  
1075 shares are owned by that person either alone or with its affiliates, except for the minimum  
1076 number of shares the law of the subsidiary's domicile requires to be owned by directors or  
1077 others.
- 1078 (157) Subject to Subsection (83)(b), "surety insurance" includes:
- 1079 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or

1080 perform the principal's obligations to a creditor or other obligee;

1081 (b) bail bond insurance; and

1082 (c) fidelity insurance.

1083 (158) (a) "Surplus" means the excess of assets over the sum of paid-in capital and  
1084 liabilities.

1085 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that is designated by  
1086 the insurer as permanent.

1087 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require  
1088 that mutuals doing business in this state maintain specified minimum levels of permanent  
1089 surplus.

1090 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the  
1091 same as the minimum required capital requirement that applies to stock insurers.

1092 (c) "Excess surplus" means:

1093 (i) for a life insurer, accident and health insurer, health organization, or property and  
1094 casualty insurer as defined in Section 31A-17-601, the lesser of:

1095 (A) that amount of an insurer's or health organization's total adjusted capital that  
1096 exceeds the product of:

1097 (I) 2.5; and

1098 (II) the sum of the insurer's or health organization's minimum capital or permanent  
1099 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1100 (B) that amount of an insurer's or health organization's total adjusted capital that  
1101 exceeds the product of:

1102 (I) 3.0; and

1103 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1104 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer  
1105 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1106 (A) 1.5; and

1107 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1108 (159) "Third party administrator" or "administrator" means a person who collects  
1109 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of  
1110 the state in connection with insurance coverage, annuities, or service insurance coverage,

1111 except:

1112 (a) a union on behalf of its members;

1113 (b) a person administering a:

1114 (i) pension plan subject to the federal Employee Retirement Income Security Act of

1115 1974;

1116 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1117 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1118 (c) an employer on behalf of the employer's employees or the employees of one or

1119 more of the subsidiary or affiliated corporations of the employer;

1120 (d) an insurer licensed under Chapter 5, 7, 8, 9, or 14, but only for a line of insurance

1121 for which the insurer holds a license in this state; or

1122 (e) a person:

1123 (i) licensed or exempt from licensing under:

1124 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

1125 Reinsurance Intermediaries; or

1126 (B) Chapter 26, Insurance Adjusters; and

1127 (ii) whose activities are limited to those authorized under the license the person holds

1128 or for which the person is exempt.

1129 (160) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner

1130 of real or personal property or the holder of liens or encumbrances on that property, or others

1131 interested in the property against loss or damage suffered by reason of liens or encumbrances

1132 upon, defects in, or the unmarketability of the title to the property, or invalidity or

1133 unenforceability of any liens or encumbrances on the property.

1134 (161) "Total adjusted capital" means the sum of an insurer's or health organization's

1135 statutory capital and surplus as determined in accordance with:

1136 (a) the statutory accounting applicable to the annual financial statements required to be

1137 filed under Section 31A-4-113; and

1138 (b) another item provided by the RBC instructions, as RBC instructions is defined in

1139 Section 31A-17-601.

1140 (162) (a) "Trustee" means "director" when referring to the board of directors of a

1141 corporation.

1142 (b) "Trustee," when used in reference to an employee welfare fund, means an  
1143 individual, firm, association, organization, joint stock company, or corporation, whether acting  
1144 individually or jointly and whether designated by that name or any other, that is charged with  
1145 or has the overall management of an employee welfare fund.

1146 (163) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"  
1147 means an insurer:

1148 (i) not holding a valid certificate of authority to do an insurance business in this state;  
1149 or

1150 (ii) transacting business not authorized by a valid certificate.

1151 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1152 (i) holding a valid certificate of authority to do an insurance business in this state; and

1153 (ii) transacting business as authorized by a valid certificate.

1154 (164) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

1155 (165) "Vehicle liability insurance" means insurance against liability resulting from or  
1156 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle  
1157 comprehensive or vehicle physical damage coverage under Subsection (135).

1158 (166) "Voting security" means a security with voting rights, and includes a security  
1159 convertible into a security with a voting right associated with the security.

1160 (167) "Waiting period" for a health benefit plan means the period that must pass before  
1161 coverage for an individual, who is otherwise eligible to enroll under the terms of the health  
1162 benefit plan, can become effective.

1163 (168) "Workers' compensation insurance" means:

1164 (a) insurance for indemnification of an employer against liability for compensation  
1165 based on:

1166 (i) a compensable accidental injury; and

1167 (ii) occupational disease disability;

1168 (b) employer's liability insurance incidental to workers' compensation insurance and  
1169 written in connection with workers' compensation insurance; and

1170 (c) insurance assuring to a person entitled to workers' compensation benefits the  
1171 compensation provided by law.

1172 Section 2. Section **31A-2-403** is amended to read:

1173 **31A-2-403. Title and Escrow Commission created.**

1174 (1) (a) Subject to Subsection (1)(b), there is created within the department the Title and  
1175 Escrow Commission that is comprised of five members appointed by the governor with the  
1176 consent of the Senate as follows:

1177 (i) four members shall each:

1178 (A) be or have been licensed under the title insurance line of authority; [~~and~~]

1179 (B) as of the day on which the member is appointed, be or have been licensed with the  
1180 search or escrow subline of authority for at least five years; and

1181 (C) as of the day on which the member is appointed, not be from the same county as  
1182 another member appointed under this Subsection (1)(a)(i); and

1183 (ii) one member shall be a member of the general public from any county in the state.

1184 (b) No more than one commission member may be appointed from a single company.

1185 (2) (a) Subject to Subsection (2)(c), a [~~member of the~~] commission member shall file  
1186 with the [~~department~~] commissioner a disclosure of any position of employment or ownership  
1187 interest that the [~~member of the~~] commission member has with respect to a person that is  
1188 subject to the jurisdiction of the [~~department~~] commissioner.

1189 (b) The disclosure statement required by this Subsection (2) shall be:

1190 (i) filed by no later than the day on which the person begins that person's appointment;  
1191 and

1192 (ii) amended when a significant change occurs in any matter required to be disclosed  
1193 under this Subsection (2).

1194 (c) A [~~member of the~~] commission member is not required to disclose an ownership  
1195 interest that the [~~member of the~~] commission member has if the ownership interest is held as  
1196 part of a mutual fund, trust, or similar investment.

1197 (3) (a) Except as required by Subsection (3)(b), as terms of current commission  
1198 members expire, the governor shall appoint each new commission member to a four-year term  
1199 ending on June 30.

1200 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
1201 time of appointment, adjust the length of terms to ensure that the terms of the commission  
1202 members are staggered so that approximately half of the commission is appointed every two  
1203 years.

- 1204 (c) A commission member may not serve more than one consecutive term.
- 1205 (d) When a vacancy occurs in the membership for any reason, the governor, with the  
1206 consent of the Senate, shall appoint a replacement for the unexpired term.
- 1207 (e) Notwithstanding the other provisions of this Subsection (3), a commission member  
1208 serves until a successor is appointed by the governor with the consent of the Senate.
- 1209 (4) (a) A [~~member of the~~] commission member may not receive compensation or  
1210 benefits for the commission member's services, but may receive per diem and expenses  
1211 incurred in the performance of the commission member's official duties at the rates established  
1212 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 1213 (b) A commission member may decline to receive per diem and expenses for the  
1214 commission member's service.
- 1215 (5) Members of the commission shall annually select one commission member to serve  
1216 as chair.
- 1217 (6) (a) The commission shall meet at least monthly.
- 1218 (b) The commissioner may call additional meetings:
- 1219 (i) at the commissioner's discretion;
- 1220 (ii) upon the request of the chair of the commission; or
- 1221 (iii) upon the written request of three or more commission members.
- 1222 (c) (i) Three [~~members of the~~] commission members constitute a quorum for the  
1223 transaction of business.
- 1224 (ii) The action of a majority of the commission members when a quorum is present is  
1225 the action of the commission.
- 1226 (7) The [~~department~~] commissioner shall staff the commission.
- 1227 Section 3. Section **31A-2-404** is amended to read:
- 1228 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**
- 1229 (1) Notwithstanding the other provisions of this chapter, to the extent provided in this  
1230 part, the commissioner shall administer and enforce the provisions in this title related to:
- 1231 (a) title insurance; and
- 1232 (b) escrow conducted by a title licensee or title insurer.
- 1233 (2) The commission shall:
- 1234 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and



1235 subject to Subsection (3), make rules for the administration of the provisions in this title related  
1236 to title insurance including rules related to:

1237 (i) rating standards and rating methods for a title [~~agencies and producers~~] licensee, as  
1238 provided in Section 31A-19a-209;

1239 (ii) the licensing for a title licensee, including the licensing requirements of Sections  
1240 31A-23a-203 and 31A-23a-204;

1241 (iii) continuing education requirements of Section 31A-23a-202;

1242 (iv) examination procedures, after consultation with the [~~department~~] commissioner  
1243 and the [~~department's~~] commissioner's test administrator when required by Section  
1244 31A-23a-204; and

1245 (v) standards of conduct for a title licensee;

1246 (b) concur in the issuance and renewal of [~~licenses~~] a license in accordance with  
1247 Section 31A-23a-105 or 31A-26-203;

1248 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the  
1249 [~~department~~] commissioner, [~~and~~] the fees imposed by this title on a title licensee;

1250 (d) in accordance with Section 31A-23a-415 determine, after consulting with the  
1251 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

1252 (e) conduct [~~and~~] an administrative [~~hearings~~] hearing not delegated by the commission  
1253 to an administrative law judge related to the:

1254 (i) licensing of [~~any~~] an applicant;

1255 (ii) conduct of [~~any~~] a title licensee; or

1256 (iii) approval of a continuing education [~~programs~~] program required by Section  
1257 31A-23a-202;

1258 [~~(f) with the concurrence of the commissioner, approve assets that can be included in a~~  
1259 ~~reserve fund required by Section 31A-23a-204;~~]

1260 [~~(g)~~] (f) with the concurrence of the commissioner, approve a continuing education  
1261 [~~programs~~] program required by Section 31A-23a-202;

1262 [~~(h)~~] (g) with the concurrence of the commissioner, impose [~~penalties~~] a penalty:

1263 (i) under this title related to:

1264 (A) title insurance; or

1265 (B) escrow conducted by a title licensee;

1266 (ii) after investigation by the [~~department~~] commissioner in accordance with Part 3,  
1267 Procedures and Enforcement; and

1268 (iii) that [~~are~~] is enforced by the commissioner;

1269 [~~(f)~~] (h) advise the commissioner on the administration and enforcement of any  
1270 [~~matters~~] matter affecting the title insurance industry;

1271 [~~(f)~~] (i) advise the commissioner on matters affecting the [~~department's~~]  
1272 commissioner's budget related to title insurance; and

1273 [~~(k)~~] (j) perform other duties as provided in this title.

1274 (3) The commission may make a rule under this title only if at the time the commission  
1275 files its proposed rule and rule analysis with the Division of Administrative Rules in  
1276 accordance with Section 63G-3-301, the commission provides the Real Estate Commission that  
1277 same information.

1278 (4) (a) The commissioner shall annually report the information described in Subsection  
1279 (4)(b) in writing to:

1280 (i) the commission; and

1281 (ii) the Business and Labor Interim Committee.

1282 (b) The information required to be reported under this Subsection (4):

1283 (i) may not identify a person; and

1284 (ii) shall include:

1285 (A) the number of complaints the [~~department~~] commissioner receives with regard to  
1286 transactions involving title insurance or a title licensee during the calendar year immediately  
1287 proceeding the report;

1288 (B) the type of complaints described in Subsection (4)(b)(ii)(A); and

1289 (C) for each complaint described in Subsection (4)(b)(ii)(A):

1290 (I) any action taken by the [~~department~~] commissioner with regard to the complaint;

1291 and

1292 (II) the time-period beginning the day on which a complaint is made and ending the  
1293 day on which the [~~department~~] commissioner determines it will take no further action with  
1294 regard to the complaint.

1295 Section 4. Section **31A-3-103** is amended to read:

1296 **31A-3-103. Fees.**

1297 (1) For purposes of this section~~[(a) "Services"]~~, "services" means functions that are  
1298 reasonable and necessary to enable the commissioner to perform the duties imposed by this title  
1299 including:

1300 ~~[(i) (a) issuing [and] or renewing [licenses and certificates]~~ a license or certificate of  
1301 authority;

1302 ~~[(ii) (b) filing a policy [forms]~~ form;

1303 ~~[(iii) (c) reporting [agent appointments and terminations]~~ a producer appointment or  
1304 termination; and

1305 ~~[(iv) (d) filing an annual [statements]~~ statement.

1306 (2) Except as otherwise provided by this title:

1307 (a) the commissioner may set and collect a fee for services provided by the  
1308 commissioner;

1309 (b) ~~[Fees]~~ a fee related to the renewal of ~~[licenses]~~ a license may be imposed no more  
1310 frequently than once each year~~[-]; and~~

1311 ~~[(2) A] (c) a fee charged by the [department] commissioner~~ shall be set in accordance  
1312 with Section 63J-1-504.

1313 (3) ~~[(a) A fee approved by the Legislature]~~ Except as otherwise provided in this title, a  
1314 fee established pursuant to this section shall be deposited into the General Fund for  
1315 appropriation by the Legislature.

1316 ~~[(b) A fee approved pursuant to this section that relates to the use of electronic or other~~  
1317 ~~similar technology to provide the services of the department shall be deposited into the~~  
1318 ~~General Fund as a dedicated credit to be used by the department to provide services through~~  
1319 ~~use of electronic commerce or other similar technology.]~~

1320 (4) (a) The commissioner shall ~~[separately]~~ publish ~~[the]~~ a schedule of fees ~~[approved~~  
1321 ~~by the Legislature and make it available upon request for \$1 per copy. This fee schedule shall~~  
1322 ~~also be included in any compilation of rules promulgated by the commissioner]~~ established  
1323 pursuant to this section.

1324 ~~[(5) (b) The commissioner shall, by rule, establish the deadlines for payment of [any]~~  
1325 ~~a fee established [by the department in accordance with]~~ pursuant to this section.

1326 Section 5. Section **31A-3-104** is amended to read:

1327 **31A-3-104. Technology fees -- Restricted account.**

1328 (1) The ~~[department may charge]~~ commissioner may impose a fee for requests for  
1329 information:

- 1330 (a) that is obtained from an electronic database of the ~~[department]~~ commissioner; or  
1331 (b) derived from data that is generated by electronic means.

1332 (2) In addition to any fee authorized in this title, the ~~[department]~~ commissioner shall  
1333 impose a supplemental fee on the issuance or renewal of any of the following issued by the  
1334 department:

- 1335 (a) a license;  
1336 (b) a registration; or  
1337 (c) a certificate of authority.

1338 (3) A fee imposed under this section shall be:

- 1339 (a) established in accordance with ~~[Subsection 31A-3-103(3)]~~ Section 31A-3-103; and  
1340 (b) deposited into the ~~[General Fund as a dedicated credit in accordance with~~  
1341 Subsection 31A-3-103(3)] Technology Development Restricted Account.

1342 (4) (a) There is created in the General Fund a restricted account known as the  
1343 "Technology Development Restricted Account."

1344 (b) The Technology Development Restricted Account shall consist of the fees imposed  
1345 by the commissioner in accordance with this section.

1346 (c) The commissioner shall administer the Technology Development Restricted  
1347 Account. Subject to appropriations by the Legislature, the commissioner shall use the money  
1348 deposited into the Technology Development Restricted Account to provide services through  
1349 use of electronic commerce or other similar technology.

1350 (d) The money in the Technology Development Restricted Account is nonlapsing.

1351 Section 6. Section **31A-3-105** is enacted to read:

1352 **31A-3-105. Criminal Background Check Restricted Account.**

1353 (1) There is created in the General Fund a restricted account known as the "Criminal  
1354 Background Check Restricted Account."

1355 (2) The Criminal Background Check Restricted Account shall consist of the fees  
1356 imposed by the commissioner in accordance with:

- 1357 (a) Subsection 31A-16-103(3);  
1358 (b) Subsection 31A-23a-105(3);

1359 (c) Subsection 31A-25-203(3); and

1360 (d) Subsection 31A-26-203(3).

1361 (3) The commissioner shall administer the Criminal Background Check Restricted  
1362 Account. Subject to appropriations by the Legislature, the commissioner shall use the money  
1363 deposited into the Criminal Background Check Restricted Account to pay the costs the  
1364 department is required to pay related to obtaining criminal background information in  
1365 accordance with the provisions listed in Subsection (2)(a).

1366 (4) The money in the Criminal Background Check Restricted Account is nonlapsing.

1367 Section 7. Section **31A-3-304 (Superseded 07/01/10)** is amended to read:

1368 **31A-3-304 (Superseded 07/01/10). Annual fees -- Other taxes or fees prohibited --**  
1369 **Captive Insurance Restricted Account.**

1370 (1) (a) A captive insurance company shall pay an annual fee imposed under this section  
1371 to obtain or renew a certificate of authority.

1372 (b) The commissioner shall:

1373 (i) determine the annual fee pursuant to [~~Sections~~] Section 31A-3-103 [and  
1374 63J-1-504]; and

1375 (ii) consider whether the annual fee is competitive with fees imposed by other states on  
1376 captive insurance companies.

1377 (2) A captive insurance company that fails to pay the fee required by this section is  
1378 subject to the relevant sanctions of this title.

1379 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter  
1380 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or  
1381 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance  
1382 company, and no other occupation tax or other tax or fee may be levied or collected from a  
1383 captive insurance company by the state or a county, city, or municipality within this state.

1384 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real  
1385 and personal property taxes.

1386 (4) A captive insurance company shall pay the fee imposed by this section to the  
1387 [~~department~~] commissioner by March 31 of each year.

1388 [~~(5) (a) The funds received pursuant to Subsection (2) shall be deposited into the~~  
1389 ~~General Fund as a dedicated credit to be used by the department to:]~~

1390 (5) (a) Money received pursuant to Subsection (2) shall be deposited into the Captive  
1391 Insurance Restricted Account.

1392 (b) There is created in the General Fund a restricted account known as the "Captive  
1393 Insurance Restricted Account."

1394 (c) The Captive Insurance Restricted Account shall consist of the fees imposed by the  
1395 commissioner in accordance with this section.

1396 (d) The commissioner shall administer the Captive Insurance Restricted Account.  
1397 Subject to appropriations by the Legislature, the commissioner shall use the money deposited  
1398 into the Captive Insurance Restricted Account to:

1399 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

1400 (ii) promote the captive insurance industry in Utah.

1401 ~~[(b) At]~~ (e) The money in the Captive Insurance Restricted Account is nonlapsing,  
1402 except that at the end of each fiscal year, [funds] money received by the [department]  
1403 commissioner in excess of \$250,000 shall be treated as free revenue in the General Fund.

1404 Section 8. Section **31A-3-304 (Effective 07/01/10)** is amended to read:

1405 **31A-3-304 (Effective 07/01/10). Annual fees -- Other taxes or fees prohibited --**  
1406 **Captive Insurance Restricted Account.**

1407 (1) (a) A captive insurance company shall pay an annual fee imposed under this section  
1408 to obtain or renew a certificate of authority.

1409 (b) The commissioner shall:

1410 (i) determine the annual fee pursuant to ~~[Sections-]~~ Section 31A-3-103 ~~[and~~  
1411 ~~63J-1-504]~~; and

1412 (ii) consider whether the annual fee is competitive with fees imposed by other states on  
1413 captive insurance companies.

1414 (2) A captive insurance company that fails to pay the fee required by this section is  
1415 subject to the relevant sanctions of this title.

1416 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter  
1417 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or  
1418 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance  
1419 company, and no other occupation tax or other tax or fee may be levied or collected from a  
1420 captive insurance company by the state or a county, city, or municipality within this state.

1421 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real  
1422 and personal property taxes.

1423 (4) A captive insurance company shall pay the fee imposed by this section to the  
1424 ~~[department]~~ commissioner by March 31 of each year.

1425 ~~[(5)(a) The funds received pursuant to Subsection (2) shall be deposited into the~~  
1426 ~~General Fund as a dedicated credit to be used by the department to:]~~

1427 (5) (a) Money received pursuant to Subsection (2) shall be deposited into the Captive  
1428 Insurance Restricted Account.

1429 (b) There is created in the General Fund a restricted account known as the "Captive  
1430 Insurance Restricted Account."

1431 (c) The Captive Insurance Restricted Account shall consist of the fees imposed by the  
1432 commissioner in accordance with this section.

1433 (d) The commissioner shall administer the Captive Insurance Restricted Account.  
1434 Subject to appropriations by the Legislature, the commissioner shall use the money deposited  
1435 into the Captive Insurance Restricted Account to:

1436 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

1437 (ii) promote the captive insurance industry in Utah.

1438 ~~[(b) At]~~ (e) The money in the Captive Insurance Restricted Account is nonlapsing,  
1439 except that at the end of each fiscal year, [funds] money received by the [department]  
1440 commissioner in excess of \$750,000 shall be treated as free revenue in the General Fund.

1441 Section 9. Section **31A-5-217.5** is amended to read:

1442 **31A-5-217.5. Variable contract law.**

1443 (1) This section applies to ~~[a]]~~ a separate ~~[accounts]~~ account that ~~[are]~~ is used to  
1444 support ~~[any]~~ one or more of the following:

1445 (a) a variable life insurance ~~[policies]~~ policy that ~~[satisfy]~~ satisfies the requirements of  
1446 Section 817, Internal Revenue Code;

1447 (b) a variable annuity ~~[contracts]~~ policy, including a modified guaranteed ~~[annuities]~~  
1448 annuity; or

1449 (c) benefits under ~~[plans]~~ a plan governed by the Employee Retirement Income  
1450 Security Act of 1974.

1451 (2) ~~[In the event of]~~ If there is a conflict between this section and ~~[any other]~~ another

1452 section of this title as it relates to ~~[these accounts]~~ a separate account described in Subsection  
1453 (1), this section prevails.

1454 (3) ~~[A]~~ (a) Subject to the other provisions of this Subsection (3), a domestic life  
1455 [insurance company] insurer may:

1456 (i) establish one or more separate accounts~~;~~ and ~~[may]~~

1457 (ii) allocate to those separate accounts amounts, which include:

1458 (A) proceeds applied under optional modes of settlement or under dividend options, to  
1459 provide for life insurance or annuities~~;~~ and

1460 (B) benefits incidental to life insurance or annuities, payable in fixed ~~[or],~~ variable, or  
1461 both fixed and variable amounts ~~[or both, subject to the following:]~~.

1462 ~~[(a) The]~~ (b) An insurer shall credit to or charge against a separate account the income,  
1463 gains, and losses, realized or unrealized, from assets allocated to ~~[a]~~ the separate account ~~[shall~~  
1464 ~~be credited to or charged against the account]~~, without regard to other income, gains, or losses  
1465 of the ~~[company]~~ insurer.

1466 ~~[(b)]~~ (c) Except as may be provided with respect to reserves for guaranteed benefits  
1467 and funds referred to in Subsection ~~[(c)]~~ (3)(d):

1468 (i) an insurer may invest or reinvest amounts allocated to ~~[any]~~ a separate account and  
1469 accumulations on ~~[such]~~ those amounts ~~[may be invested and reinvested]~~ without regard to  
1470 ~~[any]~~ the requirements or limitations prescribed by the laws of this state governing the  
1471 investments of a life ~~[insurance companies]~~ insurer; and

1472 (ii) an insurer may not take into account the investments in ~~[any such]~~ a separate  
1473 account ~~[may not be taken into account]~~ in applying the investment limitations that otherwise  
1474 apply to the investments of the ~~[company]~~ insurer.

1475 ~~[(c)]~~ (d) Except with the approval of the commissioner and under any ~~[conditions]~~  
1476 condition the commissioner prescribes as to investments and other matters ~~[as he may~~  
1477 prescribe], which shall recognize the guaranteed nature of the benefits provided, an insurer may  
1478 not maintain in a separate account reserves for:

1479 (i) benefits guaranteed as to dollar amount and duration~~;~~ and

1480 (ii) funds guaranteed as to principal amount or stated rate of interest ~~[may not be~~  
1481 maintained in a separate account].

1482 ~~[(d) Unless]~~ (e) (i) Except as provided in Subsection (3)(e)(ii) and unless otherwise



1483 approved by the commissioner, assets allocated to a separate account shall be valued:

1484 (A) at their market value on the date of valuation~~[-]~~; or

1485 (B) if there is no readily available market, then as provided under the terms of the  
1486 contract ~~[or the]~~, rules, or other written agreement that applies to the separate account.

1487 ~~[However, unless]~~

1488 (ii) Unless otherwise approved by the commissioner, the portion of ~~[any of]~~ the assets  
1489 of ~~[the]~~ a separate account that are equal to the [company's] insurer's reserve liability with  
1490 regard to the guaranteed benefits and funds referred to in Subsection ~~[(c)]~~ (3)(d) shall be valued  
1491 in accordance with the rules that otherwise apply to the company's assets.

1492 ~~[(c) Amounts allocated]~~ (f)(i) An insurer owns the amounts it allocates to a separate  
1493 account in the exercise of the power granted by this section ~~[shall be owned by the company,~~  
1494 ~~and the company]~~, and the insurer may not be, nor hold itself out to be, a trustee with respect to  
1495 those amounts. ~~[If, and to]~~

1496 (ii) To the extent provided under the applicable ~~[contracts, that]~~ insurance policy, an  
1497 insurer may not charge the portion of the assets of ~~[any]~~ a separate account that is equal to the  
1498 reserves and other ~~[contract]~~ insurance liabilities with respect to the separate account ~~[may not~~  
1499 ~~be chargeable]~~ with liabilities arising out of any other business the ~~[company]~~ insurer may  
1500 conduct.

1501 ~~[(f)]~~ (g)(i) A sale, exchange, or other transfer of assets may not be made by ~~[a~~  
1502 ~~company]~~ an insurer between any of its separate accounts or between any other investment  
1503 account and one or more of its separate accounts unless~~[-]~~:

1504 (A) in case of a transfer into a separate account, the transfer is made solely to establish  
1505 the account or to support the operation of the ~~[contracts]~~ insurance policies with respect to the  
1506 separate account to which the transfer is made~~[-]~~; and ~~[unless]~~

1507 (B) the transfer, whether into or from a separate account, is made by:

1508 (I) a transfer of cash~~[-]~~; or ~~[by]~~

1509 (II) if the transfer of securities is approved by the commissioner, a transfer of securities  
1510 having a readily determinable market value~~[-, if the transfer of securities is approved by the~~  
1511 ~~commissioner]~~.

1512 (ii) The commissioner may approve ~~[other transfers]~~ a transfer not described in  
1513 Subsection (2)(g)(i) among ~~[such]~~ the accounts described in Subsection (2)(g)(i) if, in ~~[his]~~ the

1514 commissioner's opinion, the ~~[transfers]~~ transfer would not be inequitable.

1515 ~~[(g)]~~ (h) To the extent ~~[a company]~~ an insurer considers it necessary to comply with  
1516 ~~[any]~~ an applicable federal or state ~~[laws, the company,]~~ law, the insurer with respect to ~~[any]~~ a  
1517 separate account, including ~~[any]~~ a separate account which is a management investment  
1518 company or a unit investment trust, may provide for ~~[persons]~~ a person having an interest in the  
1519 separate account to have appropriate voting and other rights and special procedures for the  
1520 conduct of the business of the separate account, including:

1521 (i) special rights and procedures relating to investment policy~~[-];~~

1522 (ii) investment advisory services~~[-];~~

1523 (iii) selection of independent public accountants~~[-];~~ and

1524 (iv) the selection of a committee, the members of which need not be otherwise  
1525 affiliated with the ~~[company]~~ insurer, to manage the business of the separate account.

1526 ~~[(4) Any contract providing benefits payable in variable amounts delivered or issued  
1527 for delivery in this state shall contain a statement of the essential features of the procedures to  
1528 be followed by the insurance company in determining the dollar amount of the variable  
1529 benefits. Any contract under which the benefits vary to reflect investment experience,  
1530 including a group contract and any certificate in evidence of variable benefits issued under a  
1531 group contract, shall state that the dollar amount will vary according to investment experience.  
1532 The contract shall contain on its first page a statement to the effect that the benefits under the  
1533 contract are on a variable basis.]~~

1534 ~~[(5) (a) A company may not deliver or issue for delivery within this state variable  
1535 contracts unless it is licensed or organized to do a life insurance or annuity business in this  
1536 state, and the commissioner is satisfied that its condition or method of operation in connection  
1537 with the issuance of such contracts will not render its operation hazardous to the public or its  
1538 policyholders in this state. In this connection, the commissioner shall consider among other  
1539 things:]~~

1540 ~~[(i) the history and financial condition of the company;]~~

1541 ~~[(ii) the character, responsibility, and fitness of the officers and directors of the  
1542 company; and]~~

1543 ~~[(iii) (A) the law and regulation under which the company is authorized in the state of  
1544 domicile to issue variable contracts.]~~

1545           ~~[(B) The state of entry of an alien company shall be considered its place of domicile for~~  
1546 ~~the purposes of Subsection (iii)(A).]~~

1547           ~~[(b) If the company is a subsidiary of an admitted life insurance company, or affiliated~~  
1548 ~~with such a company through common management or ownership, it may be considered by the~~  
1549 ~~commissioner to have met the provisions of this section if either it or the parent or the affiliated~~  
1550 ~~company meets the requirements of this section.]~~

1551           ~~[(6) Notwithstanding any other provision of law, the commissioner shall have sole~~  
1552 ~~authority to regulate the issuance and sale of variable contracts, and to make rules necessary~~  
1553 ~~and appropriate to carry out the purposes and provisions of this chapter.]~~

1554           ~~[(7) (a) Except for Sections 31A-22-402, 31A-22-407, and 31A-22-409, in the case of~~  
1555 ~~a variable annuity contract and Sections 31A-22-402, 31A-22-407, and 31A-22-408 in the case~~  
1556 ~~of a variable life insurance policy, and except as otherwise provided in this chapter, all~~  
1557 ~~pertinent provisions of this title apply to separate accounts and contracts relating to the separate~~  
1558 ~~accounts. Any individual variable life insurance contract, delivered or issued for delivery in~~  
1559 ~~this state shall contain grace, reinstatement, and nonforfeiture provisions appropriate to the~~  
1560 ~~contract.]~~

1561           ~~[(b) The reserve liability for variable contracts shall be established in accordance with~~  
1562 ~~actuarial procedures that recognize the variable nature of the benefits provided and any~~  
1563 ~~mortality guarantees.]~~

1564           Section 10. Section **31A-15-208** is amended to read:

1565           **31A-15-208. Purchasing groups -- Filing and registration requirements.**

1566           (1) A purchasing group [~~which~~] that intends to do business in this state shall, prior to  
1567 doing business, furnish notice to the insurance commissioner:

1568           (a) identifying the state in which the purchasing group is domiciled;

1569           (b) identifying [~~all other states~~] any state in which the purchasing group intends to do  
1570 business;

1571           (c) specifying the lines and classifications of liability insurance [~~which~~] that the  
1572 purchasing group intends to purchase;

1573           (d) identifying the [~~insurance companies~~] insurers from which the group intends to  
1574 purchase its insurance and the domicile of the [~~company~~] insurers;

1575           (e) specifying the method by which, and any persons through whom, insurance will be

1576 offered to group members whose risks are resident or located in this state;

1577 (f) identifying the principal place of business of the purchasing group; and

1578 (g) providing any other information required by the [~~insurance~~] commissioner to verify

1579 that the purchasing group is [~~qualified within the definition in Subsection~~] a "purchasing

1580 group." as defined in Section 31A-15-202[~~(10)~~].

1581 (2) A purchasing group shall notify the commissioner of [~~any changes in any of the~~

1582 ~~items~~] a change in an item listed in Subsection (1) within 10 days of the change.

1583 (3) [~~The~~] (a) A purchasing group shall annually register with the commissioner and

1584 pay a filing fee. [~~The~~]

1585 (b) A purchasing group shall designate the commissioner as its agent solely for the

1586 purpose of receiving service of legal documents or process.

1587 (c) The registration and fee requirements of this Subsection (3) do not apply to a

1588 purchasing group [~~which~~] that only purchases insurance that was authorized under the Product

1589 Liability Risk Retention Act of 1981, and [~~which~~] that:

1590 [~~(a)~~] (i) in any state of the United States:

1591 [~~(i)~~] (A) was domiciled before April 1, 1986; and

1592 [~~(ii)~~] (B) is domiciled after October 27, 1986;

1593 [~~(b)-(i)~~] (ii) (A) before October 27, 1986, purchased insurance from an [~~insurance~~

1594 ~~carrier~~] insurer licensed in any state; and

1595 [~~(ii)~~] (B) since October 27, 1986, purchased its insurance from an [~~insurance carrier~~]

1596 insurer licensed in any state; or

1597 [~~(c)~~] (iii) was a purchasing group under the requirements of the Product Liability Risk

1598 Retention Act of 1981 before October 27, 1986.

1599 (4) [~~Each~~] A purchasing group that is required to give notice under Subsection (1) shall

1600 also furnish information required by the commissioner to:

1601 (a) verify that the entity qualifies as a purchasing group;

1602 (b) determine where the purchasing group is located; and

1603 (c) determine appropriate tax treatment of the purchasing group.

1604 Section 11. Section **31A-20-106** is amended to read:

1605 **31A-20-106. Variable contracts.**

1606 [~~No~~] (1) (a) An insurer may not deliver or issue for delivery within this state [~~any~~

1607 ~~contract providing]~~ an insurance policy that provides a life or annuity ~~[benefits in variable~~  
1608 ~~amounts]~~ benefit in a variable amount until the insurer ~~[has satisfied]:~~

1609 (i) is licensed to do a life insurance or annuity business in this state; and  
1610 (ii) satisfies the commissioner that [its] ~~the insurer's~~ condition and methods of  
1611 operation in connection with those types of [contracts] insurance policies do not render [its] the  
1612 insurer's operation hazardous to the public or its policyholders in [Utah] this state.

1613 (b) Notwithstanding any other provision of law, the commissioner has sole authority  
1614 to:

1615 (i) regulate the issuance and sale of a variable contract; and  
1616 (ii) make rules necessary and appropriate to carry out this chapter in relation to a  
1617 variable contract.

1618 (2) In determining the qualification of an insurer requesting authority to deliver [those  
1619 contracts in Utah] an insurance policy described in Subsection (1) in this state, the  
1620 commissioner shall consider:

1621 ~~[(+)]~~ (a) the history and financial condition of the insurer;  
1622 ~~[(2)]~~ (b) the character, responsibility, and general fitness of the insurer's officers and  
1623 directors; and

1624 ~~[(3)]~~ (c) in the case of a foreign insurer, whether the regulation provided by the state of  
1625 its domicile or the jurisdiction in which its head office is located provides protection to  
1626 policyholders and the public substantially equal to that provided by [the Insurance Code] this  
1627 title and the rules issued under [it] this title.

1628 (3) If an insurer is a subsidiary of an admitted life insurer, or affiliated with an admitted  
1629 life insurer through common management or ownership, the commissioner may consider the  
1630 insurer to have met the requirements of this section if:

1631 (a) the insurer meets the requirements of this section; or  
1632 (b) the parent or the affiliated insurer meets the requirements of this section.

1633 (4) This title applies to a separate account or a contract relating to the separate account,  
1634 except:

1635 (a) Sections 31A-22-402, 31A-22-407, and 31A-22-409, in the case of a variable  
1636 annuity policy;  
1637 (b) Sections 31A-22-402, 31A-22-407, and 31A-22-408, in the case of a variable life

1638 insurance policy; and

1639 (c) as otherwise provided in this title.

1640 Section 12. Section **31A-21-201** is amended to read:

1641 **31A-21-201. Filing of forms.**

1642 (1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may  
1643 not be used, sold, or offered for sale [~~unless~~] until the form [~~has been~~] is filed with the  
1644 commissioner.

1645 (b) A form is considered filed with the commissioner when the commissioner receives:

1646 (i) the form;

1647 (ii) the applicable filing fee as prescribed under Section 31A-3-103; and

1648 (iii) the applicable transmittal forms as required by the commissioner.

1649 (2) In filing a form for use in this state the insurer is responsible for assuring that the  
1650 form is in compliance with this title and rules adopted by the commissioner.

1651 (3) (a) The commissioner may prohibit the use of a form at any time upon a finding  
1652 that:

1653 (i) the form [~~is~~]:

1654 (A) is inequitable;

1655 (B) is unfairly discriminatory;

1656 (C) is misleading;

1657 (D) is deceptive;

1658 (E) is obscure;

1659 (F) is unfair;

1660 (G) encourages misrepresentation; or

1661 (H) is not in the public interest;

1662 (ii) the form provides benefits or contains [~~other provisions that endanger~~] another  
1663 provision that endangers the solidity of the insurer;

1664 (iii) [~~in the case of the basic policy and the application for a basic policy, the basic~~]  
1665 except an application required by Section 31A-22-635, the form is an insurance policy or  
1666 application for [the basic] an insurance policy that fails to conspicuously, as defined by rule,  
1667 provide:

1668 (A) the exact name of the insurer;

1669 (B) the state of domicile of the insurer filing the [~~basic~~] insurance policy or application  
1670 for the [~~basic~~] insurance policy; and

1671 (C) for a life insurance and annuity [~~policies~~] insurance policy only, the address of the  
1672 administrative office of the insurer filing the [~~basic~~] insurance policy or application for the  
1673 [~~basic~~] insurance policy;

1674 (iv) the form violates a statute or a rule adopted by the commissioner; or

1675 (v) the form is otherwise contrary to law.

1676 (b) Subsection (3)(a)(iii) does not apply to [~~riders and endorsements~~] an endorsement  
1677 to [~~a basic~~] an insurance policy.

1678 (c) (i) [~~Whenever~~] When the commissioner prohibits the use of a form under  
1679 Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days  
1680 after the order, the use of the form be discontinued.

1681 (ii) Once use of a form [~~has been~~] is prohibited, the form may not be used [~~unless~~] until  
1682 appropriate changes are filed with and reviewed by the commissioner.

1683 (iii) [~~Whenever~~] When the commissioner prohibits the use of a form under Subsection  
1684 (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the  
1685 existing policyholders.

1686 (d) If the commissioner prohibits use of a form under this Subsection (3), the  
1687 prohibition shall:

1688 (i) be in writing;

1689 (ii) constitute an order; and

1690 (iii) state the reasons for the prohibition.

1691 (4) (a) If, after a hearing, the commissioner determines that it is in the public interest,  
1692 the commissioner may require by rule or order that [~~certain forms~~] a form be subject to the  
1693 commissioner's approval [~~prior to their~~] before its use.

1694 (b) The rule or order described in Subsection (4)(a) shall prescribe the filing  
1695 procedures for [~~the forms~~] a form if the procedures are different [~~than~~] from the procedures  
1696 stated in this section.

1697 (c) The [~~types of forms that may be addressed~~] type of form that under Subsection  
1698 (4)(a) [~~include~~] the commissioner may require approval of before use includes:

1699 (i) a form for a particular class of insurance;

- 1700 (ii) a form for a specific line of insurance;
- 1701 (iii) a specific type of form; or
- 1702 (iv) a form for a specific market segment.
- 1703 (5) (a) An insurer shall maintain a complete and accurate record of the following for
- 1704 the time period described in Subsection (5)(b):
- 1705 (i) ~~any~~ a form:
- 1706 (A) filed under this section for use; ~~and~~ or
- 1707 (B) that is in use; and
- 1708 (ii) ~~any~~ a document filed under this section with a form described in Subsection
- 1709 (5)(a)(i).
- 1710 (b) The insurer shall maintain a record required under Subsection (5)(a) for the balance
- 1711 of the current year, plus five years from:
- 1712 (i) the last day on which the form is used; or
- 1713 (ii) the last day ~~any~~ an insurance policy that is issued using the form is in effect.
- 1714 Section 13. Section **31A-21-301** is amended to read:
- 1715 **31A-21-301. Clauses required to be in a prominent position.**
- 1716 (1) The following portions of insurance policies shall appear conspicuously in the
- 1717 policy:
- 1718 (a) as required by Subsection 31A-21-201(3)(a)(iii):
- 1719 (i) the exact name of the insurer;
- 1720 (ii) the state of domicile of the insurer; and
- 1721 (iii) for life insurance and annuity policies only, the address of the administrative office
- 1722 of the insurer;
- 1723 (b) information that two or more insurers under Subsection (1)(a) undertake only
- 1724 several liability, as required by Section 31A-21-306;
- 1725 (c) if a policy is assessable, a statement of that;
- 1726 (d) a statement that benefits are variable, as required by ~~Subsection~~ Section
- 1727 31A-22-411~~(4)~~; however, the methods of calculation need not be in a prominent position;
- 1728 (e) the right to return a life or accident and health insurance policy under Sections
- 1729 31A-22-423 and 31A-22-606; and
- 1730 (f) the beginning and ending dates of insurance protection.



1731 (2) Each clause listed in Subsection (1) shall be displayed conspicuously and separately  
1732 from any other clause.

1733 Section 14. Section **31A-22-305.3** is amended to read:

1734 **31A-22-305.3. Underinsured motorist coverage.**

1735 (1) As used in this section:

1736 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

1737 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,  
1738 maintenance, or use of which is covered under a liability policy at the time of an injury-causing  
1739 occurrence, but which has insufficient liability coverage to compensate fully the injured party  
1740 for all special and general damages.

1741 (ii) The term "underinsured motor vehicle" does not include:

1742 (A) a motor vehicle that is covered under the liability coverage of the same policy that  
1743 also contains the underinsured motorist coverage;

1744 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

1745 (C) a motor vehicle owned or leased by:

1746 (I) ~~the~~ a named insured;

1747 (II) ~~the~~ a named insured's spouse; or

1748 (III) ~~any~~ a dependent of ~~the~~ a named insured.

1749 (2) (a) (i) Underinsured motorist coverage under Subsection 31A-22-302(1)(c)  
1750 provides coverage for a covered ~~persons~~ person who ~~are~~ is legally entitled to recover  
1751 damages from ~~owners or operators~~ an owner or operator of an underinsured motor ~~vehicles~~  
1752 vehicle because of bodily injury, sickness, disease, or death.

1753 (ii) A covered person occupying or using a motor vehicle owned, leased, or furnished  
1754 to the covered person, the covered person's spouse, or covered person's resident relative may  
1755 recover underinsured benefits only if the motor vehicle is:

1756 (A) described in the policy under which a claim is made; or

1757 (B) a newly acquired or replacement motor vehicle covered under the terms of the  
1758 policy.

1759 (b) For new policies written on or after January 1, 2001, the limits of underinsured  
1760 motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle  
1761 liability coverage or the maximum underinsured motorist coverage limits available by the

1762 insurer under the insured's motor vehicle policy, unless the insured purchases coverage in a  
1763 lesser amount by signing an acknowledgment form that:

- 1764 (i) is filed with the department;
- 1765 (ii) is provided by the insurer;
- 1766 (iii) waives the higher coverage;
- 1767 (iv) reasonably explains the purpose of underinsured motorist coverage; and
- 1768 (v) discloses the additional premiums required to purchase underinsured motorist  
1769 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability  
1770 coverage or the maximum underinsured motorist coverage limits available by the insurer under  
1771 the insured's motor vehicle policy.

1772 (c) A self-insured, including a governmental entity, may elect to provide underinsured  
1773 motorist coverage in an amount that is less than its maximum self-insured retention under  
1774 Subsections (2)(b) and (2)(g) by issuing a declaratory memorandum or policy statement from  
1775 the chief financial officer or chief risk officer that declares the:

- 1776 (i) self-insured entity's coverage level; and
- 1777 (ii) process for filing an underinsured motorist claim.
- 1778 (d) Underinsured motorist coverage may not be sold with limits that are less than:  
1779 (i) \$10,000 for one person in any one accident; and  
1780 (ii) at least \$20,000 for two or more persons in any one accident.

1781 (e) ~~The~~ An acknowledgment under Subsection (2)(b) continues for that issuer of the  
1782 underinsured motorist coverage until the insured, in writing, requests different underinsured  
1783 motorist coverage from the insurer.

1784 (f) (i) The named insured's underinsured motorist coverage, as described in Subsection  
1785 (2)(a), is secondary to the liability coverage of an owner or operator of an underinsured motor  
1786 vehicle, as described in Subsection (1).

1787 (ii) Underinsured motorist coverage may not be set off against the liability coverage of  
1788 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,  
1789 or stacked upon the liability coverage of the owner or operator of the underinsured motor  
1790 vehicle to determine the limit of coverage available to the injured person.

1791 (g) (i) A named insured may reject underinsured motorist coverage by an express  
1792 writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

1793 (ii) ~~[This]~~ A written rejection under this Subsection (2)(g) shall be on a form provided  
1794 by the insurer that includes a reasonable explanation of the purpose of underinsured motorist  
1795 coverage and when it would be applicable.

1796 (iii) ~~[This]~~ A written rejection under this Subsection (2)(g) continues for that issuer of  
1797 the liability coverage until the insured in writing requests underinsured motorist coverage from  
1798 that liability insurer.

1799 ~~[(h) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for~~  
1800 ~~policies existing on that date, the insurer shall disclose in the same medium as the premium~~  
1801 ~~renewal notice, an explanation of:]~~

1802 ~~[(A) the purpose of underinsured motorist coverage, and]~~

1803 ~~[(B) the costs associated with increasing the coverage in amounts up to and including~~  
1804 ~~the maximum amount available by the insurer under the insured's motor vehicle policy:]~~

1805 ~~[(ii) The disclosure required by this Subsection (2)(h) shall be sent to all insureds that~~  
1806 ~~carry underinsured motorist coverage limits in an amount less than the insured's motor vehicle~~  
1807 ~~liability policy limits or the maximum underinsured motorist coverage limits available by the~~  
1808 ~~insurer under the insured's motor vehicle policy:]~~

1809 (3) (a) (i) Except as provided in this Subsection (3), a covered person injured in a  
1810 motor vehicle described in a policy that includes underinsured motorist benefits may not elect  
1811 to collect underinsured motorist coverage benefits from ~~[any other]~~ another motor vehicle  
1812 insurance policy.

1813 (ii) The limit of liability for underinsured motorist coverage for two or more motor  
1814 vehicles may not be added together, combined, or stacked to determine the limit of insurance  
1815 coverage available to an injured person for any one accident.

1816 (iii) Subsection (3)(a)(ii) applies to all persons except a covered person described  
1817 under Subsections (3)(b)(i) and (ii).

1818 (b) (i) Except as provided in Subsection (3)(b)(ii), a covered person injured while  
1819 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the  
1820 covered person, the covered person's spouse, or the covered person's resident parent or resident  
1821 sibling, may also recover benefits under any one other policy under which ~~[they are]~~ the  
1822 covered person is also a covered person.

1823 (ii) (A) A covered person may recover benefits from no more than two additional

1824 policies, one additional policy from each parent's household if the covered person is:  
1825 (I) a dependent minor of parents who reside in separate households; and  
1826 (II) injured while occupying or using a motor vehicle that is not owned, leased, or  
1827 furnished to the covered person, the covered person's resident parent, or the covered person's  
1828 resident sibling.  
1829 (B) Each parent's policy under this Subsection (3)(b)(ii) is liable only for the  
1830 percentage of the damages that the limit of liability of each parent's policy of underinsured  
1831 motorist coverage bears to the total of both parents' underinsured coverage applicable to the  
1832 accident.  
1833 (iii) A covered person's recovery under any available policies may not exceed the full  
1834 amount of damages.  
1835 (iv) Underinsured coverage on a motor vehicle occupied at the time of an accident  
1836 ~~shall be~~ is primary coverage, and the coverage elected by a person described under  
1837 Subsections 31A-22-305(1)(a) and (b) ~~shall be~~ is secondary coverage.  
1838 (v) The primary and the secondary coverage may not be set off against the other.  
1839 (vi) A covered person as described under Subsection (3)(b)(i) is entitled to the highest  
1840 limits of underinsured motorist coverage under only one additional policy per household  
1841 applicable to that covered person as a named insured, spouse, or relative.  
1842 (vii) A covered injured person is not barred against making subsequent elections if  
1843 recovery is unavailable under previous elections.  
1844 (viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a  
1845 single incident of loss under more than one insurance policy.  
1846 (B) Except to the extent permitted by this Subsection (3), interpolicy stacking is  
1847 prohibited for underinsured motorist coverage.  
1848 (c) Underinsured motorist coverage:  
1849 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'  
1850 Compensation Act;  
1851 (ii) may not be subrogated by ~~the~~ a workers' compensation insurance carrier;  
1852 (iii) may not be reduced by ~~any~~ benefits provided by workers' compensation  
1853 insurance;  
1854 (iv) may be reduced by health insurance subrogation only after the covered person ~~has~~

1855 been] is made whole;

1856 (v) may not be collected for bodily injury or death sustained by a person:

1857 (A) while committing a violation of Section 41-1a-1314;

1858 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated

1859 in violation of Section 41-1a-1314; or

1860 (C) while committing a felony; and

1861 (vi) notwithstanding Subsection (3)(c)(v), may be recovered:

1862 (A) for a person under 18 years of age who is injured within the scope of Subsection

1863 (3)(c)(v), but is limited to medical and funeral expenses; or

1864 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured

1865 within the course and scope of the law enforcement officer's duties.

1866 (4) The inception of the loss under Subsection 31A-21-313(1) for underinsured

1867 motorist claims occurs upon the date of the last liability policy payment.

1868 (5) (a) Within five business days after notification that all liability insurers have

1869 tendered their liability policy limits, the underinsured carrier shall either:

1870 (i) waive any subrogation claim the underinsured carrier may have against the person

1871 liable for the injuries caused in the accident; or

1872 (ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

1873 (b) If neither option is exercised under Subsection (5)(a), the subrogation claim is

1874 considered to be waived by the underinsured carrier.

1875 (6) Except as otherwise provided in this section, a covered person may seek, subject to

1876 the terms and conditions of the policy, additional coverage under any policy:

1877 (a) that provides coverage for damages resulting from motor vehicle accidents; and

1878 (b) that is not required to conform to Section 31A-22-302.

1879 (7) (a) When a claim is brought by a named insured or a person described in

1880 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist

1881 carrier, the claimant may elect to resolve the claim:

1882 (i) by submitting the claim to binding arbitration; or

1883 (ii) through litigation.

1884 (b) Unless otherwise provided in the policy under which underinsured benefits are

1885 claimed, the election provided in Subsection (7)(a) is available to the claimant only.

1886 (c) Once ~~[the]~~ a claimant ~~[has elected]~~ elects to commence litigation under Subsection  
1887 (7)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this  
1888 section without the written consent of the underinsured motorist coverage carrier.

1889 (d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
1890 binding arbitration under Subsection (7)(a)(i) shall be resolved by a single arbitrator.

1891 (ii) All parties shall agree on the single arbitrator selected under Subsection (7)(d)(i).

1892 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection  
1893 (7)(d)(ii), the parties shall select a panel of three arbitrators.

1894 (e) If the parties select a panel of three arbitrators under Subsection (7)(d)(iii):

1895 (i) each side shall select one arbitrator; and

1896 (ii) the arbitrators appointed under Subsection (7)(e)(i) shall select one additional  
1897 arbitrator to be included in the panel.

1898 (f) Unless otherwise agreed to in writing:

1899 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1900 under Subsection (7)(d)(i); or

1901 (ii) if an arbitration panel is selected under Subsection (7)(d)(iii):

1902 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

1903 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1904 under Subsection (7)(e)(ii).

1905 (g) Except as otherwise provided in this section or unless otherwise agreed to in  
1906 writing by the parties, an arbitration proceeding conducted under this section ~~[shall be]~~ is  
1907 governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

1908 (h) ~~[The]~~ An arbitration shall be conducted in accordance with Rules 26 through 37,  
1909 54, and 68 of the Utah Rules of Civil Procedure.

1910 (i) ~~[All issues]~~ An issue of discovery shall be resolved by the arbitrator or the  
1911 arbitration panel.

1912 (j) A written decision by a single arbitrator or by a majority of the arbitration panel  
1913 ~~[shall constitute]~~ constitutes a final decision.

1914 (k) (i) The amount of an arbitration award may not exceed the underinsured motorist  
1915 policy limits of all applicable underinsured motorist policies, including applicable underinsured  
1916 motorist umbrella policies.

1917 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all  
1918 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount  
1919 equal to the combined underinsured motorist policy limits of all applicable underinsured  
1920 motorist policies.

1921 (l) The arbitrator or arbitration panel may not decide [~~the issues~~] an issue of coverage  
1922 or extra-contractual damages, including:

1923 (i) whether the claimant is a covered person;

1924 (ii) whether the policy extends coverage to the loss; or

1925 (iii) [~~any allegations or claims~~] an allegation or claim asserting consequential damages  
1926 or bad faith liability.

1927 (m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or  
1928 class-representative basis.

1929 (n) If the arbitrator or arbitration panel finds that the [~~action was~~] arbitration is not  
1930 brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award  
1931 reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the  
1932 [~~claim~~] arbitration in good faith.

1933 (o) An arbitration award issued under this section shall be the final resolution of all  
1934 claims not excluded by Subsection (7)(l) between the parties unless:

1935 (i) the award [~~was~~] is procured by corruption, fraud, or other undue means; or

1936 (ii) either party, within 20 days after service of the arbitration award:

1937 (A) files a complaint requesting a trial de novo in the district court; and

1938 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo  
1939 under Subsection (7)(o)(ii)(A).

1940 (p) (i) Upon filing a complaint for a trial de novo under Subsection (7)(o), [~~the~~] a claim  
1941 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules  
1942 of Evidence in the district court.

1943 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may  
1944 request a jury trial with a complaint requesting a trial de novo under Subsection (7)(o)(ii)(A).

1945 (q) (i) If the claimant, as the moving party in a trial de novo requested under  
1946 Subsection (7)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater  
1947 than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

1948 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested  
1949 under Subsection (7)(o), does not obtain a verdict that is at least 20% less than the arbitration  
1950 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

1951 (iii) Except as provided in Subsection (7)(q)(iv), the costs under this Subsection (7)(q)  
1952 shall include:

1953 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

1954 (B) the costs of expert witnesses and depositions.

1955 (iv) An award of costs under this Subsection (7)(q) may not exceed \$2,500.

1956 (r) For purposes of determining whether a party's verdict is greater or less than the  
1957 arbitration award under Subsection (7)(q), a court may not consider any recovery or other relief  
1958 granted on a claim for damages if the claim for damages:

1959 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

1960 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
1961 Procedure.

1962 (s) If a district court determines, upon a motion of the nonmoving party, that ~~the~~ a  
1963 moving party's use of the trial de novo process ~~was~~ is filed in bad faith in accordance with  
1964 Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving  
1965 party.

1966 (t) Nothing in this section is intended to limit ~~any~~ a claim under ~~any other~~ another  
1967 portion of an applicable insurance policy.

1968 (u) If there are multiple underinsured motorist policies, as set forth in Subsection (3),  
1969 the claimant may elect to arbitrate in one hearing the claims against all the underinsured  
1970 motorist carriers.

1971 Section 15. Section ~~31A-22-411~~ is amended to read:

1972 **31A-22-411. Contracts providing variable benefits.**

1973 (1) ~~[(a) Any contract which]~~ An insurance policy that provides for payment of ~~benefits~~  
1974 ~~in variable amounts]~~ a benefit in a variable amount shall contain a statement of the essential  
1975 features of the procedure to be followed by the insurer in determining the dollar amount of the  
1976 variable benefits. ~~[The contract shall contain:]~~

1977 (2) A variable insurance policy shall contain:

1978 ~~[(i)]~~ (a) an appropriate nonforfeiture ~~benefits]~~ benefit in lieu of those required by



1979 either Section 31A-22-408 or 31A-22-409;

1980 ~~[(ii)]~~ (b) an appropriate reinstatement [provisions] provision in lieu of those required  
1981 by Section 31A-22-407; and

1982 ~~[(iii)]~~ (c) a grace period [provisions] provision appropriate to that type of ~~[contract]~~  
1983 insurance policy in lieu of those required by Section 31A-22-402.

1984 ~~[(b) This]~~ (3) An individual [contract and any] insurance policy and a certificate issued  
1985 under a group ~~[contract shall state that]~~ insurance policy shall conspicuously state on its first  
1986 page that:

1987 (a) the dollar amount may decrease or increase [and shall conspicuously display on its  
1988 first page a statement that the benefits under the contract are] according to investment  
1989 experience; and

1990 (b) a benefit under the insurance policy is payable on a variable basis[; with a statement  
1991 specifying where the details of the variable provisions are found in the contract].

1992 ~~[(c) Life]~~ (4) A life insurance [and] or annuity [policies] policy with a variable  
1993 [benefits] benefit issued under a separate account shall, on either the application or the  
1994 insurance policy, state that the insurer's liabilities with respect to a variable [benefits] benefit  
1995 under the insurance policy are subject to satisfaction only out of the insurer's variable account  
1996 assets.

1997 ~~[(2) Any contract subject to Subsection (1)]~~

1998 (5)(a) A variable insurance policy shall state whether it may be amended as to:

1999 (i) investment policy[;];

2000 (ii) voting rights[;]; and

2001 (iii) conduct of the business and affairs of [any segregated] a separate account.

2002 (b) Subject to any preemptive provision of federal law, ~~[this type of]~~ an amendment of  
2003 the type described in this Subsection (5) is subject to:

2004 (i) filing under Section 31A-21-201; and

2005 (ii) approval by a majority of the policyholders in the [segregated] separate account.

2005a **§→ Section 16. Section 31A-22-610.5 is amended to read:**

2005b **31A-22-610.5. Dependent coverage.**

2005c (1) **As used in this section, "child" has the same meaning as defined in Section**  
2005d **78B-12-102.**

2005e (2) (a) **Any individual or group accident and health insurance policy or health**  
2005f **maintenance organization contract that provides coverage for a policyholder's or certificate ←§**

2005g **§→ holder's dependent [shall] may not terminate coverage of an unmarried dependent by**  
 2005h **reason of the dependent's age before the dependent's 26th birthday and shall, upon**  
 2005i **application, provide coverage for all unmarried dependents up to age 26.**

2005j **(b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be**  
 2005k **included in the premium on the same basis as other dependent coverage.**

2005l **(c) This section does not prohibit the employer from requiring the employee to pay all**  
 2005m **or part of the cost of coverage for unmarried dependents.**

2005n **(d) An individual health insurance policy, group health insurance policy, or health**  
 2005o **maintenance organization, shall continue in force coverage for a dependent through the last**  
 2005p **day of the month in which the dependent ceases to be a dependent:**

2005q **(i) if premiums are paid; and**

2005r **(ii) notwithstanding Section 31A-8-402.3, 31A-8-402.5, 31A-22-721, 31A-30-107.1, or**  
 2005s **31A-30-107.3.**

2005t **(3) An individual or group accident and health insurance policy or health maintenance**  
 2005u **organization contract shall reinstate dependent coverage, and for purposes of all exclusions**  
 2005v **and limitations, shall treat the dependent as if the coverage had been in force since it was**  
 2005w **terminated; if:**

2005x **(a) the dependent has not reached the age of 26 by July 1, 1995;**

2005y **(b) the dependent had coverage prior to July 1, 1994;**

2005z **(c) prior to July 1, 1994, the dependent's coverage was terminated solely due to the age**  
 2005aa **of the dependent; and**

2005ab **(d) the policy has not been terminated since the dependent's coverage was terminated.**

2005ac **(4) (a) When a parent is required by a court or administrative order to provide health**  
 2005ad **insurance coverage for a child, an accident and health insurer may not deny enrollment of a**  
 2005ae **child under the accident and health insurance plan of the child's parent on the grounds the**  
 2005af **child:**

2005ag **(i) was born out of wedlock and is entitled to coverage under Subsection (5);**

2005ah **(ii) was born out of wedlock and the custodial parent seeks enrollment for the child**  
 2005ai **under the custodial parent's policy;**

2005aj **(iii) is not claimed as a dependent on the parent's federal tax return; or**

2005ak **(iv) does not reside with the parent or in the insurer's service area.**

2005al **(b) A child enrolled as required under Subsection (4)(a)(iv) is subject to the terms of**  
 2005am **the accident and health insurance plan contract pertaining to services received outside of an**  
 2005an **insurer's service area. A health maintenance organization must comply with Section ←§**

2005ao **§→ 31A-8-502.**

2005ap (5) When a child has accident and health coverage through an insurer of a  
2005aq noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer  
2005ar shall:

2005as (a) provide information to the custodial parent as necessary for the child to obtain  
2005at benefits through that coverage, but the insurer or employer, or the agents or employees of  
2005au either of them, are not civilly or criminally liable for providing information in compliance with  
2005av this Subsection (5)(a), whether the information is provided pursuant to a verbal or written  
2005aw request;

2005ax (b) permit the custodial parent or the service provider, with the custodial parent's  
2005ay approval, to submit claims for covered services without the approval of the noncustodial  
2005az parent; and

2005ba (c) make payments on claims submitted in accordance with Subsection (5)(b) directly to  
2005bb the custodial parent, the child who obtained benefits, the provider, or the state Medicaid  
2005bc agency.

2005bd (6) When a parent is required by a court or administrative order to provide health  
2005be coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

2005bf (a) permit the parent to enroll, under the family coverage, a child who is otherwise  
2005bg eligible for the coverage without regard to an enrollment season restrictions;

2005bh (b) if the parent is enrolled but fails to make application to obtain coverage for the  
2005bi child, enroll the child under family coverage upon application of the child's other parent, the  
2005bj state agency administering the Medicaid program, or the state agency administering 42 U.S.C.  
2005bk 651 through 669, the child support enforcement program; and

2005bl (c) (i) when the child is covered by an individual policy, not disenroll or eliminate  
2005bm coverage of the child unless the insurer is provided satisfactory written evidence that:

2005bn (A) the court or administrative order is no longer in effect; or

2005bo (B) the child is or will be enrolled in comparable accident and health coverage through  
2005bp another insurer which will take effect not later than the effective date of disenrollment; or

2005bq (ii) when the child is covered by a group policy, not disenroll or eliminate coverage of  
2005br the child unless the employer is provided with satisfactory written evidence, which evidence is  
2005bs also provided to the insurer, that Subsection (9)(c)(i), (ii) or (iii) has happened.

2005bt (7) An insurer may not impose requirements on a state agency that has been assigned  
2005bu the rights of an individual eligible for medical assistance under Medicaid and covered for  
2005bv accident and health benefits from the insurer that are different from requirements ←§

- 2005bw **§→ applicable to an agent or assignee of any other individual so covered.**
- 2005bx (8) Insurers may not reduce their coverage of pediatric vaccines below the benefit level
- 2005by in effect on May 1, 1993.
- 2005bz (9) When a parent is required by a court or administrative order to provide health
- 2005ca coverage, which is available through an employer doing business in this state, the employer
- 2005cb shall:
- 2005cc (a) permit the parent to enroll under family coverage any child who is otherwise
- 2005cd eligible for coverage without regard to any enrollment season restrictions;
- 2005ce (b) if the parent is enrolled but fails to make application to obtain coverage of the child,
- 2005cf enroll the child under family coverage upon application by the child's other parent, by the
- 2005cg state agency administering the Medicaid program, or the state agency administering 42 U.S.C.
- 2005ch 651 through 669, the child support enforcement program;
- 2005ci (c) not disenroll or eliminate coverage of the child unless the employer is provided
- 2005cj satisfactory written evidence that:
- 2005ck (i) the court order is no longer in effect;
- 2005cl (ii) the child is or will be enrolled in comparable coverage which will take effect no
- 2005cm later than the effective date of disenrollment; or
- 2005cn (iii) the employer has eliminated family health coverage for all of its employees; and
- 2005co (d) withhold from the employee's compensation the employee's share, if any, of
- 2005cp premiums for health coverage and to pay this amount to the insurer.
- 2005cq (10) An order issued under Section 62A-11-326.1 may be considered a "qualified
- 2005cr medical support order" for the purpose of enrolling a dependent child in a group accident and
- 2005cs health insurance plan as defined in Section 609(a), Federal Employee Retirement Income
- 2005ct Security Act of 1974.
- 2005cu (11) This section does not affect any insurer's ability to require as a precondition of any
- 2005cv child being covered under any policy of insurance that:
- 2005cw (a) the parent continues to be eligible for coverage;
- 2005cx (b) the child shall be identified to the insurer with adequate information to comply with
- 2005cy this section; and
- 2005cz (c) the premium shall be paid when due.
- 2005da (12) The provisions of this section apply to employee welfare benefit plans as defined in
- 2005db Section 26-19-2.
- 2005dc (13) The commissioner shall adopt rules interpreting and implementing this section
- 2005dd with regard to out-of-area court ordered dependent coverage. ←§

2006 Section ~~§~~ [16] 17 ~~←§~~ . Section 31A-22-625 is amended to read:  
2007 **31A-22-625. Catastrophic coverage of mental health conditions.**  
2008 (1) As used in this section:  
2009 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan

2010 [~~or health maintenance organization contract~~] that does not impose a lifetime limit, annual  
2011 payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket  
2012 limit that places a greater financial burden on an insured for the evaluation and treatment of a  
2013 mental health condition than for the evaluation and treatment of a physical health condition.

2014 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing  
2015 factors, such as deductibles, copayments, or coinsurance, [~~prior to~~] before reaching [~~any~~] a  
2016 maximum out-of-pocket limit.

2017 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket  
2018 limit for physical health conditions and another maximum out-of-pocket limit for mental health  
2019 conditions, [~~provided that,~~] except that if separate out-of-pocket limits are established, the  
2020 out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for  
2021 physical health conditions.

2022 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan [~~or~~  
2023 ~~health maintenance organization contract~~] that pays for at least 50% of covered services for the  
2024 diagnosis and treatment of mental health conditions.

2025 (ii) "50/50 mental health coverage" may include a restriction on:

2026 (A) episodic limits[;];

2027 (B) inpatient or outpatient service limits[;]; or

2028 (C) maximum out-of-pocket limits.

2029 (c) "Large employer," [~~is as defined in Section 31A-1-301~~] is as defined in 42 U.S.C.  
2030 Sec. 300gg-91.

2031 (d) (i) "Mental health condition" means [~~any~~] a condition or disorder involving mental  
2032 illness that falls under [~~any of the~~] a diagnostic [~~categories~~] category listed in the Diagnostic  
2033 and Statistical Manual, as periodically revised.

2034 (ii) "Mental health condition" does not include the following when diagnosed as the  
2035 primary or substantial reason or need for treatment:

2036 (A) a marital or family problem;

2037 (B) a social, occupational, religious, or other social maladjustment;

2038 (C) a conduct disorder;

2039 (D) a chronic adjustment disorder;

2040 (E) a psychosexual disorder;

2041 (F) a chronic organic brain syndrome;

2042 (G) a personality disorder;

2043 (H) a specific developmental disorder or learning disability; or

2044 (I) mental retardation.

2045 (e) "Small employer" is as defined in [~~Section 31A-1-301~~] 42 U.S.C. Sec. 300gg-91.

2046 (2) (a) At the time of purchase and renewal, an insurer shall offer to [~~each~~] a small  
2047 employer that it insures or seeks to insure a choice between catastrophic mental health  
2048 coverage and 50/50 mental health coverage.

2049 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

2050 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels  
2051 that exceed the minimum requirements of this section; or

2052 (ii) coverage that excludes benefits for mental health conditions.

2053 (c) A small employer may, at its option, choose either catastrophic mental health  
2054 coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b),  
2055 regardless of the employer's previous coverage for mental health conditions.

2056 (d) An insurer is exempt from the 30% index rating restriction in Subsection  
2057 31A-30-106(1)(b) and, for the first year only that catastrophic mental health coverage is  
2058 chosen, the 15% annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii), for any  
2059 small employer with 20 or less enrolled employees who chooses coverage that meets or  
2060 exceeds catastrophic mental health coverage.

2061 [~~(3) (a) At the time of purchase and renewal of a health benefit plan, an insurer shall  
2062 offer catastrophic mental health coverage to each large employer that it insures or seeks to  
2063 insure.]~~

2064 [~~(b) In addition to Subsection (3)(a), an insurer may offer to provide catastrophic  
2065 mental health coverage at levels that exceed the minimum requirements of this section.]~~

2066 [~~(c) A large employer may, at its option, choose either catastrophic mental health  
2067 coverage, coverage that excludes benefits for mental health conditions, or coverage offered  
2068 under Subsection (3)(b).]~~

2069 (3) An insurer shall offer a large employer mental health and substance use disorder  
2070 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.  
2071 300gg-5, and federal regulations adopted pursuant to that act.

2072 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer  
2073 through a managed care organization or system in a manner consistent with [~~the provisions in~~]  
2074 Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether  
2075 the insurance policy [~~or contract~~] uses a managed care organization or system for the treatment  
2076 of physical health conditions.

2077 (b) (i) Notwithstanding any other provision of this title, an insurer may:

2078 (A) establish a closed panel of providers for catastrophic mental health coverage; and

2079 (B) refuse to provide [~~any~~] a benefit to be paid for services rendered by a nonpanel  
2080 provider unless:

2081 (I) the insured is referred to a nonpanel provider with the prior authorization of the  
2082 insurer; and

2083 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment  
2084 guidelines.

2085 (ii) If an insured receives services from a nonpanel provider in the manner permitted by  
2086 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the  
2087 average amount paid by the insurer for comparable services of panel providers under a  
2088 noncapitated arrangement who are members of the same class of health care providers.

2089 (iii) [~~Nothing in this~~] This Subsection (4)(b) may not be construed as requiring an  
2090 insurer to authorize a referral to a nonpanel provider.

2091 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a  
2092 mental health condition must be rendered:

2093 (i) by a mental health therapist as defined in Section 58-60-102; or

2094 (ii) in a health care facility:

2095 (A) licensed or otherwise authorized to provide mental health services pursuant to:

2096 (I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act[;]; or

2097 (II) Title 62A, Chapter 2, Licensure of Programs and Facilities[;]; and

2098 (B) that provides a program for the treatment of a mental health condition pursuant to a  
2099 written plan.

2100 (5) The commissioner may prohibit [~~a~~] an insurance policy [~~or contract~~] that provides  
2101 mental health coverage in a manner that is inconsistent with this section.

2102 (6) The commissioner shall:



2103 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
 2104 Rulemaking Act, as necessary to ensure compliance with this section; and

2105 (b) provide general figures on the percentage of [~~contracts and~~] insurance policies that  
 2106 include:

2107 (i) no mental health coverage[;];  
 2108 (ii) 50/50 mental health coverage[;];  
 2109 (iii) catastrophic mental health coverage[;]; and  
 2110 (iv) coverage that exceeds the minimum requirements of this section.

2111 [~~(7) The Health and Human Services Interim Committee shall review:~~]  
 2112 [~~(a) the impact of this section on insurers, employers, providers, and consumers of~~  
 2113 ~~mental health services before January 1, 2004; and]~~

2114 [~~(b) make a recommendation as to whether the provisions of this section should be~~  
 2115 ~~modified and whether the cost-sharing requirements for mental health conditions should be the~~  
 2116 ~~same as for physical health conditions.]~~

2117 [~~(8)(a) An insurer shall offer catastrophic mental health coverage as part of a health~~  
 2118 ~~maintenance organization contract that is governed by Chapter 8, Health Maintenance~~  
 2119 ~~Organizations and Limited Health Plans, that is in effect on or after January 1, 2001.]~~

2120 [~~(b) An insurer shall offer catastrophic mental health coverage as a part of a health~~  
 2121 ~~benefit plan that is not governed by Chapter 8, Health Maintenance Organizations and Limited~~  
 2122 ~~Health Plans, that is in effect on or after July 1, 2001.]~~

2123 [~~(c) This section does not apply to the purchase or renewal of an individual insurance~~  
 2124 ~~policy or contract.]~~

2125 [~~(d) Notwithstanding Subsection (8)(c), nothing in this]~~

2126 (7) This section may not be construed as discouraging or otherwise preventing  
 2127 [~~insurers]~~ an insurer from [~~continuing to provide]~~ providing mental health coverage in  
 2128 connection with an individual insurance policy [~~or contract~~].

2129 [~~(9)~~] (8) This section shall be repealed in accordance with Section 63I-1-231.  
 2130 Section 17. Section **31A-22-701** is amended to read:

2131 **31A-22-701. Groups eligible for group or blanket insurance.**

2132 (1) As used in this section, "association group" means a lawfully formed association of  
 2133 individuals or business entities that:

2134 (a) purchases insurance on a group basis on behalf of members; and  
2135 (b) is formed and maintained in good faith for purposes other than obtaining insurance.  
2136 ~~[(+)]~~ (2) A group or blanket accident and health insurance policy may be issued to:  
2137 (a) ~~[any]~~ a group:  
2138 (i) to which a group life insurance policy may be issued under Sections 31A-22-502  
2139 ~~[through]~~, 31A-22-503, 31A-22-504, 31A-22-506, 31A-22-507, and 31A-22-509; and  
2140 (ii) that is formed for a reason other than the purchase of insurance; ~~[or]~~  
2141 (b) an association group that:  
2142 (i) has been actively in existence for at least five years;  
2143 (ii) has a constitution and bylaws;  
2144 (iii) is formed and maintained in good faith for purposes other than obtaining  
2145 insurance;  
2146 (iv) does not condition membership in the association group on any health  
2147 status-related factor relating to an individual, including an employee of an employer or a  
2148 dependent of an employee;  
2149 (v) makes accident and health insurance coverage offered through the association  
2150 group available to all members regardless of any health status-related factor relating to the  
2151 members or individuals eligible for coverage through a member; and  
2152 (vi) does not make accident and health insurance coverage offered through the  
2153 association group available other than in connection with a member of the association group; or  
2154 ~~[(b) any]~~ (c) a group specifically authorized by the commissioner under Section  
2155 31A-22-509, upon a finding that:  
2156 (i) authorization is not contrary to the public interest;  
2157 (ii) the proposed group is actuarially sound;  
2158 (iii) formation of the proposed group may result in economies of scale in acquisition,  
2159 administrative, marketing, and brokerage costs;  
2160 (iv) the ~~[health]~~ insurance policy, insurance certificate, or other indicia of coverage that  
2161 will be offered to the proposed group is substantially equivalent to insurance policies that are  
2162 otherwise available to similar groups; ~~[and]~~  
2163 ~~[(v) the proposed group is formed for a reason other than the purchase of insurance.]~~  
2164 (v) the group would not present hazards of adverse selection; and

2165            (vi) the premiums for the insurance policy and any contributions by or on behalf of the  
2166 insured persons are reasonable in relation to the benefits provided.

2167            [(2)] (3) A blanket insurance policy may also be issued to:

2168            (a) [~~any~~] a common carrier or [~~any~~] an operator, owner, or lessee of a means of  
2169 transportation, as policyholder, covering persons who may become passengers as defined by  
2170 reference to their travel status;

2171            (b) an employer, as policyholder, covering any group of employees, dependents, or  
2172 guests, as defined by reference to specified hazards incident to any activities of the  
2173 policyholder;

2174            (c) an institution of learning, including a school district, school jurisdictional units, or  
2175 the head, principal, or governing board of any of those units, as policyholder, covering  
2176 students, teachers, or employees;

2177            (d) [~~any~~] a religious, charitable, recreational, educational, or civic organization, or  
2178 branch of those organizations, as policyholder, covering any group of members or participants  
2179 as defined by reference to specified hazards incident to the activities sponsored or supervised  
2180 by the policyholder;

2181            (e) a sports team, camp, or sponsor of the team or camp, as policyholder, covering  
2182 members, campers, employees, officials, or supervisors;

2183            (f) [~~any~~] a volunteer fire department, first aid, civil defense, or other similar volunteer  
2184 organization, as policyholder, covering any group of members or participants as defined by  
2185 reference to specified hazards incident to activities sponsored, supervised, or participated in by  
2186 the policyholder;

2187            (g) a newspaper or other publisher, as policyholder, covering its carriers;

2188            (h) an association, including a labor union, which has a constitution and bylaws and  
2189 which has been organized in good faith for purposes other than that of obtaining insurance, as  
2190 policyholder, covering any group of members or participants as defined by reference to  
2191 specified hazards incident to the activities or operations sponsored or supervised by the  
2192 policyholder;

2193            (i) a health insurance purchasing association, as defined in Section 31A-34-103,  
2194 organized and controlled solely by participating employers; and

2195            (j) any other class of risks [~~which~~] that, in the judgment of the commissioner, may be

2196 properly eligible for blanket accident and health insurance.

2197 ~~[(3)]~~ (4) The judgment of the commissioner may be exercised on the basis of:

2198 (a) individual risks;

2199 (b) a class of risks; or

2200 (c) both Subsections ~~[(3)]~~ (4)(a) and (b).

2201 Section 18. Section **31A-22-722** is amended to read:

2202 **31A-22-722. Utah mini-COBRA benefits for employer group coverage.**

2203 (1) An insured ~~[has the right to]~~ may extend the employee's coverage under the current

2204 employer's group policy for a period of 12 months, except as provided in ~~[Subsection]~~

2205 Subsections (2) and 31A-22-722.5(4). The right to extend coverage includes:

2206 (a) voluntary termination;

2207 (b) involuntary termination;

2208 (c) retirement;

2209 (d) death;

2210 (e) divorce or legal separation;

2211 (f) loss of dependent status;

2212 (g) sabbatical;

2213 (h) ~~[any]~~ a disability;

2214 (i) leave of absence; or

2215 (j) reduction of hours.

2216 (2) (a) Notwithstanding ~~[the provisions of]~~ Subsection (1), an employee ~~[does not have~~

2217 ~~the right to]~~ may not extend coverage under the current employer's group insurance policy if

2218 the employee:

2219 (i) ~~[failed]~~ fails to pay ~~[any required individual contribution]~~ premiums or

2220 contributions in accordance with the terms of the insurance policy;

2221 (ii) acquires other group coverage covering all preexisting conditions including

2222 maternity, if the coverage exists;

2223 (iii) ~~[performed]~~ performs an act or practice that constitutes fraud in connection with

2224 the coverage;

2225 (iv) ~~[made]~~ makes an intentional misrepresentation of material fact under the terms of

2226 the coverage;

- 2227 (v) ~~[was]~~ is terminated from employment for gross misconduct;
- 2228 (vi) ~~[has not been]~~ is not continuously covered under the current employer's group
- 2229 policy for a period of three months immediately ~~[prior to]~~ before the termination of the
- 2230 insurance policy due to ~~[the events]~~ an event set forth in Subsection (1);
- 2231 (vii) is eligible for ~~[any]~~ an extension of coverage required by federal law; ~~[or]~~
- 2232 (viii) establishes residence outside of this state;
- 2233 (ix) moves out of the insurer's service area;
- 2234 (x) is eligible for similar coverage under another group insurance policy;
- 2235 (xi) has the employee's coverage terminated because the employer's coverage is
- 2236 terminated, except as provided in Subsection (8); or
- 2237 ~~[(viii) elected]~~ (xii) elects alternative coverage under Section 31A-22-724.
- 2238 (b) The right to extend coverage under Subsection (1) applies to ~~[any]~~ spouse or
- 2239 dependent ~~[coverages]~~ coverage, including a surviving spouse or dependents whose coverage
- 2240 under the insurance policy terminates by reason of the death of the employee or member.
- 2241 (3) (a) The employer shall ~~[provide written notification]~~ notify the following in writing
- 2242 of the right to extend group coverage and the payment amounts required for extension of
- 2243 coverage, including the manner, place, and time in which the payments shall be made ~~[to]~~:
- 2244 (i) ~~[the]~~ a terminated insured;
- 2245 (ii) ~~[the]~~ an ex-spouse of an insured; or
- 2246 (iii) if Subsection (2)(b) applies:
- 2247 (A) ~~[to]~~ a surviving spouse; and
- 2248 (B) the guardian of surviving dependents, if different from a surviving spouse.
- 2249 (b) The notification required in Subsection (3)(a) shall be sent first class mail within 30
- 2250 days after the termination date of the group coverage to:
- 2251 (i) the terminated insured's home address as shown on the records of the employer;
- 2252 (ii) the address of the surviving spouse, if different from the insured's address and if
- 2253 shown on the records of the employer;
- 2254 (iii) the guardian of any dependents address, if different from the insured's address, and
- 2255 if shown on the records of the employer; and
- 2256 (iv) the address of the ex-spouse, if shown on the records of the employer.
- 2257 (4) The insurer shall provide the employee, spouse, or any eligible dependent the

2258 opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

2259 (a) the employer policyholder does not provide the terminated insured the written  
2260 notification required by Subsection (3)(a); and

2261 (b) the employee or other individual eligible for extension contacts the insurer within  
2262 60 days of coverage termination.

2263 (5) ~~[The]~~ A premium amount for extended group coverage may not exceed 102% of  
2264 the group rate in effect for a group member, including an employer's contribution, if any, for a  
2265 group insurance policy.

2266 (6) Except as provided in this Subsection (6), ~~[the]~~ coverage extends without  
2267 interruption for 12 months and may not terminate if the terminated insured or, with respect to a  
2268 minor, the parent or guardian of the terminated insured:

2269 (a) elects to extend group coverage within 60 days of losing group coverage; and

2270 (b) tenders the amount required to the employer or insurer.

2271 (7) The insured's coverage may be terminated ~~[prior to]~~ before 12 months if the  
2272 terminated insured:

2273 (a) establishes residence outside of this state;

2274 (b) moves out of the insurer's service area;

2275 (c) fails to pay premiums or contributions in accordance with the terms of the insurance  
2276 policy, including any timeliness requirements;

2277 (d) performs an act or practice that constitutes fraud in connection with the coverage;

2278 (e) makes an intentional misrepresentation of material fact under the terms of the  
2279 coverage;

2280 (f) becomes eligible for similar coverage under another group insurance policy; or

2281 (g) has the coverage terminated because the employer's coverage is terminated, except  
2282 as provided in Subsection (8).

2283 (8) If the current employer coverage is terminated and the employer replaces coverage  
2284 with similar coverage under another group insurance policy, without interruption, the  
2285 terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection  
2286 (2)(b) applies, ~~[have the right to]~~ may obtain extension of coverage under the replacement  
2287 group insurance policy:

2288 (a) for the balance of the period the terminated insured would have extended coverage

2289 under the replaced group insurance policy; and

2290 (b) if the terminated insured is otherwise eligible for extension of coverage.

2291 (9) (a) Within 30 days of the insured's exhaustion of extension of coverage, the  
2292 employer shall provide the terminated insured and the ex-spouse, or, in the case of the death of  
2293 the insured, the surviving spouse, or guardian of any dependents, written notification of the  
2294 right to an individual conversion policy under Section 31A-22-723.

2295 (b) The notification required by Subsection (9)(a):

2296 (i) shall be sent first class mail to:

2297 (A) the insured's last-known address as shown on the records of the employer;

2298 (B) the address of the surviving spouse, if different from the insured's address, and if  
2299 shown on the records of the employer;

2300 (C) the guardian of any dependents last known address as shown on the records of the  
2301 employer, if different from the address of the surviving spouse; and

2302 (D) the address of the ex-spouse as shown on the records of the employer, if  
2303 applicable; and

2304 (ii) shall contain the name, address, and telephone number of the insurer that will  
2305 provide the conversion coverage.

2306 Section 19. Section ~~31A-22-722.5~~ is amended to read:

2307 **31A-22-722.5. Mini-COBRA election -- American Recovery and Reinvestment**  
2308 **Act.**

2309 (1) ~~§→~~ [Am] **(a) If the conditions of Subsection (1)(b) are met, an ←§** individual has a  
2309a right ~~§→~~ [~~until April 18, 2009~~ **March 1, 2010,**] ~~←§~~ to contact the  
2310 individual's employer or the insurer for the employer to participate in a second election period  
2311 for mini-COBRA benefits under Section 31A-22-722 in accordance with Section 3001 of the  
2312 American Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), ~~as amended,~~ ~~§→~~ **until the later**  
2312a **of:**

2312b **(i) February 17, 2010; or**

2312c **(ii) 30 days after the day on which the individual's insurer provides the notice described in**  
2312d **Section 3001(a)(16)(D), of the American Recovery and Reinvestment Act of 2009, as amended**

2312e **by Pub. L. 111-118, Div. B, Sec. 1010(c).(b) Subsection (1)(a) applies ←§** if the  
2313 individual:

2314 ~~§→~~ [(a)] **(i) ←§** was involuntarily terminated from employment between [~~September 1, 2008 and~~  
2315 ~~February 17, 2009~~ **March 1, 2009 and April 30, 2009,** as defined in Section 3001 of the  
2316 American Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), ~~as amended;~~

2317            ~~§~~→ [(b)] (ii) ←~~§~~ is eligible for COBRA premium assistance under Section 3001 of the American  
2318 Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended; [~~and~~]  
2319            ~~§~~→ [(c)] (iii) ←~~§~~ was eligible for Utah mini-COBRA as provided in Section 31A-22-722 at  
the time



2320 of termination[-];

2321 ~~§~~ ~~(iv)~~ ~~←~~ ~~§~~ elected Utah mini-COBRA; and

2322 ~~§~~ ~~(v)~~ has the individual's ~~←~~ ~~§~~ coverage ~~§~~ ~~(v)~~ ~~←~~ ~~§~~ terminated between

2322a December 1, 2009

2322b through February 1, 2010, for

2323 reasons other than those identified in Subsection 31A-22-722(7).

2324 (2) (a) An individual or the employer of the individual shall contact the insurer and  
2325 inform the insurer that the individual wants to take advantage of the second election period for  
2326 mini-COBRA coverage under the provisions of Section 3001 of the American Recovery and  
2327 Reinvestment Act of 2009 (Pub. S. 111-5), as amended.

2328 (b) An individual or an employer on behalf of an eligible individual must submit the  
2329 enrollment forms for coverage under Subsection (1) to the insurer [~~prior to May 1, 2009~~]

2330 ~~§~~ ~~(b)~~ ~~(i)~~ ~~←~~ ~~§~~ by no later than the later of:

2330a (i) March 19, 2010; or

2330b (ii) 30 days after the day on which the notice of the second election period is provided as

2330c described in Subsection (1)(a). ~~←~~ ~~§~~

2331 (3) The provision regarding the application of pre-existing condition waivers to the  
2332 extended second election period for federal COBRA under Section 3001 of the American  
2333 Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended, shall apply to the  
2334 extended second election for state mini-COBRA under this section.

2335 (4) An insured has the right to extend the employee's coverage under the current  
2336 employer's group policy beyond 12 months to the period of time the insured is eligible to  
2337 receive assistance in accordance with Section 3001 of the American Recovery and  
2338 Reinvestment Act of 2009 (Pub. S. 111-5), as amended.

2339 [~~(4)~~] ~~(5)~~ An insurer that violates this section is subject to penalties in accordance with  
2340 Section 31A-2-308.

2341 Section 20. Section **31A-22-725** is enacted to read:

2342 **31A-22-725. Special enrollment periods relating to Medicaid and Children's**  
2343 **Health Insurance Program.**

2344 (1) A person is eligible to enroll for coverage under the terms of an employer's group  
2345 health benefit plan if:

2346 (a) the person is:

2347 (i) an employee who is eligible, but not enrolled, for coverage under the terms of the  
2348 employer's group health benefit plan; or

2349            (ii) a dependent of an employee, if the dependent is eligible, but not enrolled, for  
2350 coverage under the terms of the employer's group health benefit plan; and

- 2351 (b) the conditions of either Subsection (2) or (3) are met.
- 2352 (2) Subsection (1) applies if:
- 2353 (a) the employee or dependent is covered under:
- 2354 (i) a Medicaid health benefit plan under Title XIX of the Social Security Act; or
- 2355 (ii) a state child health benefit plan under Title XXI of the Social Security Act;
- 2356 (b) coverage of the employee or dependent described in Subsection (2)(a) is terminated
- 2357 as a result of loss of eligibility for the coverage; and
- 2358 (c) the employee requests coverage under the employer's group health plan no later
- 2359 than 60 days after the date of termination of the coverage described in Subsection (2)(a).
- 2360 (3) Subsection (1) applies if:
- 2361 (a) the employee or dependent becomes eligible for assistance, with respect to coverage
- 2362 under the employer's group health plan under a plan described in Subsection (2)(a), including
- 2363 under a waiver or demonstration project conducted under or in relation to a plan described in
- 2364 Subsection (2)(a); and
- 2365 (b) the employee requests coverage under the employer's group health plan no later
- 2366 than 60 days after the date the employee or dependent is determined to be eligible for the
- 2367 assistance described in Subsection (3)(a).
- 2368 Section 21. Section **31A-23a-415** is amended to read:
- 2369 **31A-23a-415. Assessment on title insurance agencies or title insurers -- Account**
- 2370 **created.**
- 2371 (1) For purposes of this section:
- 2372 (a) "Premium" is as defined in Subsection 59-9-101(3).
- 2373 (b) "Title insurer" means a person:
- 2374 (i) making any contract or policy of title insurance as:
- 2375 (A) insurer;
- 2376 (B) guarantor; or
- 2377 (C) surety;
- 2378 (ii) proposing to make any contract or policy of title insurance as:
- 2379 (A) insurer;
- 2380 (B) guarantor; or
- 2381 (C) surety; or

2382 (iii) transacting or proposing to transact any phase of title insurance, including:

2383 (A) soliciting;

2384 (B) negotiating preliminary to execution;

2385 (C) executing of a contract of title insurance;

2386 (D) insuring; and

2387 (E) transacting matters subsequent to the execution of the contract and arising out of

2388 the contract.

2389 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or  
2390 personal property located in Utah, an owner of real or personal property, the holders of liens or  
2391 encumbrances on that property, or others interested in the property against loss or damage  
2392 suffered by reason of:

2393 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the  
2394 property; or

2395 (ii) invalidity or unenforceability of any liens or encumbrances on the property.

2396 (2) (a) [~~Beginning on July 1, 1998, the~~] The commissioner may assess each title insurer  
2397 and each title insurance agency an annual assessment:

2398 (i) determined by the Title and Escrow Commission:

2399 (A) after consultation with the commissioner; and

2400 (B) in accordance with this Subsection (2); and

2401 (ii) to be used for the purposes described in Subsection (3).

2402 (b) A title insurance agency shall be assessed up to:

2403 (i) \$200 for the first office in each county in which the title insurance agency maintains  
2404 an office; and

2405 (ii) \$100 for each additional office the title insurance agency maintains in the county  
2406 described in Subsection (2)(b)(i).

2407 (c) A title insurer shall be assessed up to:

2408 (i) \$200 for the first office in each county in which the title insurer maintains an office;

2409 (ii) \$100 for each additional office the title insurer maintains in the county described in  
2410 Subsection (2)(c)(i); and

2411 (iii) an amount calculated by:

2412 (A) aggregating the assessments imposed on:

- 2413 (I) title insurance agencies under Subsection (2)(b); and  
 2414 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);  
 2415 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total  
 2416 costs and expenses determined under Subsection (2)(d); and  
 2417 (C) multiplying:  
 2418 (I) the amount calculated under Subsection (2)(c)(iii)(B); and  
 2419 (II) the percentage of total premiums for title insurance on Utah risk that are premiums  
 2420 of the title insurer.
- 2421 (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title  
 2422 and Escrow Commission by rule shall establish the amount of costs and expenses described  
 2423 under Subsection (3) that will be covered by the assessment, except the costs or expenses to be  
 2424 covered by the assessment may not exceed \$75,000 annually.
- 2425 (3) (a) ~~[All money]~~ Money received by the state under this section~~[(a) shall be~~  
 2426 ~~deposited in the General Fund as a dedicated credit of the department; and (b) may be~~  
 2427 ~~expended by the department]~~ shall be deposited into the Title Licensee Enforcement Restricted  
 2428 Account.
- 2429 (b) There is created in the General Fund a restricted account known as the "Title  
 2430 Licensee Enforcement Restricted Account."
- 2431 (c) The Title Licensee Enforcement Restricted Account shall consist of the money  
 2432 received by the state under this section.
- 2433 (d) The commissioner shall administer the Title Licensee Enforcement Restricted  
 2434 Account. Subject to appropriations by the Legislature, the commissioner shall use the money  
 2435 deposited into the Title Licensee Enforcement Restricted Account only to pay for ~~[any]~~ a cost  
 2436 or expense incurred by the department in the administration, investigation, and enforcement of  
 2437 this part and Part 5, Compensation of Producers and Consultants, related to:  
 2438 (i) the marketing of title insurance; and  
 2439 (ii) audits of agencies.
- 2440 (e) The money in the Title Licensee Enforcement Restricted Account is nonlapsing.
- 2441 (4) The assessment imposed by this section shall be in addition to any premium  
 2442 assessment imposed under Subsection 59-9-101(3).
- 2443 Section 22. Section **31A-23a-501** is amended to read:

2444 **31A-23a-501. Licensee compensation.**

2445 (1) As used in this section:

2446 (a) "Commission compensation" includes funds paid to or credited for the benefit of a  
2447 licensee from:

2448 (i) commission amounts deducted from insurance premiums on insurance sold by or  
2449 placed through the licensee; or

2450 (ii) commission amounts received from an insurer or another licensee as a result of the  
2451 sale or placement of insurance.

2452 (b) (i) "Compensation from an insurer or third party administrator" means  
2453 commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options,  
2454 gifts, prizes, or any other form of valuable consideration:

2455 (A) whether or not payable pursuant to a written agreement; and

2456 (B) received from:

2457 (I) an insurer; or

2458 (II) a third party to the transaction for the sale or placement of insurance.

2459 (ii) "Compensation from an insurer or third party administrator" does not mean  
2460 compensation from a customer that is:

2461 (A) a fee or pass-through costs as provided in Subsection (1)(e); or

2462 (B) a fee or amount collected by or paid to the producer that does not exceed an  
2463 amount established by the commissioner by administrative rule.

2464 (c) (i) "Customer" means:

2465 (A) the person signing the application or submission for insurance; or

2466 (B) the authorized representative of the insured actually negotiating the placement of  
2467 insurance with the producer.

2468 (ii) "Customer" does not mean a person who is a participant or beneficiary of:

2469 (A) an employee benefit plan; or

2470 (B) a group or blanket insurance policy or group annuity contract sold, solicited, or  
2471 negotiated by the producer or affiliate.

2472 (d) (i) "Noncommission compensation" includes all funds paid to or credited for the  
2473 benefit of a licensee other than commission compensation.

2474 (ii) "Noncommission compensation" does not include charges for pass-through costs

2475 incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

2476 (e) "Pass-through costs" include:

2477 (i) costs for copying documents to be submitted to the insurer; and

2478 (ii) bank costs for processing cash or credit card payments.

2479 (2) A licensee may receive from an insured or from a person purchasing an insurance  
2480 policy, noncommission compensation if the noncommission compensation is stated on a  
2481 separate, written disclosure.

2482 (a) The disclosure required by this Subsection (2) shall:

2483 (i) include the signature of the insured or prospective insured acknowledging the  
2484 noncommission compensation;

2485 (ii) clearly specify the amount or extent of the noncommission compensation; and

2486 (iii) be provided to the insured or prospective insured before the performance of the  
2487 service.

2488 (b) Noncommission compensation shall be:

2489 (i) limited to actual or reasonable expenses incurred for services; and

2490 (ii) uniformly applied to all insureds or prospective insureds in a class or classes of  
2491 business or for a specific service or services.

2492 (c) A copy of the signed disclosure required by this Subsection (2) must be maintained  
2493 by any licensee who collects or receives the noncommission compensation or any portion of  
2494 the noncommission compensation.

2495 (d) All accounting records relating to noncommission compensation shall be  
2496 maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

2497 (3) (a) A licensee may receive noncommission compensation when acting as a  
2498 producer for the insured in connection with the actual sale or placement of insurance if:

2499 (i) the producer and the insured have agreed on the producer's noncommission  
2500 compensation; and

2501 (ii) the producer has disclosed to the insured the existence and source of any other  
2502 compensation that accrues to the producer as a result of the transaction.

2503 (b) The disclosure required by this Subsection (3) shall:

2504 (i) include the signature of the insured or prospective insured acknowledging the  
2505 noncommission compensation;

2506 (ii) clearly specify the amount or extent of the noncommission compensation and the  
2507 existence and source of any other compensation; and

2508 (iii) be provided to the insured or prospective insured before the performance of the  
2509 service.

2510 (c) The following additional noncommission compensation is authorized:

2511 (i) compensation received by a producer of a compensated corporate surety who under  
2512 procedures approved by a rule or order of the commissioner is paid by surety bond principal  
2513 debtors for extra services;

2514 (ii) compensation received by an insurance producer who is also licensed as a public  
2515 adjuster under Section 31A-26-203, for services performed for an insured in connection with a  
2516 claim adjustment, so long as the producer does not receive or is not promised compensation for  
2517 aiding in the claim adjustment prior to the occurrence of the claim;

2518 (iii) compensation received by a consultant as a consulting fee, provided the consultant  
2519 complies with the requirements of Section 31A-23a-401; or

2520 (iv) other compensation arrangements approved by the commissioner after a finding  
2521 that they do not violate Section 31A-23a-401 and are not harmful to the public.

2522 (4) (a) For purposes of this Subsection (4), "producer" includes:

2523 (i) a producer;

2524 (ii) an affiliate of a producer; or

2525 (iii) a consultant.

2526 (b) Beginning January 1, 2010, in addition to any other disclosures required by this  
2527 section, a producer may not accept or receive any compensation from an insurer or third party  
2528 administrator for the placement of a health benefit plan, other than a hospital confinement  
2529 indemnity policy, unless prior to the customer's purchase of the health benefit plan the  
2530 producer:

2531 (i) except as provided in Subsection (4)(c), discloses in writing to the customer that the  
2532 producer will receive compensation from the insurer or third party administrator for the  
2533 placement of insurance, including the amount or type of compensation known to the producer  
2534 at the time of the disclosure; and

2535 (ii) except as provided in Subsection (4)(c):

2536 (A) obtains the customer's signed acknowledgment that the disclosure under



2537 Subsection (4)(b)(i) was made to the customer; or

2538 (B) [~~certifies to the insurer~~] (I) signs a statement that the disclosure required by

2539 Subsection (4)(b)(i) was made to the customer[-]; and

2540 (II) keeps the signed statement on file in the producer's office while the health benefit  
2541 plan placed with the customer is in force.

2542 (c) If the compensation to the producer from an insurer or third party administrator is  
2543 for the renewal of a health benefit plan, once the producer has made an initial disclosure that  
2544 complies with Subsection (4)(b), the producer does not have to disclose compensation received  
2545 for the subsequent yearly renewals in accordance with Subsection (4)(b) until the renewal  
2546 period immediately following 36 months after the initial disclosure.

2547 (d) (i) [~~A copy of the signed acknowledgment required by Subsection (4)(b) must be~~  
2548 ~~maintained by the~~] A licensee who collects or receives any part of the compensation from an  
2549 insurer or third party administrator in a manner that facilitates an audit[-] shall, while the health  
2550 benefit plan placed with the customer is in force, maintain a copy of:

2551 (A) the signed acknowledgment described in Subsection (4)(b)(i); or

2552 (B) the signed statement described in Subsection (4)(b)(ii).

2553 (ii) The standard application developed in accordance with Section 31A-22-635 shall  
2554 include a place for a producer to provide the disclosure required by this Subsection (4), and if  
2555 completed, shall satisfy the requirement of Subsection (4)(d)(i).

2556 (e) Subsection (4)(b)(ii) does not apply to:

2557 (i) a person licensed as a producer who acts only as an intermediary between an insurer  
2558 and the customer's producer, including a managing general agent; or

2559 (ii) the placement of insurance in a secondary or residual market.

2560 (5) This section does not alter the right of any licensee to recover from an insured the  
2561 amount of any premium due for insurance effected by or through that licensee or to charge a  
2562 reasonable rate of interest upon past-due accounts.

2563 (6) This section does not apply to bail bond producers or bail enforcement agents as  
2564 defined in Section 31A-35-102.

2565 Section 23. Section **31A-26-201** is amended to read:

2566 **31A-26-201. Requirement of license.**

2567 (1) Except as provided in Subsection (2)[-~~no~~]:

2568 (a) a person may not perform, offer to perform, or solicit the opportunity to perform  
2569 [~~any~~] an act of insurance adjusting without a valid license under Section 31A-26-203; and [~~no~~]

2570 (b) a person may not use the insurance adjusting services of another if the person  
2571 knows or should know that the one providing these services does not have a license as required  
2572 by law.

2573 (2) The following are exempt from the license requirement of Subsection (1), when  
2574 acting in the indicated [~~capacities~~] capacity:

2575 (a) [~~a person~~] an individual engaged in insurance adjusting as a regular salaried  
2576 employee of, and not an independent contractor for, an insurer;

2577 (b) an arbitrator or an umpire selected by the claimant and insurer to decide, alone or  
2578 with others, whether a claim should be paid and how much should be paid;

2579 (c) an attorney at law acting in an attorney-client relationship;

2580 (d) an insurance producer, but only as to [~~the classes~~];

2581 (i) a class of insurance for which [~~he~~] the insurance producer is licensed under Section  
2582 31A-23a-106; and [~~only as to claims~~]

2583 (ii) a claim adjusted on the request of an insurer for which [~~he~~] the insurance producer  
2584 is a producer;

2585 (e) a regular salaried employee of, and not an independent contractor for, a  
2586 policyholder or claimant under an insurance policy;

2587 (f) an employee of a licensed insurance adjuster who provides only administrative or  
2588 clerical assistance;

2589 (g) [~~person~~] an individual who does not do insurance adjusting under Section  
2590 31A-26-102, but who is specially employed to obtain facts about a loss for or furnish technical  
2591 assistance to a licensed adjuster or a company adjuster, including:

2592 (i) a photographer[;];

2593 (ii) an estimator [~~or~~];

2594 (iii) an appraiser[;];

2595 (iv) a marine surveyor[;];

2596 (v) a private detective[;];

2597 (vi) an engineer[;]; and

2598 (vii) a handwriting expert;

2599 (h) a holder of a group insurance policy, with respect to administrative activities in  
 2600 connection with that insurance policy, who receives no compensation for [his] the  
 2601 policyholder's services beyond the actual expenses estimated on a reasonable basis;

2602 (i) [~~a person~~] an individual engaged in insurance adjusting as a regular salaried  
 2603 employee of, and not an independent contractor for, an administrator licensed under Chapter  
 2604 25[~~; and~~], Third Party Administrators; or

2605 (j) a person who gives advice or assistance without compensation or expectation of  
 2606 compensation, direct or indirect.

2607 (3) [~~No~~] A claim settlement between an insurer and an insured or a claimant under an  
 2608 insurance [~~contract is~~] policy may not be considered invalid as a result of a violation of this  
 2609 section.

2610 Section 24. Section **31A-35-401** is amended to read:

2611 **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**  
 2612 **-- Limitations.**

2613 (1) (a) A person may not engage in the bail bond surety insurance business unless that  
 2614 person:

2615 (i) is a bail bond surety company licensed under this chapter;

2616 (ii) is a surety insurer that is granted a certificate under this section in the same manner  
 2617 as other insurers doing business in this state are granted certificates of authority under this title;  
 2618 or

2619 (iii) is a bail bond producer licensed in accordance with this section.

2620 (b) A bail bond surety company shall be licensed under this chapter as an agency.

2621 (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -  
 2622 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

2623 (2) A person applying for a bail bond surety company license under this chapter shall  
 2624 submit to the commissioner:

2625 (a) a completed application form as prescribed by the commissioner;

2626 (b) a fee as determined by the commissioner in accordance with Section [~~63J-1-504~~]  
 2627 31A-3-103; and

2628 (c) any additional information required by rule.

2629 (3) [~~Fees~~] A fee required under this section [~~are~~] is not refundable.

2630 (4) [Fees] A fee collected from a bail bond surety company shall be deposited in a  
2631 restricted account created in Section 31A-35-407.

2632 (5) (a) A bail bond surety company shall be domiciled in Utah.

2633 (b) A bail bond producer shall be a resident of Utah.

2634 (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only  
2635 issue bail bonds through a bail bond surety company licensed under this chapter.

2636 Section 25. Section **31A-35-406** is amended to read:

2637 **31A-35-406. Renewal and reinstatement.**

2638 (1) (a) To renew its license under this chapter, on or before the last day of the month in  
2639 which the license expires a bail bond surety company shall:

2640 (i) complete and submit a renewal application to the department; and

2641 (ii) pay the department the applicable renewal fee established in accordance with  
2642 Section [~~63J-1-504~~] 31A-3-103.

2643 (b) A bail bond surety company shall renew its license under this chapter annually as  
2644 established by department rule, regardless of when the license is issued.

2645 (2) A bail bond surety company may apply for reinstatement of an expired bail bond  
2646 surety company license within one year following the expiration of the license under  
2647 Subsection (1) by:

2648 (a) submitting the renewal application required by Subsection (1); and

2649 (b) paying a license reinstatement fee established in accordance with Section  
2650 [~~63J-1-504~~] 31A-3-103.

2651 (3) If a bail bond surety company license has been expired for more than one year, the  
2652 person applying for reinstatement of the bail bond surety license shall:

2653 (a) submit a new application form to the commissioner; and

2654 (b) pay the application fee established in accordance with Section [~~63J-1-504~~]  
2655 31A-3-103.

2656 (4) If a bail bond surety company license is suspended, the applicant may not submit an  
2657 application for a bail bond surety company license until after the end of the period of  
2658 suspension.

2659 (5) [Fees] A fee collected under this section shall be deposited in the restricted account  
2660 created in Section 31A-35-407.

2661 Section 26. Section **31A-36-102** is amended to read:

2662 **31A-36-102. Definitions.**

2663 As used in this chapter:

2664 (1) (a) "Advertising" means a communication placed before the public to:

2665 (i) create an interest in a life settlement; or

2666 (ii) induce a person pursuant to a life settlement to sell, assign, devise, bequest, or

2667 transfer the death benefit or ownership of:

2668 (A) a policy; or

2669 (B) an interest in a policy.

2670 (b) "Advertising" includes the following, if the requirements of Subsection (1)(a) are

2671 met:

2672 (i) a written, electronic, or printed communication;

2673 (ii) a communication by means of a recorded telephone message;

2674 (iii) a communication transmitted on radio, television, the Internet, or similar

2675 communications media; and

2676 (iv) a film strip, motion picture, or video.

2677 (2) "Business of life settlements" includes the following:

2678 (a) offering a life settlement;

2679 (b) soliciting a life settlement;

2680 (c) negotiating a life settlement;

2681 (d) procuring a life settlement;

2682 (e) effectuating a life settlement;

2683 (f) purchasing a life settlement;

2684 (g) investing in a life settlement;

2685 (h) financing a life settlement;

2686 (i) monitoring a life settlement;

2687 (j) tracking a life settlement;

2688 (k) underwriting a life settlement;

2689 (l) selling a life settlement;

2690 (m) transferring a life settlement;

2691 (n) assigning a life settlement;

- 2692 (o) pledging a life settlement;
- 2693 (p) hypothecating a life settlement; or
- 2694 (q) in any other manner acquiring an interest in [a] an insurance policy by means of a
- 2695 life settlement.
- 2696 (3) "Chronically ill" means:
- 2697 (a) being unable to perform at least two activities of daily living, such as eating,
- 2698 toileting, moving from one place to another, bathing, dressing, or continence;
- 2699 (b) requiring substantial supervision for protection from threats to health and safety
- 2700 because of severe cognitive impairment; or
- 2701 (c) having a level of disability similar to that described in Subsection (3)(a).
- 2702 (4) "Depository institution" is as defined in Section 7-1-103.
- 2703 (5) (a) "Financing entity" means a person:
- 2704 (i) who has direct ownership in a policy that is the subject of a life settlement;
- 2705 (ii) whose principal activity related to a life settlement is providing money to effect the
- 2706 life settlement or the purchase of one or more settled policies; and
- 2707 (iii) who has an agreement in writing with one or more licensed life settlement
- 2708 providers to finance the acquisition of one or more life settlements.
- 2709 (b) "Financing entity" includes, if the requirements of Subsection (5)(a) are met, the
- 2710 following:
- 2711 (i) an underwriter;
- 2712 (ii) a placement agent;
- 2713 (iii) an enhancer of credit;
- 2714 (iv) a lender;
- 2715 (v) a purchaser of securities; and
- 2716 (vi) a purchaser of a policy from a life settlement provider.
- 2717 (c) "Financing entity" does not include:
- 2718 (i) a nonaccredited investor; or
- 2719 (ii) a life settlement purchaser.
- 2720 (6) "Form" means, in addition to a form as defined in Section 31A-1-301:
- 2721 (a) a life settlement;
- 2722 (b) a disclosure to an owner;

- 2723 (c) a notice of intent to settle; or
- 2724 (d) a verification of coverage.
- 2725 (7) "Life expectancy" means the mean number of months an individual insured under a
- 2726 policy to be settled can be expected to live considering medical records and appropriate
- 2727 experiential data.
- 2728 (8) (a) "Life settlement" means a written agreement:
- 2729 (i) between an owner and a life settlement provider; and
- 2730 (ii) ~~[for] that establishes the terms for the payment of anything of value~~~~[, that is less~~
- 2731 ~~than the expected death benefit of the policy;]~~ in exchange for the owner assigning, selling,
- 2732 transferring, devising, releasing, or bequeathing, at the time of or after the exchange, the death
- 2733 benefit or ownership of:
- 2734 (A) any portion of a policy; or
- 2735 (B) a beneficial interest in the policy.
- 2736 (b) "Life settlement" includes:
- 2737 (i) the transfer for compensation or value of ownership or beneficial interest in a trust
- 2738 or other entity that owns a policy if the trust or other entity is formed or operated for the
- 2739 principal purpose of acquiring one or more policies; or
- 2740 (ii) a premium finance loan made for a policy by a lender to an owner on, before, or
- 2741 after the date of issuance of the policy if the owner:
- 2742 (A) receives on the date of the premium finance loan a guarantee of a future life
- 2743 settlement value of the policy; or
- 2744 (B) agrees on the date of the premium finance loan to sell the policy or any portion of
- 2745 the policy's death benefit on a date following the issuance of the policy.
- 2746 (c) An agreement described in Subsection (8)(a) is a "life settlement" even if it is
- 2747 referred to by a different name, including:
- 2748 (i) a ~~["life]~~ "viatical settlement"; or
- 2749 (ii) a "senior settlement."
- 2750 (d) "Life settlement" does not include:
- 2751 (i) a loan or accelerated death benefit by an insurer pursuant to the terms of a policy;
- 2752 (ii) loan proceeds that are used solely to pay:
- 2753 (A) premiums for a policy; and

- 2754 (B) the loan costs or other expenses incurred by the lender, including:
- 2755 (I) interest;
- 2756 (II) an arrangement fee;
- 2757 (III) a use fee;
- 2758 (IV) closing costs;
- 2759 (V) attorney fees and expenses;
- 2760 (VI) trustee fees and expenses; and
- 2761 (VII) third party collateral provider fees and expenses, including fees payable to a letter
- 2762 of credit issuer;
- 2763 (iii) (A) a loan made by a licensed lender in which the licensed lender takes an interest
- 2764 in a policy solely to secure repayment of a loan; or
- 2765 (B) the transfer of a policy by a lender, if:
- 2766 (I) the loan is:
- 2767 (Aa) a loan described in Subsection (8)(d)(iii)(A); or
- 2768 (Bb) a premium finance loan that is not a life settlement;
- 2769 (II) the loan is defaulted on;
- 2770 (III) the policy is transferred; and
- 2771 (IV) neither the default itself nor the transfer of the policy in connection with the
- 2772 default is pursuant to an agreement with any other person for the purpose of evading regulation
- 2773 under this chapter;
- 2774 (iv) an agreement where all the participants in the agreement:
- 2775 (A) (I) are closely related to the insured by blood or law; or
- 2776 (II) have a lawful substantial economic interest in the continued life, health, and bodily
- 2777 safety of the person insured; and
- 2778 (B) are trusts established primarily for the benefit of the participants in the agreement;
- 2779 (v) a designation, consent, or agreement by an insured who is an employee of an
- 2780 employer in connection with the purchase by the employer, or trust established by the
- 2781 employer, of life insurance on the life of the employee; or
- 2782 (vi) a business succession planning arrangement not made for the purpose of evading
- 2783 regulation under this chapter:
- 2784 (A) (I) between one or more shareholders in a corporation; or



- 2785 (II) between a corporation and:
- 2786 (Aa) one or more of its shareholders; or
- 2787 (Bb) one or more trusts established by its shareholders;
- 2788 (B) (I) between one or more partners in a partnership; or
- 2789 (II) between a partnership and:
- 2790 (Aa) one or more of its partners; or
- 2791 (Bb) one or more trusts established by its partners; or
- 2792 (C) (I) between one or more members in a limited liability company; or
- 2793 (II) between a limited liability company and:
- 2794 (Aa) one or more of its members; or
- 2795 (Bb) one or more trusts established by its members.
- 2796 (9) (a) "Life settlement producer" means a person licensed in the state as a life
- 2797 insurance producer that on behalf of an owner and for consideration offers or attempts to
- 2798 negotiate a life settlement between the owner and one or more life settlement providers.
- 2799 (b) "Life settlement producer" does not include an attorney licensed to practice law in
- 2800 any state, a certified public accountant, or a financial planner accredited by a nationally
- 2801 recognized accrediting agency:
- 2802 (i) that is retained to represent an owner; and
- 2803 (ii) whose compensation is not paid directly or indirectly by:
- 2804 (A) a life settlement provider; or
- 2805 (B) a life settlement purchaser.
- 2806 (10) (a) "Life settlement provider" means a person other than an owner that enters into
- 2807 or effectuates a life settlement.
- 2808 (b) "Life settlement provider" does not include:
- 2809 (i) a licensed lender that takes an assignment of a policy as security for a loan,
- 2810 including a:
- 2811 (A) depository institution; or
- 2812 (B) lender that makes a premium finance loan that is not described in Subsection
- 2813 (8)(b)(ii);
- 2814 (ii) the issuer of a policy;
- 2815 (iii) an authorized or eligible insurer that provides stop-loss coverage to:

- 2816 (A) a life settlement provider;
- 2817 (B) a life settlement purchaser;
- 2818 (C) a financing entity;
- 2819 (D) a special purpose entity; or
- 2820 (E) a related provider trust;
- 2821 (iv) a financing entity;
- 2822 (v) a special purpose entity;
- 2823 (vi) a related provider trust;
- 2824 (vii) a life settlement purchaser; or
- 2825 (viii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A
- 2826 that purchases a settled policy from a life settlement provider.
- 2827 (11) (a) "Life settlement purchaser" means a person that, to derive an economic benefit:
- 2828 (i) provides a sum of money as consideration for a policy or an interest in the death
- 2829 benefits of a policy; or
- 2830 (ii) owns, acquires, or is entitled to a beneficial interest in a trust that:
- 2831 (A) owns a life settlement; or
- 2832 (B) is the beneficiary of a policy that has been or will be the subject of a life settlement.
- 2833 (b) "Life settlement purchaser" does not include:
- 2834 (i) a life settlement provider;
- 2835 (ii) a life settlement producer;
- 2836 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
- 2837 230.501;
- 2838 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 2839 (v) a financing entity;
- 2840 (vi) a special purpose entity; or
- 2841 (vii) a related provider trust.
- 2842 (12) (a) "Owner" means any of the following who resides in this state and seeks to
- 2843 enter into a life settlement:
- 2844 (i) the owner of a policy; or
- 2845 (ii) the holder of a certificate of ~~[insurance under]~~ a group policy ~~[of group insurance]~~.
- 2846 (b) "Owner" is not limited to ~~[a person]~~ an individual who is terminally ill or

2847 chronically ill except when the limitation is expressly provided in this chapter.

2848 (c) "Owner" does not include:

2849 (i) a life settlement provider;

2850 (ii) a life settlement producer;

2851 (iii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;

2852 (iv) a financing entity;

2853 (v) a special purpose entity; or

2854 (vi) a related provider trust.

2855 (13) "Policy" means:

2856 (a) an individual or group life insurance policy;

2857 (b) an individual or group annuity policy;

2858 [~~(b)~~] (c) a group life insurance certificate [~~for life insurance; or~~];

2859 (d) a group annuity certificate; or

2860 [~~(c)~~] (e) a [contract or arrangement of] life insurance policy or an annuity policy,

2861 whether or not delivered or issued for delivery in Utah:

2862 (i) affecting the rights of a resident of Utah; or

2863 (ii) bearing a reasonable relation to Utah.

2864 (14) "Premium finance loan" is a loan made primarily for the purpose of making  
2865 premium payments on a policy if the loan is secured by an interest in the policy.

2866 (15) "Related provider trust" means a trust established by a licensed life settlement  
2867 provider or a financing entity solely to hold the ownership of or beneficial interests in  
2868 purchased policies in connection with financing.

2869 (16) "Settled policy" means a policy that is acquired by a life settlement provider  
2870 pursuant to a life settlement.

2871 (17) "Special purpose entity" means an entity formed by a licensed life settlement  
2872 provider solely to enable the life settlement provider to gain access to institutional markets for  
2873 capital.

2874 (18) (a) "Stranger-originated life insurance" means an act, practice, or arrangement to  
2875 initiate a policy for the benefit of a third party investor or other person who has no insurable  
2876 interest in the insured resulting in the requirements of Section 31A-21-104 not being met.

2877 (b) "Stranger-originated life insurance" includes when:

2878 (i) a policy is purchased with resources or guarantees from or through a person who, at  
2879 the time of policy origination, could not lawfully initiate the policy itself; and

2880 (ii) at the time of policy origination, there is an agreement, whether oral or written, to  
2881 directly or indirectly transfer to a third party the ownership of a policy, policy benefits, or both.

2882 (c) "Stranger-originated life insurance" does not include:

2883 (i) a life settlement that complies with:

2884 (A) this chapter; and

2885 (B) Section 31A-21-104; or

2886 (ii) an act, practice, or arrangement described in Subsection (8)(d).

2887 (19) "Terminally ill" means having a condition that reasonably may be expected to  
2888 result in death within 24 months.

2889 Section 27. Section **31A-40-103** is amended to read:

2890 **31A-40-103. Duties of the commissioner.**

2891 (1) (a) The commissioner shall maintain a list of professional employer organizations  
2892 that are licensed under this chapter.

2893 (b) The commissioner shall make the list required by this Subsection (1) available to  
2894 the public by electronic or other means.

2895 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2896 commissioner:

2897 (a) shall make rules to prescribe the requirements for forms required under this chapter;

2898 [~~and~~]

2899 (b) may make rules to prescribe the requirements and process for correcting under  
2900 Section 31A-40-205:

2901 (i) a deficiency in working capital; or

2902 (ii) negative working capital;

2903 [~~(b)~~] (c) may make rules to prescribe the requirements for the review and submission of  
2904 a financial statement under Section 31A-40-305:

2905 (i) that are consistent with generally accepted accounting principles; and

2906 (ii) including the timeliness of a financial statement[-]; and

2907 (d) may make rules to prescribe the requirements and process for when a professional  
2908 employer organization license is terminated by:

- 2909            (i) voluntary surrender of the professional organization license; or  
 2910            (ii) involuntary surrender of the professional organization license.
- 2911            (3) A rule in effect on May 5, 2008 under the repealed Title 58, Chapter 59,  
 2912 Professional Employer Organization Registration Act, [~~shall be: (a) renumbered as a rule made~~  
 2913 ~~under this chapter; and (b) remain~~] remains in effect until such time as the commissioner  
 2914 modifies or repeals the rule.
- 2915            [~~(4) The commissioner shall report to the Business and Labor Committee by no later~~  
 2916 ~~than the November 2009 interim meeting as to whether the commissioner recommends that the~~  
 2917 ~~working capital requirements of Section 31A-40-205 be modified.]~~
- 2918            Section 28. Section **31A-40-302** is amended to read:
- 2919            **31A-40-302. Licensing process.**
- 2920            (1) To apply for an initial or renewal license under this chapter, a person shall:
- 2921            (a) (i) [~~file~~] submit an application with the commissioner on a form and in a manner  
 2922 the commissioner shall determine by rule made in accordance with Title 63G, Chapter 3, Utah  
 2923 Administrative Rulemaking Act; and
- 2924            (ii) pay a license fee determined in accordance with Section 31A-3-103 that is not  
 2925 refunded if the application:
- 2926            (A) is denied; [~~or~~]  
 2927            (B) does not comply with Section 31A-40-303; or  
 2928            [~~(B)~~] (C) if incomplete, is never completed by the person filing the application; or
- 2929            (b) comply with Section 31A-40-303.
- 2930            (2) In the application described in Subsection (1)(a), the person shall provide:
- 2931            (a) any name under which the professional employer organization will engage in a  
 2932 professional employer service;
- 2933            (b) the address of the principal place of business of the professional employer  
 2934 organization;
- 2935            (c) the address of each location the professional employer organization maintains in  
 2936 this state;
- 2937            (d) the professional employer organization's federal taxpayer or employer identification  
 2938 number;
- 2939            (e) the following information by jurisdiction of each name under which the

2940 professional employer organization operated in the five years preceding the day on which the  
2941 person ~~files~~ submits the application:

2942 (i) the name;

2943 (ii) an alternative name, if any;

2944 (iii) a name of a predecessor; and

2945 (iv) if known, a successor business entity;

2946 (f) a statement of ownership that includes the name and evidence of the business

2947 experience of a person that, individually or acting in concert with one or more other persons,

2948 owns or controls, directly or indirectly, 10% or more of the equity interests of the professional

2949 employer organization;

2950 (g) a statement of management that includes the name and evidence of the business

2951 experience of ~~[a person]~~ an individual who:

2952 (i) serves as president of the professional employer organization;

2953 (ii) serves as chief executive officer of the professional employer organization; or

2954 (iii) may act as a senior executive officer of the professional employer organization;

2955 and

2956 (h) a financial statement that:

2957 (i) sets forth the financial condition of:

2958 (A) the professional employer organization; or

2959 (B) a professional employer organization group in which the professional employer

2960 organization is a member;

2961 (ii) states whether or not the professional employer organization complies with Section

2962 31A-40-205; and

2963 (iii) complies with Section 31A-40-305.

2964 ~~[(3) A professional employer organization that is registered by the Division of~~

2965 ~~Occupations and Professional Licensing as of May 4, 2008 shall comply with this section by no~~

2966 ~~later than November 5, 2008. An initial license obtained under this Subsection (3) is valid~~

2967 ~~until the end of the professional employer organization's first full fiscal year that immediately~~

2968 ~~follows the day on which the initial license application is filed.]~~

2969 ~~[(4) Within 180 days after the day on which a professional employer organization's~~

2970 ~~fiscal year ends, a]~~

2971           (3) A professional employer organization shall renew its license [by complying with  
2972 Subsection (1)] by no later than October 1 of each year.

2973           Section 29. Section **31A-40-307** is enacted to read:

2974           **31A-40-307. Voluntary surrender of professional employer organization license.**

2975           (1) When a professional employer organization wants to voluntarily surrender its  
2976 professional employer organization license, the professional employer organization shall:

2977           (a) notify in writing each coemployer regarding the impending loss of the following  
2978 provided under the professional employer agreement:

2979           (i) workers' compensation insurance coverage;

2980           (ii) health care benefits, if a coemployers' employee welfare plan includes fully insured  
2981 or partially insured health insurance benefits; and

2982           (iii) any other insurance benefit provided to coemployers by the professional employer  
2983 organization; and

2984           (b) submit a letter of intent to voluntarily surrender the license to the commissioner:

2985           (i) after providing the notice to coemployers under Subsection (1)(a); and

2986           (ii) not less than 45 days before the day on which the professional employer  
2987 organization surrenders its professional employer organization license.

2988           (2) The letter of intent to voluntarily surrender a professional employer organization  
2989 license shall include the following:

2990           (a) the reason the professional employer organization license is being surrendered;

2991           (b) a discussion of each process or plan to handle the obligations to coemployers and  
2992 employees;

2993           (c) a list of coemployers as of the date of the letter;

2994           (d) a copy of the notice sent to the coemployers under Subsection (1)(a);

2995           (e) certification that the professional employer organization has notified the  
2996 coemployers located in Utah of the professional employer organization's intent to cease doing  
2997 business in Utah; and

2998           (f) the signature of the professional employer organization's chief executive officer or  
2999 controlling individual.

3000           Section 30. Section **31A-42-201** is amended to read:

3001           **31A-42-201. Creation of defined contribution market risk adjuster mechanism --**

3002 **Board of directors -- Appointment -- Terms -- Quorum -- Plan preparation.**

3003 (1) There is created the "Utah Defined Contribution Risk Adjuster," a nonprofit entity  
3004 within the [~~Insurance Department~~] department.

3005 (2) (a) The risk adjuster [~~shall be~~] is under the direction of a board of directors  
3006 composed of up to nine members described in Subsection (2)(b).

3007 (b) The board of directors shall consist of:

3008 [~~(b) The~~] (i) the following directors [~~shall be~~] appointed by the governor with the  
3009 consent of the Senate:

3010 [~~(i)~~] (A) at least three, but up to five, directors with actuarial experience who represent  
3011 [~~insurance carriers~~] insurers:

3012 [~~(A)~~] (I) that are participating or have committed to participate in the defined  
3013 contribution arrangement market in the state; and

3014 [~~(B)~~] (II) including at least one and up to two directors who represent [~~a carrier~~] an  
3015 insurer that has a small percentage of lives in the defined contribution market;

3016 [~~(ii)~~] (B) one director who represents either an individual employee or employer  
3017 participant in the defined contribution market;

3018 [~~(iii)~~] (C) one director [~~appointed by the governor to represent~~] who represents the  
3019 Office of Consumer Health Services within the Governor's Office of Economic Development;

3020 [~~(iv)~~] (ii) one director representing the Public Employee's Health [~~Benefit~~] Program  
3021 with actuarial experience, [~~chosen~~] appointed by the director of the Public Employee's Health  
3022 [~~Benefit~~] Program [~~who shall serve as an ex officio member~~]; and

3023 [~~(v)~~] (iii) the commissioner, or a representative [~~from the department with actuarial~~  
3024 experience] of the commissioner who:

3025 (A) is appointed by the commissioner; and

3026 (B) has actuarial experience.

3027 (c) The commissioner or a representative appointed by the commissioner [~~, who will~~  
3028 only have voting privileges] may vote only in the event of a tie vote.

3029 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
3030 appointed by the governor expire, the governor shall appoint each new member or reappointed  
3031 member to a four-year term.

3032 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the



3033 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
3034 board members are staggered so that approximately half of the board is appointed every two  
3035 years.

3036 (c) Notwithstanding the requirements of Subsection (3)(a), a board member shall  
3037 continue to serve until the board member is reappointed or replaced by another individual in  
3038 accordance with this section.

3039 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
3040 appointed for the unexpired term in the same manner as the original appointment was made.

3041 (5) (a) [~~Members who are not government employees shall receive no~~] A board  
3042 member who is not a government employee may not receive compensation or benefits for the  
3043 [~~members'~~] board member's services.

3044 (b) A state government member who is a board member because of the board member's  
3045 state government position may not receive per diem or expenses for the member's service.

3046 (6) The board shall elect annually a chair and vice chair from its membership.

3047 (7) [~~Six~~] A majority of the board members [~~are~~] is a quorum for the transaction of  
3048 business.

3049 (8) The action of a majority of the members of the quorum is the action of the board.  
3050 Section 31. Section **63J-1-602** is amended to read:

3051 **63J-1-602. Nonlapsing accounts and funds.**

3052 (1) The following revenue collections, appropriations from a fund or account, and  
3053 appropriations to a program are nonlapsing:

3054 (a) appropriations made to the Legislature and its committees;

3055 (b) funds collected by the grain grading program, as provided in Section 4-2-2;

3056 (c) the Salinity Offset Fund created in Section 4-2-8.5;

3057 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;

3058 (e) funds collected by pesticide dealer license registration fees, as provided in Section  
3059 4-14-3;

3060 (f) funds collected by pesticide applicator business registration fees, as provided in  
3061 Section 4-14-13;

3062 (g) the Rangeland Improvement Fund created in Section 4-20-2;

3063 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control

3064 Act, as provided in Section 4-35-6;

3065 (i) the Percent-for-Art Program created in Section 9-6-404;

3066 (j) the Centennial History Fund created in Section 9-8-604;

3067 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;

3068 (l) the Navajo Revitalization Fund created in Section 9-11-104;

3069 (m) the LeRay McAllister Critical Land Conservation Program created in Section

3070 11-38-301;

3071 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;

3072 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in

3073 Section 19-6-120;

3074 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and

3075 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;

3076 (q) award monies under the Crime Reduction Assistance Program, as provided under

3077 Section 24-1-19;

3078 (r) funds collected from the emergency medical services grant program, as provided in

3079 Section 26-8a-207;

3080 (s) fees and other funding available to purchase training equipment and to administer

3081 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;

3082 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the

3083 federal Social Security Act, as provided in Section 26-18-3;

3084 (u) the Utah Health Care Workforce Financial Assistance Program created in Section

3085 26-46-102;

3086 (v) monies collected from subscription fees for publications prepared or distributed by

3087 the insurance commissioner, as provided in Section 31A-2-208;

3088 (w) the Technology Development Restricted Account created in Section 31A-3-104;

3089 (x) the Criminal Background Check Restricted Account created in Section 31A-3-105;

3090 (y) the Captive Insurance Restricted Account created in Section 31A-3-304, except to

3091 the extent that Section 31A-3-304 makes the money received under that section free revenue;

3092 (z) the Title Licensee Enforcement Restricted Account created in Section

3093 31A-23a-415;

3094 [~~(w)~~] (aa) monies received by the Insurance Department for administering,

3095 investigating under, and enforcing the Insurance Fraud Act, as provided in Section  
3096 31A-31-108;

3097       ~~[(x)]~~ (bb) certain monies received for penalties paid under the Insurance Fraud Act, as  
3098 provided in Section 31A-31-109;

3099       ~~[(y)]~~ (cc) the fund for operating the state's Federal Health Care Tax Credit Program, as  
3100 provided in Section 31A-38-104;

3101       ~~[(z)]~~ (dd) certain funds in the Department of Workforce Services' program for the  
3102 education, training, and transitional counseling of displaced homemakers, as provided in  
3103 Section 35A-3-114;

3104       ~~[(aa)]~~ (ee) the Employment Security Administration Fund created in Section  
3105 35A-4-505;

3106       ~~[(bb)]~~ (ff) the Special Administrative Expense Fund created in Section 35A-4-506;

3107       ~~[(cc)]~~ (gg) funding for a new program or agency that is designated as nonlapsing under  
3108 Section 36-24-101;

3109       ~~[(dd)]~~ (hh) the Oil and Gas Conservation Account created in Section 40-6-14.5;

3110       ~~[(ee)]~~ (ii) funds available to the State Tax Commission for purchase and distribution of  
3111 license plates and decals, as provided in Section 41-1a-1201;

3112       ~~[(ff)]~~ (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act,  
3113 as provided in Section 41-1a-1221;

3114       ~~[(gg)]~~ (kk) certain fees collected for administering and enforcing the Motor Vehicle  
3115 Business Regulation Act, as provided in Section 41-3-601;

3116       ~~[(hh)]~~ (ll) certain fees for the cost of electronic payments under the Motor Vehicle  
3117 Business Regulation Act, as provided in Section 41-3-604;

3118       ~~[(ii)]~~ (mm) the Off-Highway Access and Education Restricted Account created in  
3119 Section 41-22-19.5;

3120       ~~[(jj)]~~ (nn) certain fees for the cost of electronic payments under the Motor Vehicle Act,  
3121 as provided in Section 41-22-36;

3122       ~~[(kk)]~~ (oo) monies collected under the Notaries Public Reform Act, as provided under  
3123 46-1-23;

3124       ~~[(ll)]~~ (pp) certain funds associated with the Law Enforcement Operations Account, as  
3125 provided in Section 51-9-411;

3126            [~~(mm)~~] (qq) the Public Safety Honoring Heroes Restricted Account created in Section  
3127 53-1-118;

3128            [~~(nn)~~] (rr) funding for the Search and Rescue Financial Assistance Program, as  
3129 provided in Section 53-2-107;

3130            [~~(oo)~~] (ss) appropriations made to the Department of Public Safety from the  
3131 Department of Public Safety Restricted Account, as provided in Section 53-3-106;

3132            [~~(pp)~~] (tt) appropriations to the Motorcycle Rider Education Program, as provided in  
3133 Section 53-3-905;

3134            [~~(qq)~~] (uu) fees collected by the State Fire Marshal Division under the Utah Fire  
3135 Prevention and Safety Act, as provided in Section 53-7-314;

3136            [~~(rr)~~] (vv) the DNA Specimen Restricted Account created in Section 53-10-407;

3137            [~~(ss)~~] (ww) the minimum school program, as provided in Section 53A-17a-105;

3138            [~~(tt)~~] (xx) certain funds appropriated from the Uniform School Fund to the State Board  
3139 of Education for new teacher bonus and performance-based compensation plans, as provided in  
3140 Section 53A-17a-148;

3141            [~~(uu)~~] (yy) certain funds appropriated from the Uniform School Fund to the State  
3142 Board of Education for implementation of proposals to improve mathematics achievement test  
3143 scores, as provided in Section 53A-17a-152;

3144            [~~(vv)~~] (zz) the School Building Revolving Account created in Section 53A-21-401;

3145            [~~(ww)~~] (aaa) monies received by the State Office of Rehabilitation for the sale of  
3146 certain products or services, as provided in Section 53A-24-105;

3147            [~~(xx)~~] (bbb) the State Board of Regents, as provided in Section 53B-6-104;

3148            [~~(yy)~~] (ccc) certain funds appropriated from the General Fund to the State Board of  
3149 Regents for teacher preparation programs, as provided in Section 53B-6-104;

3150            [~~(zz)~~] (ddd) a certain portion of monies collected for administrative costs under the  
3151 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

3152            [~~(aaa)~~] (eee) certain surcharges on residence and business telecommunications access  
3153 lines imposed by the Public Service Commission, as provided in Section 54-8b-10;

3154            [~~(bbb)~~] (fff) certain fines collected by the Division of Occupational and Professional  
3155 Licensing for violation of unlawful or unprofessional conduct that are used for education and  
3156 enforcement purposes, as provided in Section 58-17b-505;

3157            [~~(ccc)~~] (ggg) the Nurse Education and Enforcement Fund created in Section  
3158 58-31b-103;

3159            [~~(ddd)~~] (hhh) funding of the controlled substance database, as provided in Section  
3160 58-37-7.7;

3161            [~~(eee)~~] (iii) the Certified Nurse Midwife Education and Enforcement Fund created in  
3162 Section 58-44a-103;

3163            [~~(fff)~~] (jjj) funding for the building inspector's education program, as provided in  
3164 Section 58-56-9;

3165            [~~(ggg)~~] (kkk) certain fines collected by the Division of Occupational and Professional  
3166 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as  
3167 provided in Section 58-63-103;

3168            [~~(hhh)~~] (lll) the Professional Geologist Education and Enforcement Fund created in  
3169 Section 58-76-103;

3170            [~~(iii)~~] (mmm) certain monies in the Water Resources Conservation and Development  
3171 Fund, as provided in Section 59-12-103;

3172            [~~(jjj)~~] (nnn) funds paid to the Division of Real Estate for the cost of a criminal  
3173 background check for broker and sales agent licenses, as provided in Section 61-2-9;

3174            [~~(kkk)~~] (ooo) the Utah Housing Opportunity Restricted Account created in Section  
3175 61-2-28;

3176            [~~(hhh)~~] (ppp) funds paid to the Division of Real Estate for the cost of a criminal  
3177 background check for a mortgage loan license, as provided in Section 61-2c-202;

3178            [~~(mmm)~~] (qqq) funds paid to the Division of Real Estate in relation to examination of  
3179 records in an investigation, as provided in Section 61-2c-401;

3180            [~~(nnn)~~] (rrr) certain funds donated to the Department of Human Services, as provided  
3181 in Section 62A-1-111;

3182            [~~(ooo)~~] (sss) certain funds donated to the Division of Child and Family Services, as  
3183 provided in Section 62A-4a-110;

3184            [~~(ppp)~~] (ttt) the Mental Health Therapist Grant and Scholarship Program, as provided  
3185 in Section 62A-13-109;

3186            [~~(qqq)~~] (uuu) assessments for DUI violations that are forwarded to an account created  
3187 by a county treasurer, as provided in Section 62A-15-503;

3188            [~~(rrr)~~] (vvv) appropriations to the Division of Services for People with Disabilities, as  
3189 provided in Section 62A-5-102;

3190            [~~(sss)~~] (www) certain donations to the Division of Substance Abuse and Mental  
3191 Health, as provided in Section 62A-15-103;

3192            [~~(ttt)~~] (xxx) certain funds received by the Division of Parks and Recreation from the  
3193 sale or disposal of buffalo, as provided under Section 63-11-19.2;

3194            [~~(uuu)~~] (yyy) revenue for golf user fees at the Wasatch Mountain State Park, Palisades  
3195 State Park, or Jordan River State Park, as provided under Section 63-11-19.5;

3196            [~~(vvv)~~] (zzz) revenue for golf user fees at the Green River State Park, as provided  
3197 under Section 63-11-19.6;

3198            [~~(www)~~] (aaaa) the Centennial Nonmotorized Paths and Trail Crossings Program  
3199 created under Section 63-11a-503;

3200            [~~(xxx)~~] (bbbb) the Bonneville Shoreline Trail Program created under Section  
3201 63-11a-504;

3202            [~~(yyy)~~] (cccc) the account for the Utah Geological Survey, as provided in Section  
3203 63-73-10;

3204            [~~(zzz)~~] (dddd) the Risk Management Fund created under Section 63A-4-201;

3205            [~~(aaa)~~] (eeee) the Child Welfare Parental Defense Fund created in Section  
3206 63A-11-203;

3207            [~~(bbb)~~] (ffff) the Constitutional Defense Restricted Account created in Section  
3208 63C-4-103;

3209            [~~(ccc)~~] (gggg) a portion of the funds appropriated to the Utah Seismic Safety  
3210 Commission, as provided in Section 63C-6-104;

3211            [~~(ddd)~~] (hhhh) funding for the Medical Education Program administered by the  
3212 Medical Education Council, as provided in Section 63C-8-102;

3213            [~~(eee)~~] (iiii) certain monies payable for commission expenses of the Pete Suazo Utah  
3214 Athletic Commission, as provided under Section 63C-11-301;

3215            [~~(fff)~~] (jjjj) funds collected for publishing the Division of Administrative Rules'  
3216 publications, as provided in Section 63G-3-402;

3217            [~~(ggg)~~] (kkkk) the appropriation to fund the Governor's Office of Economic  
3218 Development's Enterprise Zone Act, as provided in Section 63M-1-416;

3219            [~~(hhhh)~~] (llll) the Tourism Marketing Performance Account, as provided in Section  
3220 63M-1-1406;

3221            [~~(iiii)~~] (mmmm) certain funding for rural development provided to the Office of Rural  
3222 Development in the Governor's Office of Economic Development, as provided in Section  
3223 63M-1-1604;

3224            [~~(jjjj)~~] (nnnn) certain monies in the Development for Disadvantaged Rural  
3225 Communities Restricted Account, as provided in Section 63M-1-2003;

3226            [~~(kkkk)~~] (oooo) appropriations to the Utah Science Technology and Research  
3227 Governing Authority, created under Section 63M-2-301, as provided under Section  
3228 63M-3-302;

3229            [~~(HHH)~~] (pppp) certain monies in the Rural Broadband Service Fund, as provided in  
3230 Section 63M-1-2303;

3231            [~~(mmmm)~~] (qqqq) funds collected from monthly offender supervision fees, as provided  
3232 in Section 64-13-21.2;

3233            [~~(mmmm)~~] (rrrr) funds collected by the housing of state probationary inmates or state  
3234 parole inmates, as provided in Subsection 64-13e-104(2);

3235            [~~(oooo)~~] (ssss) the Sovereign Lands Management account created in Section 65A-5-1;

3236            [~~(pppp)~~] (tttt) certain forestry and fire control funds utilized by the Division of  
3237 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;

3238            [~~(qqqq)~~] (uuuu) the Department of Human Resource Management user training  
3239 program, as provided in Section 67-19-6;

3240            [~~(rrrr)~~] (vvvv) funds for the University of Utah Poison Control Center program, as  
3241 provided in Section 69-2-5.5;

3242            [~~(ssss)~~] (wwww) appropriations to the Transportation Corridor Preservation Revolving  
3243 Loan Fund, as provided in Section 72-2-117;

3244            [~~(tttt)~~] (xxxx) appropriations to the Local Transportation Corridor Preservation Fund,  
3245 as provided in Section 72-2-117.5;

3246            [~~(uuuu)~~] (yyyy) appropriations to the Tollway Restricted Special Revenue Fund, as  
3247 provided in Section 77-2-120;

3248            [~~(vvvv)~~] (zzzz) appropriations to the Aeronautics Construction Revolving Loan Fund,  
3249 as provided in Section 77-2-122;

3250 [~~(wwwww)~~] (aaaaa) appropriations to the State Park Access Highways Improvement  
3251 Program, as provided in Section 72-3-207;

3252 [~~(xxxxx)~~] (bbbbb) the Traffic Noise Abatement Program created in Section 72-6-112;  
3253 [~~(yyyyy)~~] (ccccc) certain funds received by the Office of the State Engineer for well  
3254 drilling fines or bonds, as provided in Section 73-3-25;

3255 [~~(zzzzz)~~] (dddd) certain monies appropriated to increase the carrying capacity of the  
3256 Jordan River that are transferred to the Division of Parks and Recreation, as provided in  
3257 Section 73-10e-1;

3258 [~~(aaaaa)~~] (eeeee) certain fees for the cost of electronic payments under the State  
3259 Boating Act, as provided in Section 73-18-25;

3260 [~~(bbbbb)~~] (ffff) certain monies appropriated from the Water Resources Conservation  
3261 and Development Fund, as provided in Section 73-23-2;

3262 [~~(ccccc)~~] (ggggg) the Lake Powell Pipeline Project Operation and Maintenance Fund  
3263 created in Section 73-28-404;

3264 [~~(ddddd)~~] (hhhhh) certain funds in the Water Development and Flood Mitigation  
3265 Reserve Account, as provided in Section 73-103-1;

3266 [~~(eeeee)~~] (iiii) certain funds appropriated for compensation for special prosecutors, as  
3267 provided in Section 77-10a-19;

3268 [~~(fffff)~~] (jjjjj) the Indigent Aggravated Murder Defense Trust Fund created in Section  
3269 77-32-601;

3270 [~~(ggggg)~~] (kkkkk) the Indigent Felony Defense Trust Fund created in Section  
3271 77-32-701;

3272 [~~(hhhhh)~~] (lllll) funds donated or paid to a juvenile court by private sources, as  
3273 provided in Subsection 78A-6-203(c);

3274 [~~(iiiiii)~~] (mmmmm) a state rehabilitative employment program, as provided in Section  
3275 78A-6-210; and

3276 [~~(jjjjj)~~] (nnnnn) fees from the issuance and renewal of licenses for certified court  
3277 interpreters, as provided in Section 78B-1-146.

3278 (2) No revenue collection, appropriation from a fund or account, or appropriation to a  
3279 program may be treated as nonlapsing unless:

3280 (a) it is expressly referenced by this section;



- 3281 (b) it is designated in a condition of appropriation in the appropriations bill; or  
 3282 (c) nonlapsing authority is granted under Section 63J-1-603.  
 3283 (3) Each legislative appropriations subcommittee shall review the accounts and funds  
 3284 that have been granted nonlapsing authority under this section or Section 63J-1-603.

3285 Section 32. **Intent language regarding lapsing of money.**

3286 It is the intent of the Legislature that money received by the Insurance Department  
 3287 during fiscal year 2009-10 under the following shall be considered dedicated credits and in  
 3288 closing out fiscal year 2009-10 the unspent dedicated credits shall lapse to the appropriate  
 3289 restricted account created by the amendments made by this bill:

- 3290 (1) Section 31A-3-104;  
 3291 (2) Section 31A-3-304 (Superseded 07/01/10);  
 3292 (3) Subsection 31A-16-103(3);  
 3293 (4) Subsection 31A-23a-105(3);  
 3294 (5) Section 31A-23a-415;  
 3295 (6) Subsection 31A-25-203(3); and  
 3296 (7) Subsection 31A-26-203(3).

3297 Section 33. **Effective date.**

3298 (1) ~~§~~ → (a) ← ~~§~~ Except as provided in Subsections (2) and (3), this bill takes effect on May 11,  
 3299 2010, except that, if approved by two-thirds of all the members elected to each house, Sections  
 3300 31A-22-722 and 31A-22-722.5 take effect upon approval by the governor, or the day following  
 3301 the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's  
 3302 signature, or in the case of a veto, the date of veto override.

3302a ~~§~~ → (b) **The amendments in this bill to Section 31A-22-722.5 have retrospective operation to**  
 3302b **February 17, 2010.** ← ~~§~~

- 3303 (2) The amendments to Section 31A-3-304 (Effective 07/01/10) take effect on July 1,  
 3304 2010.  
 3305 (3) The amendments to Section 31A-22-701 take effect on January 1, 2011.

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**H.B. 39 1st Sub. (Buff) - Insurance Related Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. The bill changes four funds from dedicated credits to restricted accounts.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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