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**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**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

**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- ▶ removes outdated language related to reporting;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;
- ▶ prohibits certain conduct related insurance premium finance agreements;
- ▶ modifies provisions related to catastrophic coverage of mental health conditions;
- ▶ addresses issuance of group or blanket accident and health insurance;



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

**38 Monies Appropriated in this Bill:**

39           None

**40 Other Special Clauses:**

41           This bill provides an effective date.

**42 Utah Code Sections Affected:**

43 AMENDS:

- 44           **31A-1-301**, as last amended by Laws of Utah 2009, Chapter 349
- 45           **31A-2-403**, as last amended by Laws of Utah 2008, Chapter 345
- 46           **31A-2-404**, as last amended by Laws of Utah 2008, Chapter 382
- 47           **31A-3-103**, as last amended by Laws of Utah 2009, Chapters 183 and 368
- 48           **31A-3-104**, as last amended by Laws of Utah 2006, Chapter 117
- 49           **31A-3-304 (Superseded 07/01/10)**, as last amended by Laws of Utah 2009, Chapter
- 50 183
- 51           **31A-3-304 (Effective 07/01/10)**, as last amended by Laws of Utah 2009, Chapter 183
- 52           **31A-5-217.5**, as enacted by Laws of Utah 1992, Chapter 230
- 53           **31A-15-208**, as enacted by Laws of Utah 1992, Chapter 258
- 54           **31A-20-106**, as enacted by Laws of Utah 1985, Chapter 242
- 55           **31A-21-201**, as last amended by Laws of Utah 2005, Chapter 123
- 56           **31A-21-301**, as last amended by Laws of Utah 2001, Chapter 116
- 57           **31A-22-305.3**, as last amended by Laws of Utah 2009, Chapter 231
- 58           **31A-22-411**, as last amended by Laws of Utah 1991, Chapter 74

- 59           **31A-22-625**, as last amended by Laws of Utah 2008, Chapters 345 and 382
- 60           **31A-22-701**, as last amended by Laws of Utah 2007, Chapter 307
- 61           **31A-22-722**, as last amended by Laws of Utah 2009, Chapter 12
- 62           **31A-23a-415**, as last amended by Laws of Utah 2007, Chapter 325
- 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-22-429**, Utah Code Annotated 1953
- 74           **31A-22-725**, Utah Code Annotated 1953
- 75           **31A-40-307**, Utah Code Annotated 1953

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, [~~all~~] 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 [~~all~~] 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 ~~[(†)]~~ (h) advise the commissioner on the administration and enforcement of any  
 1270 ~~[matters]~~ matter affecting the title insurance industry;  
 1271 ~~[(†)]~~ (i) advise the commissioner on matters affecting the ~~[department's]~~  
 1272 commissioner's budget related to title insurance; and  
 1273 ~~[(†)]~~ (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 ~~[all]~~ 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 ~~[(e)]~~ (3)(d) shall be valued  
1491 in accordance with the rules that otherwise apply to the company's assets.

1492 ~~[(e) 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[~~(+0)~~].

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 [~~(i)~~] (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 [~~(i)~~] (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~~(f)~~; 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 ~~[(†)]~~ (a) an appropriate nonforfeiture [benefits] benefit in lieu of those required by  
1979 either Section 31A-22-408 or 31A-22-409;

1980 ~~[(†)]~~ (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.

2006 Section 16. Section ~~31A-22-429~~ is enacted to read:

2007 **31A-22-429. Insurance premium finance agreement.**

2008 (1) As used in this section:

2009 (a) "Insurance policy" means:

2010 (i) an individual or group life insurance or annuity policy; or

2011 (ii) a group life insurance or group annuity certificate.

2012 (b) "Insurance premium finance agreement" means an agreement for financing an  
2013 insurance policy premium payment.

2014 (2) A person who provides premium financing for an insurance policy may not receive  
2015 proceeds, fees, or other consideration from the insurance policy or the insurance policyholder  
2016 that is in addition to the amounts required to pay the principal, interest, and reasonable  
2017 expenses incurred by a lender or borrower in connection with a premium finance agreement.

2018 Section 17. Section **31A-22-625** is amended to read:

2019 **31A-22-625. Catastrophic coverage of mental health conditions.**

2020 (1) As used in this section:

2021 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan  
2022 [~~or health maintenance organization contract~~] that does not impose a lifetime limit, annual  
2023 payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket  
2024 limit that places a greater financial burden on an insured for the evaluation and treatment of a  
2025 mental health condition than for the evaluation and treatment of a physical health condition.

2026 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing  
2027 factors, such as deductibles, copayments, or coinsurance, [~~prior to~~] before reaching [~~any~~] a  
2028 maximum out-of-pocket limit.

2029 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket  
2030 limit for physical health conditions and another maximum out-of-pocket limit for mental health  
2031 conditions, [~~provided that,~~] except that if separate out-of-pocket limits are established, the  
2032 out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for  
2033 physical health conditions.

2034 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan [~~or~~  
2035 ~~health maintenance organization contract~~] that pays for at least 50% of covered services for the  
2036 diagnosis and treatment of mental health conditions.

2037 (ii) "50/50 mental health coverage" may include a restriction on:

2038 (A) episodic limits[;];

2039 (B) inpatient or outpatient service limits[;]; or

2040 (C) maximum out-of-pocket limits.

2041 (c) "Large employer," [~~is as defined in Section 31A-1-301~~] is as defined in 42 U.S.C.  
2042 Sec. 300gg-91.

2043 (d) (i) "Mental health condition" means ~~[any]~~ a condition or disorder involving mental  
 2044 illness that falls under ~~[any of the]~~ a diagnostic ~~[categories]~~ category listed in the Diagnostic  
 2045 and Statistical Manual, as periodically revised.

2046 (ii) "Mental health condition" does not include the following when diagnosed as the  
 2047 primary or substantial reason or need for treatment:

2048 (A) a marital or family problem;

2049 (B) a social, occupational, religious, or other social maladjustment;

2050 (C) a conduct disorder;

2051 (D) a chronic adjustment disorder;

2052 (E) a psychosexual disorder;

2053 (F) a chronic organic brain syndrome;

2054 (G) a personality disorder;

2055 (H) a specific developmental disorder or learning disability; or

2056 (I) mental retardation.

2057 (e) "Small employer" is as defined in ~~[Section 31A-1-301]~~ 42 U.S.C. Sec. 300gg-91.

2058 (2) (a) At the time of purchase and renewal, an insurer shall offer to ~~[each]~~ a small  
 2059 employer that it insures or seeks to insure a choice between catastrophic mental health  
 2060 coverage and 50/50 mental health coverage.

2061 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

2062 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels  
 2063 that exceed the minimum requirements of this section; or

2064 (ii) coverage that excludes benefits for mental health conditions.

2065 (c) A small employer may, at its option, choose either catastrophic mental health  
 2066 coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b),  
 2067 regardless of the employer's previous coverage for mental health conditions.

2068 (d) ~~[An insurer is exempt from the 30% index rating restriction in Subsection~~  
 2069 ~~31A-30-106(1)(b) and, for the first year only that catastrophic mental health coverage is~~  
 2070 ~~chosen, the 15% annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii), for any] For~~  
 2071 a small employer with 20 or less enrolled employees who chooses coverage that meets or  
 2072 exceeds catastrophic mental health coverage~~[:]~~ an insurer is exempt from:

2073 ~~[(3) (a) At the time of purchase and renewal of a health benefit plan, an insurer shall~~

2074 offer catastrophic mental health coverage to each large employer that it insures or seeks to  
2075 insure.}]

2076 ~~[(b) In addition to Subsection (3)(a), an insurer may offer to provide catastrophic~~  
2077 ~~mental health coverage at levels that exceed the minimum requirements of this section.]~~

2078 ~~[(c) A large employer may, at its option, choose either catastrophic mental health~~  
2079 ~~coverage, coverage that excludes benefits for mental health conditions, or coverage offered~~  
2080 ~~under Subsection (3)(b).]~~

2081 (i) the 30% index rating restriction in Subsection 31A-30-106(1)(b); and

2082 (ii) for the first year only that catastrophic mental health coverage is chosen, the 15%  
2083 annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii).

2084 (3) An insurer shall offer a large employer mental health and substance use disorder  
2085 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.  
2086 300gg-5, and federal regulations adopted pursuant to that act.

2087 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer  
2088 through a managed care organization or system in a manner consistent with ~~[the provisions in]~~  
2089 Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether  
2090 the insurance policy ~~[or contract]~~ uses a managed care organization or system for the treatment  
2091 of physical health conditions.

2092 (b) (i) Notwithstanding any other provision of this title, an insurer may:

2093 (A) establish a closed panel of providers for catastrophic mental health coverage; and

2094 (B) refuse to provide ~~[any]~~ a benefit to be paid for services rendered by a nonpanel  
2095 provider unless:

2096 (I) the insured is referred to a nonpanel provider with the prior authorization of the  
2097 insurer; and

2098 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment  
2099 guidelines.

2100 (ii) If an insured receives services from a nonpanel provider in the manner permitted by  
2101 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the  
2102 average amount paid by the insurer for comparable services of panel providers under a  
2103 noncapitated arrangement who are members of the same class of health care providers.

2104 (iii) ~~[Nothing in this]~~ This Subsection (4)(b) may not be construed as requiring an

2105 insurer to authorize a referral to a nonpanel provider.

2106 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a  
2107 mental health condition must be rendered:

2108 (i) by a mental health therapist as defined in Section 58-60-102; or

2109 (ii) in a health care facility:

2110 (A) licensed or otherwise authorized to provide mental health services pursuant to;

2111 (I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act[;]; or

2112 (II) Title 62A, Chapter 2, Licensure of Programs and Facilities[;]; and

2113 (B) that provides a program for the treatment of a mental health condition pursuant to a  
2114 written plan.

2115 (5) The commissioner may prohibit [a] an insurance policy [~~or contract~~] that provides  
2116 mental health coverage in a manner that is inconsistent with this section.

2117 (6) The commissioner shall:

2118 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
2119 Rulemaking Act, as necessary to ensure compliance with this section; and

2120 (b) provide general figures on the percentage of [~~contracts and~~] insurance policies that  
2121 include:

2122 (i) no mental health coverage[;];

2123 (ii) 50/50 mental health coverage[;];

2124 (iii) catastrophic mental health coverage[;]; and

2125 (iv) coverage that exceeds the minimum requirements of this section.

2126 [~~(7) The Health and Human Services Interim Committee shall review:~~]

2127 [~~(a) the impact of this section on insurers, employers, providers, and consumers of~~  
2128 ~~mental health services before January 1, 2004; and]~~

2129 [~~(b) make a recommendation as to whether the provisions of this section should be~~  
2130 ~~modified and whether the cost-sharing requirements for mental health conditions should be the~~  
2131 ~~same as for physical health conditions.]~~

2132 [~~(8) (a) An insurer shall offer catastrophic mental health coverage as part of a health~~  
2133 ~~maintenance organization contract that is governed by Chapter 8, Health Maintenance~~  
2134 ~~Organizations and Limited Health Plans, that is in effect on or after January 1, 2001.]~~

2135 [~~(b) An insurer shall offer catastrophic mental health coverage as a part of a health~~

2136 benefit plan that is not governed by Chapter 8, Health Maintenance Organizations and Limited  
 2137 Health Plans, that is in effect on or after July 1, 2001.]

2138 ~~[(c) This section does not apply to the purchase or renewal of an individual insurance~~  
 2139 ~~policy or contract.]~~

2140 ~~[(d) Notwithstanding Subsection (8)(c), nothing in this]~~

2141 (7) This section may not be construed as discouraging or otherwise preventing  
 2142 [insurers] an insurer from [continuing to provide] providing mental health coverage in  
 2143 connection with an individual insurance policy [or contract].

2144 ~~[(9) (8) This section shall be repealed in accordance with Section 63I-1-231.~~  
 2145 Section 18. Section **31A-22-701** is amended to read:

2146 **31A-22-701. Groups eligible for group or blanket insurance.**

2147 (1) As used in this section, "association group" means a lawfully formed association of  
 2148 individuals or business entities that:

2149 (a) purchases insurance on a group basis on behalf of members; and

2150 (b) is formed and maintained in good faith for purposes other than obtaining insurance.

2151 ~~[(1) (2) A group or blanket accident and health insurance policy may be issued to:~~

2152 ~~(a) [any] a group:~~

2153 ~~(i) to which a group life insurance policy may be issued under Sections 31A-22-502~~

2154 ~~[through], 31A-22-503, 31A-22-504, 31A-22-506, 31A-22-507, and 31A-22-509; and~~

2155 ~~(ii) that is formed for a reason other than the purchase of insurance; [or]~~

2156 (b) an association group that:

2157 (i) has been actively in existence for at least five years;

2158 (ii) has a constitution and bylaws;

2159 (iii) is formed and maintained in good faith for purposes other than obtaining

2160 insurance;

2161 (iv) does not condition membership in the association group on any health

2162 status-related factor relating to an individual, including an employee of an employer or a

2163 dependent of an employee;

2164 (v) makes accident and health insurance coverage offered through the association

2165 group available to all members regardless of any health status-related factor relating to the

2166 members or individuals eligible for coverage through a member; and

2167 (vi) does not make accident and health insurance coverage offered through the  
2168 association group available other than in connection with a member of the association group; or

2169 ~~[(b) any]~~ (c) a group specifically authorized by the commissioner under Section  
2170 31A-22-509, upon a finding that:

2171 (i) authorization is not contrary to the public interest;

2172 (ii) the proposed group is actuarially sound;

2173 (iii) formation of the proposed group may result in economies of scale in acquisition,  
2174 administrative, marketing, and brokerage costs;

2175 (iv) the ~~[health]~~ insurance policy, insurance certificate, or other indicia of coverage that  
2176 will be offered to the proposed group is substantially equivalent to insurance policies that are  
2177 otherwise available to similar groups; ~~[and]~~

2178 ~~[(v) the proposed group is formed for a reason other than the purchase of insurance.]~~

2179 (v) the group would not present hazards of adverse selection; and

2180 (vi) the premiums for the insurance policy and any contributions by or on behalf of the  
2181 insured persons are reasonable in relation to the benefits provided.

2182 ~~[(2)]~~ (3) A blanket insurance policy may also be issued to:

2183 (a) ~~[any]~~ a common carrier or ~~[any]~~ an operator, owner, or lessee of a means of  
2184 transportation, as policyholder, covering persons who may become passengers as defined by  
2185 reference to their travel status;

2186 (b) an employer, as policyholder, covering any group of employees, dependents, or  
2187 guests, as defined by reference to specified hazards incident to any activities of the  
2188 policyholder;

2189 (c) an institution of learning, including a school district, school jurisdictional units, or  
2190 the head, principal, or governing board of any of those units, as policyholder, covering  
2191 students, teachers, or employees;

2192 (d) ~~[any]~~ a religious, charitable, recreational, educational, or civic organization, or  
2193 branch of those organizations, as policyholder, covering any group of members or participants  
2194 as defined by reference to specified hazards incident to the activities sponsored or supervised  
2195 by the policyholder;

2196 (e) a sports team, camp, or sponsor of the team or camp, as policyholder, covering  
2197 members, campers, employees, officials, or supervisors;

2198 (f) ~~any~~ a volunteer fire department, first aid, civil defense, or other similar volunteer  
2199 organization, as policyholder, covering any group of members or participants as defined by  
2200 reference to specified hazards incident to activities sponsored, supervised, or participated in by  
2201 the policyholder;

2202 (g) a newspaper or other publisher, as policyholder, covering its carriers;

2203 (h) an association, including a labor union, which has a constitution and bylaws and  
2204 which has been organized in good faith for purposes other than that of obtaining insurance, as  
2205 policyholder, covering any group of members or participants as defined by reference to  
2206 specified hazards incident to the activities or operations sponsored or supervised by the  
2207 policyholder;

2208 (i) a health insurance purchasing association, as defined in Section 31A-34-103,  
2209 organized and controlled solely by participating employers; and

2210 (j) any other class of risks ~~which~~ that, in the judgment of the commissioner, may be  
2211 properly eligible for blanket accident and health insurance.

2212 ~~(3)~~ (4) The judgment of the commissioner may be exercised on the basis of:

2213 (a) individual risks;

2214 (b) a class of risks; or

2215 (c) both Subsections ~~(3)~~ (4)(a) and (b).

2216 Section 19. Section ~~31A-22-722~~ is amended to read:

2217 **31A-22-722. Utah mini-COBRA benefits for employer group coverage.**

2218 (1) An insured ~~has the right to~~ may extend the employee's coverage under the current  
2219 employer's group policy for a period of 12 months, except as provided in Subsection (2). The  
2220 right to extend coverage includes:

2221 (a) voluntary termination;

2222 (b) involuntary termination;

2223 (c) retirement;

2224 (d) death;

2225 (e) divorce or legal separation;

2226 (f) loss of dependent status;

2227 (g) sabbatical;

2228 (h) ~~any~~ a disability;



- 2229 (i) leave of absence; or
- 2230 (j) reduction of hours.
- 2231 (2) (a) Notwithstanding ~~[the provisions of]~~ Subsection (1), an employee ~~[does not have~~
- 2232 ~~the right to]~~ may not extend coverage under the current employer's group insurance policy if
- 2233 the employee:
- 2234 (i) ~~[failed]~~ fails to pay ~~[any required individual contribution]~~ premiums or
- 2235 contributions in accordance with the terms of the insurance policy;
- 2236 (ii) acquires other group coverage covering all preexisting conditions including
- 2237 maternity, if the coverage exists;
- 2238 (iii) ~~[performed]~~ performs an act or practice that constitutes fraud in connection with
- 2239 the coverage;
- 2240 (iv) ~~[made]~~ makes an intentional misrepresentation of material fact under the terms of
- 2241 the coverage;
- 2242 (v) ~~[was]~~ is terminated from employment for gross misconduct;
- 2243 (vi) ~~[has not been]~~ is not continuously covered under the current employer's group
- 2244 policy for a period of three months immediately ~~[prior to]~~ before the termination of the
- 2245 insurance policy due to ~~[the events]~~ an event set forth in Subsection (1);
- 2246 (vii) is eligible for ~~[any]~~ an extension of coverage required by federal law; ~~[or]~~
- 2247 (viii) establishes residence outside of this state;
- 2248 (ix) moves out of the insurer's service area;
- 2249 (x) is eligible for similar coverage under another group insurance policy;
- 2250 (xi) has the employee's coverage terminated because the employer's coverage is
- 2251 terminated, except as provided in Subsection (8); or
- 2252 ~~[(viii) elected]~~ (xii) elects alternative coverage under Section 31A-22-724.
- 2253 (b) The right to extend coverage under Subsection (1) applies to ~~[any]~~ spouse or
- 2254 dependent ~~[coverages]~~ coverage, including a surviving spouse or dependents whose coverage
- 2255 under the insurance policy terminates by reason of the death of the employee or member.
- 2256 (3) (a) The employer shall ~~[provide written notification]~~ notify the following in writing
- 2257 of the right to extend group coverage and the payment amounts required for extension of
- 2258 coverage, including the manner, place, and time in which the payments shall be made ~~[to]~~:
- 2259 (i) ~~[the]~~ a terminated insured;

- 2260 (ii) ~~the~~ an ex-spouse of an insured; or
- 2261 (iii) if Subsection (2)(b) applies:
- 2262 (A) ~~to~~ a surviving spouse; and
- 2263 (B) the guardian of surviving dependents, if different from a surviving spouse.
- 2264 (b) The notification required in Subsection (3)(a) shall be sent first class mail within 30
- 2265 days after the termination date of the group coverage to:
- 2266 (i) the terminated insured's home address as shown on the records of the employer;
- 2267 (ii) the address of the surviving spouse, if different from the insured's address and if
- 2268 shown on the records of the employer;
- 2269 (iii) the guardian of any dependents address, if different from the insured's address, and
- 2270 if shown on the records of the employer; and
- 2271 (iv) the address of the ex-spouse, if shown on the records of the employer.
- 2272 (4) The insurer shall provide the employee, spouse, or any eligible dependent the
- 2273 opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:
- 2274 (a) the employer policyholder does not provide the terminated insured the written
- 2275 notification required by Subsection (3)(a); and
- 2276 (b) the employee or other individual eligible for extension contacts the insurer within
- 2277 60 days of coverage termination.
- 2278 (5) ~~The~~ A premium amount for extended group coverage may not exceed 102% of
- 2279 the group rate in effect for a group member, including an employer's contribution, if any, for a
- 2280 group insurance policy.
- 2281 (6) Except as provided in this Subsection (6), ~~the~~ coverage extends without
- 2282 interruption for 12 months and may not terminate if the terminated insured or, with respect to a
- 2283 minor, the parent or guardian of the terminated insured:
- 2284 (a) elects to extend group coverage within 60 days of losing group coverage; and
- 2285 (b) tenders the amount required to the employer or insurer.
- 2286 (7) The insured's coverage may be terminated ~~prior to~~ before 12 months if the
- 2287 terminated insured:
- 2288 (a) establishes residence outside of this state;
- 2289 (b) moves out of the insurer's service area;
- 2290 (c) fails to pay premiums or contributions in accordance with the terms of the insurance

2291 policy, including any timeliness requirements;

2292 (d) performs an act or practice that constitutes fraud in connection with the coverage;

2293 (e) makes an intentional misrepresentation of material fact under the terms of the  
2294 coverage;

2295 (f) becomes eligible for similar coverage under another group insurance policy; or

2296 (g) has the coverage terminated because the employer's coverage is terminated, except  
2297 as provided in Subsection (8).

2298 (8) If the current employer coverage is terminated and the employer replaces coverage  
2299 with similar coverage under another group insurance policy, without interruption, the  
2300 terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection  
2301 (2)(b) applies, ~~[have the right to]~~ may obtain extension of coverage under the replacement  
2302 group insurance policy:

2303 (a) for the balance of the period the terminated insured would have extended coverage  
2304 under the replaced group insurance policy; and

2305 (b) if the terminated insured is otherwise eligible for extension of coverage.

2306 (9) (a) Within 30 days of the insured's exhaustion of extension of coverage, the  
2307 employer shall provide the terminated insured and the ex-spouse, or, in the case of the death of  
2308 the insured, the surviving spouse, or guardian of any dependents, written notification of the  
2309 right to an individual conversion policy under Section 31A-22-723.

2310 (b) The notification required by Subsection (9)(a):

2311 (i) shall be sent first class mail to:

2312 (A) the insured's last-known address as shown on the records of the employer;

2313 (B) the address of the surviving spouse, if different from the insured's address, and if  
2314 shown on the records of the employer;

2315 (C) the guardian of any dependents last known address as shown on the records of the  
2316 employer, if different from the address of the surviving spouse; and

2317 (D) the address of the ex-spouse as shown on the records of the employer, if  
2318 applicable; and

2319 (ii) shall contain the name, address, and telephone number of the insurer that will  
2320 provide the conversion coverage.

2321 Section 20. Section **31A-22-725** is enacted to read:

2322 **31A-22-725. Special enrollment periods relating to Medicaid and Children's**  
2323 **Health Insurance Program.**

2324 (1) A person is eligible to enroll for coverage under the terms of an employer's group  
2325 health benefit plan if:

2326 (a) the person is:

2327 (i) an employee who is eligible, but not enrolled, for coverage under the terms of the  
2328 employer's group health benefit plan; or

2329 (ii) a dependent of an employee, if the dependent is eligible, but not enrolled, for  
2330 coverage under the terms of the employer's group health benefit plan; and

2331 (b) the conditions of either Subsection (2) or (3) are met.

2332 (2) Subsection (1) applies if:

2333 (a) the employee or dependent is covered under:

2334 (i) a Medicaid health benefit plan under Title XIX of the Social Security Act; or

2335 (ii) a state child health benefit plan under Title XXI of the Social Security Act;

2336 (b) coverage of the employee or dependent described in Subsection (2)(a) is terminated  
2337 as a result of loss of eligibility for the coverage; and

2338 (c) the employee requests coverage under the employer's group health plan no later  
2339 than 60 days after the date of termination of the coverage described in Subsection (2)(a).

2340 (3) Subsection (1) applies if:

2341 (a) the employee or dependent becomes eligible for assistance, with respect to coverage  
2342 under the employer's group health plan under a plan described in Subsection (2)(a), including  
2343 under a waiver or demonstration project conducted under or in relation to a plan described in  
2344 Subsection (2)(a); and

2345 (b) the employee requests coverage under the employer's group health plan no later  
2346 than 60 days after the date the employee or dependent is determined to be eligible for the  
2347 assistance described in Subsection (3)(a).

2348 Section 21. Section **31A-23a-415** is amended to read:

2349 **31A-23a-415. Assessment on title insurance agencies or title insurers -- Account**  
2350 **created.**

2351 (1) For purposes of this section:

2352 (a) "Premium" is as defined in Subsection 59-9-101(3).

- 2353 (b) "Title insurer" means a person:
- 2354 (i) making any contract or policy of title insurance as:
- 2355 (A) insurer;
- 2356 (B) guarantor; or
- 2357 (C) surety;
- 2358 (ii) proposing to make any contract or policy of title insurance as:
- 2359 (A) insurer;
- 2360 (B) guarantor; or
- 2361 (C) surety; or
- 2362 (iii) transacting or proposing to transact any phase of title insurance, including:
- 2363 (A) soliciting;
- 2364 (B) negotiating preliminary to execution;
- 2365 (C) executing of a contract of title insurance;
- 2366 (D) insuring; and
- 2367 (E) transacting matters subsequent to the execution of the contract and arising out of
- 2368 the contract.
- 2369 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or
- 2370 personal property located in Utah, an owner of real or personal property, the holders of liens or
- 2371 encumbrances on that property, or others interested in the property against loss or damage
- 2372 suffered by reason of:
- 2373 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the
- 2374 property; or
- 2375 (ii) invalidity or unenforceability of any liens or encumbrances on the property.
- 2376 (2) (a) [~~Beginning on July 1, 1998, the~~] The commissioner may assess each title insurer
- 2377 and each title insurance agency an annual assessment:
- 2378 (i) determined by the Title and Escrow Commission:
- 2379 (A) after consultation with the commissioner; and
- 2380 (B) in accordance with this Subsection (2); and
- 2381 (ii) to be used for the purposes described in Subsection (3).
- 2382 (b) A title insurance agency shall be assessed up to:
- 2383 (i) \$200 for the first office in each county in which the title insurance agency maintains

2384 an office; and

2385 (ii) \$100 for each additional office the title insurance agency maintains in the county  
2386 described in Subsection (2)(b)(i).

2387 (c) A title insurer shall be assessed up to:

2388 (i) \$200 for the first office in each county in which the title insurer maintains an office;

2389 (ii) \$100 for each additional office the title insurer maintains in the county described in  
2390 Subsection (2)(c)(i); and

2391 (iii) an amount calculated by:

2392 (A) aggregating the assessments imposed on:

2393 (I) title insurance agencies under Subsection (2)(b); and

2394 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

2395 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total  
2396 costs and expenses determined under Subsection (2)(d); and

2397 (C) multiplying:

2398 (I) the amount calculated under Subsection (2)(c)(iii)(B); and

2399 (II) the percentage of total premiums for title insurance on Utah risk that are premiums  
2400 of the title insurer.

2401 (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title  
2402 and Escrow Commission by rule shall establish the amount of costs and expenses described  
2403 under Subsection (3) that will be covered by the assessment, except the costs or expenses to be  
2404 covered by the assessment may not exceed \$75,000 annually.

2405 (3) (a) [All money] Money received by the state under this section[:(a) shall be  
2406 deposited in the General Fund as a dedicated credit of the department; and (b) may be  
2407 expended by the department] shall be deposited into the Title Licensee Enforcement Restricted  
2408 Account.

2409 (b) There is created in the General Fund a restricted account known as the "Title  
2410 Licensee Enforcement Restricted Account."

2411 (c) The Title Licensee Enforcement Restricted Account shall consist of the money  
2412 received by the state under this section.

2413 (d) The commissioner shall administer the Title Licensee Enforcement Restricted  
2414 Account. Subject to appropriations by the Legislature, the commissioner shall use the money

2415 deposited into the Title Licensee Enforcement Restricted Account only to pay for [~~any~~] a cost  
 2416 or expense incurred by the department in the administration, investigation, and enforcement of  
 2417 this part and Part 5, Compensation of Producers and Consultants, related to:

2418 (i) the marketing of title insurance; and

2419 (ii) audits of agencies.

2420 (e) The money in the Title Licensee Enforcement Restricted Account is nonlapsing.

2421 (4) The assessment imposed by this section shall be in addition to any premium  
 2422 assessment imposed under Subsection 59-9-101(3).

2423 Section 22. Section **31A-26-201** is amended to read:

2424 **31A-26-201. Requirement of license.**

2425 (1) Except as provided in Subsection (2)[~~no~~]:

2426 (a) a person may not perform, offer to perform, or solicit the opportunity to perform  
 2427 [~~any~~] an act of insurance adjusting without a valid license under Section 31A-26-203; and [~~no~~]

2428 (b) a person may not use the insurance adjusting services of another if the person  
 2429 knows or should know that the one providing these services does not have a license as required  
 2430 by law.

2431 (2) The following are exempt from the license requirement of Subsection (1), when  
 2432 acting in the indicated [~~capacities~~] capacity:

2433 (a) [~~a person~~] an individual engaged in insurance adjusting as a regular salaried  
 2434 employee of, and not an independent contractor for, an insurer;

2435 (b) an arbitrator or an umpire selected by the claimant and insurer to decide, alone or  
 2436 with others, whether a claim should be paid and how much should be paid;

2437 (c) an attorney at law acting in an attorney-client relationship;

2438 (d) an insurance producer, but only as to [~~the classes~~]:

2439 (i) a class of insurance for which [~~he~~] the insurance producer is licensed under Section  
 2440 31A-23a-106; and [~~only as to claims~~]

2441 (ii) a claim adjusted on the request of an insurer for which [~~he~~] the insurance producer  
 2442 is a producer;

2443 (e) a regular salaried employee of, and not an independent contractor for, a  
 2444 policyholder or claimant under an insurance policy;

2445 (f) an employee of a licensed insurance adjuster who provides only administrative or

2446 clerical assistance;

2447 (g) ~~[person]~~ an individual who does not do insurance adjusting under Section  
2448 31A-26-102, but who is specially employed to obtain facts about a loss for or furnish technical  
2449 assistance to a licensed adjuster or a company adjuster, including:

2450 (i) a photographer~~[-];~~;

2451 (ii) an estimator ~~[or];~~;

2452 (iii) an appraiser~~[-];~~;

2453 (iv) a marine surveyor~~[-];~~;

2454 (v) a private detective~~[-];~~;

2455 (vi) an engineer~~[-];~~ and

2456 (vii) a handwriting expert;

2457 (h) a holder of a group insurance policy, with respect to administrative activities in  
2458 connection with that insurance policy, who receives no compensation for ~~[his]~~ the  
2459 policyholder's services beyond the actual expenses estimated on a reasonable basis;

2460 (i) ~~[a person]~~ an individual engaged in insurance adjusting as a regular salaried  
2461 employee of, and not an independent contractor for, an administrator licensed under Chapter  
2462 25~~[-and]~~, Third Party Administrators; or

2463 (j) a person who gives advice or assistance without compensation or expectation of  
2464 compensation, direct or indirect.

2465 (3) ~~[No]~~ A claim settlement between an insurer and an insured or a claimant under an  
2466 insurance ~~[contract is]~~ policy may not be considered invalid as a result of a violation of this  
2467 section.

2468 Section 23. Section **31A-35-401** is amended to read:

2469 **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**  
2470 **-- Limitations.**

2471 (1) (a) A person may not engage in the bail bond surety insurance business unless that  
2472 person:

2473 (i) is a bail bond surety company licensed under this chapter;

2474 (ii) is a surety insurer that is granted a certificate under this section in the same manner  
2475 as other insurers doing business in this state are granted certificates of authority under this title;  
2476 or



- 2477 (iii) is a bail bond producer licensed in accordance with this section.
- 2478 (b) A bail bond surety company shall be licensed under this chapter as an agency.
- 2479 (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -  
2480 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.
- 2481 (2) A person applying for a bail bond surety company license under this chapter shall  
2482 submit to the commissioner:
- 2483 (a) a completed application form as prescribed by the commissioner;
- 2484 (b) a fee as determined by the commissioner in accordance with Section [~~63J-1-504~~  
2485 31A-3-103]; and
- 2486 (c) any additional information required by rule.
- 2487 (3) [~~Fees~~] A fee required under this section [~~are~~] is not refundable.
- 2488 (4) [~~Fees~~] A fee collected from a bail bond surety company shall be deposited in a  
2489 restricted account created in Section 31A-35-407.
- 2490 (5) (a) A bail bond surety company shall be domiciled in Utah.
- 2491 (b) A bail bond producer shall be a resident of Utah.
- 2492 (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only  
2493 issue bail bonds through a bail bond surety company licensed under this chapter.
- 2494 Section 24. Section ~~31A-35-406~~ is amended to read:
- 2495 **31A-35-406. Renewal and reinstatement.**
- 2496 (1) (a) To renew its license under this chapter, on or before the last day of the month in  
2497 which the license expires a bail bond surety company shall:
- 2498 (i) complete and submit a renewal application to the department; and
- 2499 (ii) pay the department the applicable renewal fee established in accordance with  
2500 Section [~~63J-1-504~~] 31A-3-103.
- 2501 (b) A bail bond surety company shall renew its license under this chapter annually as  
2502 established by department rule, regardless of when the license is issued.
- 2503 (2) A bail bond surety company may apply for reinstatement of an expired bail bond  
2504 surety company license within one year following the expiration of the license under  
2505 Subsection (1) by:
- 2506 (a) submitting the renewal application required by Subsection (1); and
- 2507 (b) paying a license reinstatement fee established in accordance with Section

2508 [~~63J-1-504~~] 31A-3-103.

2509 (3) If a bail bond surety company license has been expired for more than one year, the  
2510 person applying for reinstatement of the bail bond surety license shall:

2511 (a) submit a new application form to the commissioner; and

2512 (b) pay the application fee established in accordance with Section [~~63J-1-504~~]  
2513 31A-3-103.

2514 (4) If a bail bond surety company license is suspended, the applicant may not submit an  
2515 application for a bail bond surety company license until after the end of the period of  
2516 suspension.

2517 (5) [~~Fees~~] A fee collected under this section shall be deposited in the restricted account  
2518 created in Section 31A-35-407.

2519 Section 25. Section **31A-36-102** is amended to read:

2520 **31A-36-102. Definitions.**

2521 As used in this chapter:

2522 (1) (a) "Advertising" means a communication placed before the public to:

2523 (i) create an interest in a life settlement; or

2524 (ii) induce a person pursuant to a life settlement to sell, assign, devise, bequest, or  
2525 transfer the death benefit or ownership of:

2526 (A) a policy; or

2527 (B) an interest in a policy.

2528 (b) "Advertising" includes the following, if the requirements of Subsection (1)(a) are  
2529 met:

2530 (i) a written, electronic, or printed communication;

2531 (ii) a communication by means of a recorded telephone message;

2532 (iii) a communication transmitted on radio, television, the Internet, or similar  
2533 communications media; and

2534 (iv) a film strip, motion picture, or video.

2535 (2) "Business of life settlements" includes the following:

2536 (a) offering a life settlement;

2537 (b) soliciting a life settlement;

2538 (c) negotiating a life settlement;

- 2539 (d) procuring a life settlement;
- 2540 (e) effectuating a life settlement;
- 2541 (f) purchasing a life settlement;
- 2542 (g) investing in a life settlement;
- 2543 (h) financing a life settlement;
- 2544 (i) monitoring a life settlement;
- 2545 (j) tracking a life settlement;
- 2546 (k) underwriting a life settlement;
- 2547 (l) selling a life settlement;
- 2548 (m) transferring a life settlement;
- 2549 (n) assigning a life settlement;
- 2550 (o) pledging a life settlement;
- 2551 (p) hypothecating a life settlement; or
- 2552 (q) in any other manner acquiring an interest in [a] an insurance policy by means of a
- 2553 life settlement.
- 2554 (3) "Chronically ill" means:
- 2555 (a) being unable to perform at least two activities of daily living, such as eating,
- 2556 toileting, moving from one place to another, bathing, dressing, or continence;
- 2557 (b) requiring substantial supervision for protection from threats to health and safety
- 2558 because of severe cognitive impairment; or
- 2559 (c) having a level of disability similar to that described in Subsection (3)(a).
- 2560 (4) "Depository institution" is as defined in Section 7-1-103.
- 2561 (5) (a) "Financing entity" means a person:
- 2562 (i) who has direct ownership in a policy that is the subject of a life settlement;
- 2563 (ii) whose principal activity related to a life settlement is providing money to effect the
- 2564 life settlement or the purchase of one or more settled policies; and
- 2565 (iii) who has an agreement in writing with one or more licensed life settlement
- 2566 providers to finance the acquisition of one or more life settlements.
- 2567 (b) "Financing entity" includes, if the requirements of Subsection (5)(a) are met, the
- 2568 following:
- 2569 (i) an underwriter;

- 2570 (ii) a placement agent;
- 2571 (iii) an enhancer of credit;
- 2572 (iv) a lender;
- 2573 (v) a purchaser of securities; and
- 2574 (vi) a purchaser of a policy from a life settlement provider.
- 2575 (c) "Financing entity" does not include:
  - 2576 (i) a nonaccredited investor; or
  - 2577 (ii) a life settlement purchaser.
- 2578 (6) "Form" means, in addition to a form as defined in Section 31A-1-301:
  - 2579 (a) a life settlement;
  - 2580 (b) a disclosure to an owner;
  - 2581 (c) a notice of intent to settle; or
  - 2582 (d) a verification of coverage.
- 2583 (7) "Life expectancy" means the mean number of months an individual insured under a
- 2584 policy to be settled can be expected to live considering medical records and appropriate
- 2585 experiential data.
- 2586 (8) (a) "Life settlement" means a written agreement:
  - 2587 (i) between an owner and a life settlement provider; and
  - 2588 (ii) ~~[for] that establishes the terms for the payment of anything of value[, that is less~~
  - 2589 ~~than the expected death benefit of the policy,]~~ in exchange for the owner assigning, selling,
  - 2590 transferring, devising, releasing, or bequeathing, at the time of or after the exchange, the death
  - 2591 benefit or ownership of:
    - 2592 (A) any portion of a policy; or
    - 2593 (B) a beneficial interest in the policy.
  - 2594 (b) "Life settlement" includes:
    - 2595 (i) the transfer for compensation or value of ownership or beneficial interest in a trust
    - 2596 or other entity that owns a policy if the trust or other entity is formed or operated for the
    - 2597 principal purpose of acquiring one or more policies; or
    - 2598 (ii) a premium finance loan made for a policy by a lender to an owner on, before, or
    - 2599 after the date of issuance of the policy if the owner:
      - 2600 (A) receives on the date of the premium finance loan a guarantee of a future life

2601 settlement value of the policy; or

2602 (B) agrees on the date of the premium finance loan to sell the policy or any portion of

2603 the policy's death benefit on a date following the issuance of the policy.

2604 (c) An agreement described in Subsection (8)(a) is a "life settlement" even if it is

2605 referred to by a different name, including:

2606 (i) a [~~life~~] "viatical settlement"; or

2607 (ii) a "senior settlement."

2608 (d) "Life settlement" does not include:

2609 (i) a loan or accelerated death benefit by an insurer pursuant to the terms of a policy;

2610 (ii) loan proceeds that are used solely to pay:

2611 (A) premiums for a policy; and

2612 (B) the loan costs or other expenses incurred by the lender, including:

2613 (I) interest;

2614 (II) an arrangement fee;

2615 (III) a use fee;

2616 (IV) closing costs;

2617 (V) attorney fees and expenses;

2618 (VI) trustee fees and expenses; and

2619 (VII) third party collateral provider fees and expenses, including fees payable to a letter

2620 of credit issuer;

2621 (iii) (A) a loan made by a licensed lender in which the licensed lender takes an interest

2622 in a policy solely to secure repayment of a loan; or

2623 (B) the transfer of a policy by a lender, if:

2624 (I) the loan is:

2625 (Aa) a loan described in Subsection (8)(d)(iii)(A); or

2626 (Bb) a premium finance loan that is not a life settlement;

2627 (II) the loan is defaulted on;

2628 (III) the policy is transferred; and

2629 (IV) neither the default itself nor the transfer of the policy in connection with the

2630 default is pursuant to an agreement with any other person for the purpose of evading regulation

2631 under this chapter;

- 2632 (iv) an agreement where all the participants in the agreement:
- 2633 (A) (I) are closely related to the insured by blood or law; or
- 2634 (II) have a lawful substantial economic interest in the continued life, health, and bodily
- 2635 safety of the person insured; and
- 2636 (B) are trusts established primarily for the benefit of the participants in the agreement;
- 2637 (v) a designation, consent, or agreement by an insured who is an employee of an
- 2638 employer in connection with the purchase by the employer, or trust established by the
- 2639 employer, of life insurance on the life of the employee; or
- 2640 (vi) a business succession planning arrangement not made for the purpose of evading
- 2641 regulation under this chapter:
- 2642 (A) (I) between one or more shareholders in a corporation; or
- 2643 (II) between a corporation and:
- 2644 (Aa) one or more of its shareholders; or
- 2645 (Bb) one or more trusts established by its shareholders;
- 2646 (B) (I) between one or more partners in a partnership; or
- 2647 (II) between a partnership and:
- 2648 (Aa) one or more of its partners; or
- 2649 (Bb) one or more trusts established by its partners; or
- 2650 (C) (I) between one or more members in a limited liability company; or
- 2651 (II) between a limited liability company and:
- 2652 (Aa) one or more of its members; or
- 2653 (Bb) one or more trusts established by its members.
- 2654 (9) (a) "Life settlement producer" means a person licensed in the state as a life
- 2655 insurance producer that on behalf of an owner and for consideration offers or attempts to
- 2656 negotiate a life settlement between the owner and one or more life settlement providers.
- 2657 (b) "Life settlement producer" does not include an attorney licensed to practice law in
- 2658 any state, a certified public accountant, or a financial planner accredited by a nationally
- 2659 recognized accrediting agency:
- 2660 (i) that is retained to represent an owner; and
- 2661 (ii) whose compensation is not paid directly or indirectly by:
- 2662 (A) a life settlement provider; or

- 2663 (B) a life settlement purchaser.
- 2664 (10) (a) "Life settlement provider" means a person other than an owner that enters into
- 2665 or effectuates a life settlement.
- 2666 (b) "Life settlement provider" does not include:
- 2667 (i) a licensed lender that takes an assignment of a policy as security for a loan,
- 2668 including a:
  - 2669 (A) depository institution; or
  - 2670 (B) lender that makes a premium finance loan that is not described in Subsection
  - 2671 (8)(b)(ii);
  - 2672 (ii) the issuer of a policy;
  - 2673 (iii) an authorized or eligible insurer that provides stop-loss coverage to:
    - 2674 (A) a life settlement provider;
    - 2675 (B) a life settlement purchaser;
    - 2676 (C) a financing entity;
    - 2677 (D) a special purpose entity; or
    - 2678 (E) a related provider trust;
    - 2679 (iv) a financing entity;
    - 2680 (v) a special purpose entity;
    - 2681 (vi) a related provider trust;
    - 2682 (vii) a life settlement purchaser; or
    - 2683 (viii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A
    - 2684 that purchases a settled policy from a life settlement provider.
- 2685 (11) (a) "Life settlement purchaser" means a person that, to derive an economic benefit:
- 2686 (i) provides a sum of money as consideration for a policy or an interest in the death
- 2687 benefits of a policy; or
- 2688 (ii) owns, acquires, or is entitled to a beneficial interest in a trust that:
  - 2689 (A) owns a life settlement; or
  - 2690 (B) is the beneficiary of a policy that has been or will be the subject of a life settlement.
- 2691 (b) "Life settlement purchaser" does not include:
- 2692 (i) a life settlement provider;
- 2693 (ii) a life settlement producer;

- 2694 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
- 2695 230.501;
- 2696 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 2697 (v) a financing entity;
- 2698 (vi) a special purpose entity; or
- 2699 (vii) a related provider trust.
- 2700 (12) (a) "Owner" means any of the following who resides in this state and seeks to
- 2701 enter into a life settlement:
- 2702 (i) the owner of a policy; or
- 2703 (ii) the holder of a certificate of ~~[insurance under]~~ a group policy ~~[of group insurance]~~.
- 2704 (b) "Owner" is not limited to ~~[a person]~~ an individual who is terminally ill or
- 2705 chronically ill except when the limitation is expressly provided in this chapter.
- 2706 (c) "Owner" does not include:
- 2707 (i) a life settlement provider;
- 2708 (ii) a life settlement producer;
- 2709 (iii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 2710 (iv) a financing entity;
- 2711 (v) a special purpose entity; or
- 2712 (vi) a related provider trust.
- 2713 (13) "Policy" means:
- 2714 (a) an individual or group life insurance policy;
- 2715 (b) an individual or group annuity policy;
- 2716 ~~[(b)] (c) a group life insurance certificate [for life insurance; or];~~
- 2717 (d) a group annuity certificate; or
- 2718 ~~[(c)] (e) a [contract or arrangement of] life insurance policy or an annuity policy,~~
- 2719 whether or not delivered or issued for delivery in Utah:
- 2720 (i) affecting the rights of a resident of Utah; or
- 2721 (ii) bearing a reasonable relation to Utah.
- 2722 (14) "Premium finance loan" is a loan made primarily for the purpose of making
- 2723 premium payments on a policy if the loan is secured by an interest in the policy.
- 2724 (15) "Related provider trust" means a trust established by a licensed life settlement



2725 provider or a financing entity solely to hold the ownership of or beneficial interests in  
2726 purchased policies in connection with financing.

2727 (16) "Settled policy" means a policy that is acquired by a life settlement provider  
2728 pursuant to a life settlement.

2729 (17) "Special purpose entity" means an entity formed by a licensed life settlement  
2730 provider solely to enable the life settlement provider to gain access to institutional markets for  
2731 capital.

2732 (18) (a) "Stranger-originated life insurance" means an act, practice, or arrangement to  
2733 initiate a policy for the benefit of a third party investor or other person who has no insurable  
2734 interest in the insured resulting in the requirements of Section 31A-21-104 not being met.

2735 (b) "Stranger-originated life insurance" includes when:

2736 (i) a policy is purchased with resources or guarantees from or through a person who, at  
2737 the time of policy origination, could not lawfully initiate the policy itself; and

2738 (ii) at the time of policy origination, there is an agreement, whether oral or written, to  
2739 directly or indirectly transfer to a third party the ownership of a policy, policy benefits, or both.

2740 (c) "Stranger-originated life insurance" does not include:

2741 (i) a life settlement that complies with:

2742 (A) this chapter; and

2743 (B) Section 31A-21-104; or

2744 (ii) an act, practice, or arrangement described in Subsection (8)(d).

2745 (19) "Terminally ill" means having a condition that reasonably may be expected to  
2746 result in death within 24 months.

2747 Section 26. Section **31A-40-103** is amended to read:

2748 **31A-40-103. Duties of the commissioner.**

2749 (1) (a) The commissioner shall maintain a list of professional employer organizations  
2750 that are licensed under this chapter.

2751 (b) The commissioner shall make the list required by this Subsection (1) available to  
2752 the public by electronic or other means.

2753 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2754 commissioner:

2755 (a) shall make rules to prescribe the requirements for forms required under this chapter;

2756 [and]

2757 (b) may make rules to prescribe the requirements and process for correcting under

2758 Section 31A-40-205:

2759 (i) a deficiency in working capital; or

2760 (ii) negative working capital;

2761 ~~[(b)]~~ (c) may make rules to prescribe the requirements for the review and submission of

2762 a financial statement under Section 31A-40-305:

2763 (i) that are consistent with generally accepted accounting principles; and

2764 (ii) including the timeliness of a financial statement[-]; and

2765 (d) may make rules to prescribe the requirements and process for when a professional

2766 employer organization license is terminated by:

2767 (i) voluntary surrender of the professional organization license; or

2768 (ii) involuntary surrender of the professional organization license.

2769 (3) A rule in effect on May 5, 2008 under the repealed Title 58, Chapter 59,

2770 Professional Employer Organization Registration Act, ~~[shall be: (a) renumbered as a rule made~~

2771 ~~under this chapter; and (b) remain]~~ remains in effect until such time as the commissioner

2772 modifies or repeals the rule.

2773 ~~[(4) The commissioner shall report to the Business and Labor Committee by no later~~

2774 ~~than the November 2009 interim meeting as to whether the commissioner recommends that the~~

2775 ~~working capital requirements of Section 31A-40-205 be modified.]~~

2776 Section 27. Section **31A-40-302** is amended to read:

2777 **31A-40-302. Licensing process.**

2778 (1) To apply for an initial or renewal license under this chapter, a person shall:

2779 (a) (i) ~~[file]~~ submit an application with the commissioner on a form and in a manner

2780 the commissioner shall determine by rule made in accordance with Title 63G, Chapter 3, Utah

2781 Administrative Rulemaking Act; and

2782 (ii) pay a license fee determined in accordance with Section 31A-3-103 that is not

2783 refunded if the application:

2784 (A) is denied; ~~[or]~~

2785 (B) does not comply with Section 31A-40-303; or

2786 ~~[(B)]~~ (C) if incomplete, is never completed by the person filing the application; or

- 2787 (b) comply with Section 31A-40-303.
- 2788 (2) In the application described in Subsection (1)(a), the person shall provide:
- 2789 (a) any name under which the professional employer organization will engage in a  
2790 professional employer service;
- 2791 (b) the address of the principal place of business of the professional employer  
2792 organization;
- 2793 (c) the address of each location the professional employer organization maintains in  
2794 this state;
- 2795 (d) the professional employer organization's federal taxpayer or employer identification  
2796 number;
- 2797 (e) the following information by jurisdiction of each name under which the  
2798 professional employer organization operated in the five years preceding the day on which the  
2799 person [~~files~~] submits the application:
- 2800 (i) the name;
- 2801 (ii) an alternative name, if any;
- 2802 (iii) a name of a predecessor; and
- 2803 (iv) if known, a successor business entity;
- 2804 (f) a statement of ownership that includes the name and evidence of the business  
2805 experience of a person that, individually or acting in concert with one or more other persons,  
2806 owns or controls, directly or indirectly, 10% or more of the equity interests of the professional  
2807 employer organization;
- 2808 (g) a statement of management that includes the name and evidence of the business  
2809 experience of [~~a person~~] an individual who:
- 2810 (i) serves as president of the professional employer organization;
- 2811 (ii) serves as chief executive officer of the professional employer organization; or
- 2812 (iii) may act as a senior executive officer of the professional employer organization;
- 2813 and
- 2814 (h) a financial statement that:
- 2815 (i) sets forth the financial condition of:
- 2816 (A) the professional employer organization; or
- 2817 (B) a professional employer organization group in which the professional employer

2818 organization is a member;

2819 (ii) states whether or not the professional employer organization complies with Section  
2820 31A-40-205; and

2821 (iii) complies with Section 31A-40-305.

2822 [~~(3) A professional employer organization that is registered by the Division of  
2823 Occupations and Professional Licensing as of May 4, 2008 shall comply with this section by no  
2824 later than November 5, 2008. An initial license obtained under this Subsection (3) is valid  
2825 until the end of the professional employer organization's first full fiscal year that immediately  
2826 follows the day on which the initial license application is filed.]~~

2827 [~~(4) Within 180 days after the day on which a professional employer organization's  
2828 fiscal year ends, a]~~

2829 (3) A professional employer organization shall renew its license [~~by complying with  
2830 Subsection (1)~~] by no later than October 1 of each year.

2831 Section 28. Section **31A-40-307** is enacted to read:

2832 **31A-40-307. Voluntary surrender of professional employer organization license.**

2833 (1) When a professional employer organization wants to voluntarily surrender its  
2834 professional employer organization license, the professional employer organization shall:

2835 (a) notify in writing each coemployer regarding the impending loss of the following  
2836 provided under the professional employer agreement:

2837 (i) workers' compensation insurance coverage;

2838 (ii) health care benefits, if a coemployers' employee welfare plan includes fully insured  
2839 or partially insured health insurance benefits; and

2840 (iii) any other insurance benefit provided to coemployers by the professional employer  
2841 organization; and

2842 (b) submit a letter of intent to voluntarily surrender the license to the commissioner:

2843 (i) after providing the notice to coemployers under Subsection (1)(a); and

2844 (ii) not less than 45 days before the day on which the professional employer  
2845 organization surrenders its professional employer organization license.

2846 (2) The letter of intent to voluntarily surrender a professional employer organization  
2847 license shall include the following:

2848 (a) the reason the professional employer organization license is being surrendered;

2849 (b) a discussion of each process or plan to handle the obligations to coemployers and  
 2850 employees;

2851 (c) a list of coemployers as of the date of the letter;

2852 (d) a copy of the notice sent to the coemployers under Subsection (1)(a);

2853 (e) certification that the professional employer organization has notified the  
 2854 coemployers located in Utah of the professional employer organization's intent to cease doing  
 2855 business in Utah; and

2856 (f) the signature of the professional employer organization's chief executive officer or  
 2857 controlling individual.

2858 Section 29. Section **31A-42-201** is amended to read:

2859 **31A-42-201. Creation of defined contribution market risk adjuster mechanism --**  
 2860 **Board of directors -- Appointment -- Terms -- Quorum -- Plan preparation.**

2861 (1) There is created the "Utah Defined Contribution Risk Adjuster," a nonprofit entity  
 2862 within the [~~Insurance Department~~] department.

2863 (2) (a) The risk adjuster [~~shall be~~] is under the direction of a board of directors  
 2864 composed of up to nine members described in Subsection (2)(b).

2865 (b) The board of directors shall consist of:

2866 [~~(b) The~~] (i) the following directors [~~shall be~~] appointed by the governor with the  
 2867 consent of the Senate:

2868 [(i)] (A) at least three, but up to five, directors with actuarial experience who represent  
 2869 [~~insurance carriers~~] insurers:

2870 [(A)] (I) that are participating or have committed to participate in the defined  
 2871 contribution arrangement market in the state; and

2872 [(B)] (II) including at least one and up to two directors who represent [~~a carrier~~] an  
 2873 insurer that has a small percentage of lives in the defined contribution market;

2874 [(ii)] (B) one director who represents either an individual employee or employer  
 2875 participant in the defined contribution market;

2876 [(iii)] (C) one director [~~appointed by the governor to represent~~] who represents the  
 2877 Office of Consumer Health Services within the Governor's Office of Economic Development;

2878 [(iv)] (ii) one director representing the Public Employee's Health [~~Benefit~~] Program  
 2879 with actuarial experience, [~~chosen~~] appointed by the director of the Public Employee's Health

2880 [Benefit] Program [~~who shall serve as an ex officio member~~]; and

2881 [~~(v)~~] (iii) the commissioner, or a representative [~~from the department with actuarial~~  
2882 ~~experience~~] of the commissioner who:

2883 (A) is appointed by the commissioner; and

2884 (B) has actuarial experience.

2885 (c) The commissioner or a representative appointed by the commissioner[~~, who will~~  
2886 ~~only have voting privileges~~] may vote only in the event of a tie vote.

2887 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
2888 appointed by the governor expire, the governor shall appoint each new member or reappointed  
2889 member to a four-year term.

2890 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
2891 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
2892 board members are staggered so that approximately half of the board is appointed every two  
2893 years.

2894 (c) Notwithstanding the requirements of Subsection (3)(a), a board member shall  
2895 continue to serve until the board member is reappointed or replaced by another individual in  
2896 accordance with this section.

2897 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
2898 appointed for the unexpired term in the same manner as the original appointment was made.

2899 (5) (a) [~~Members who are not government employees shall receive no~~] A board  
2900 member who is not a government employee may not receive compensation or benefits for the  
2901 [~~members']~~ board member's services.

2902 (b) A state government member who is a board member because of the board member's  
2903 state government position may not receive per diem or expenses for the member's service.

2904 (6) The board shall elect annually a chair and vice chair from its membership.

2905 (7) [~~Six~~] One-half of the board members are a quorum for the transaction of business.

2906 (8) The action of a majority of the members of the quorum is the action of the board.

2907 Section 30. Section **63J-1-602** is amended to read:

2908 **63J-1-602. Nonlapsing accounts and funds.**

2909 (1) The following revenue collections, appropriations from a fund or account, and  
2910 appropriations to a program are nonlapsing:

- 2911 (a) appropriations made to the Legislature and its committees;
- 2912 (b) funds collected by the grain grading program, as provided in Section 4-2-2;
- 2913 (c) the Salinity Offset Fund created in Section 4-2-8.5;
- 2914 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;
- 2915 (e) funds collected by pesticide dealer license registration fees, as provided in Section  
2916 4-14-3;
- 2917 (f) funds collected by pesticide applicator business registration fees, as provided in  
2918 Section 4-14-13;
- 2919 (g) the Rangeland Improvement Fund created in Section 4-20-2;
- 2920 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control  
2921 Act, as provided in Section 4-35-6;
- 2922 (i) the Percent-for-Art Program created in Section 9-6-404;
- 2923 (j) the Centennial History Fund created in Section 9-8-604;
- 2924 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;
- 2925 (l) the Navajo Revitalization Fund created in Section 9-11-104;
- 2926 (m) the LeRay McAllister Critical Land Conservation Program created in Section  
2927 11-38-301;
- 2928 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 2929 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in  
2930 Section 19-6-120;
- 2931 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and  
2932 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 2933 (q) award monies under the Crime Reduction Assistance Program, as provided under  
2934 Section 24-1-19;
- 2935 (r) funds collected from the emergency medical services grant program, as provided in  
2936 Section 26-8a-207;
- 2937 (s) fees and other funding available to purchase training equipment and to administer  
2938 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 2939 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the  
2940 federal Social Security Act, as provided in Section 26-18-3;
- 2941 (u) the Utah Health Care Workforce Financial Assistance Program created in Section

2942 26-46-102;

2943 (v) monies collected from subscription fees for publications prepared or distributed by

2944 the insurance commissioner, as provided in Section 31A-2-208;

2945 (w) the Technology Development Restricted Account created in Section 31A-3-104;

2946 (x) the Criminal Background Check Restricted Account created in Section 31A-3-105;

2947 (y) the Captive Insurance Restricted Account created in Section 31A-3-304, except to

2948 the extent that Section 31A-3-304 makes the money received under that section free revenue;

2949 (z) the Title Licensee Enforcement Restricted Account created in Section

2950 31A-23a-415;

2951 [~~w~~] (aa) monies received by the Insurance Department for administering,

2952 investigating under, and enforcing the Insurance Fraud Act, as provided in Section

2953 31A-31-108;

2954 [~~x~~] (bb) certain monies received for penalties paid under the Insurance Fraud Act, as

2955 provided in Section 31A-31-109;

2956 [~~y~~] (cc) the fund for operating the state's Federal Health Care Tax Credit Program, as

2957 provided in Section 31A-38-104;

2958 [~~z~~] (dd) certain funds in the Department of Workforce Services' program for the

2959 education, training, and transitional counseling of displaced homemakers, as provided in

2960 Section 35A-3-114;

2961 [~~aa~~] (ee) the Employment Security Administration Fund created in Section

2962 35A-4-505;

2963 [~~bb~~] (ff) the Special Administrative Expense Fund created in Section 35A-4-506;

2964 [~~cc~~] (gg) funding for a new program or agency that is designated as nonlapsing under

2965 Section 36-24-101;

2966 [~~dd~~] (hh) the Oil and Gas Conservation Account created in Section 40-6-14.5;

2967 [~~ee~~] (ii) funds available to the State Tax Commission for purchase and distribution of

2968 license plates and decals, as provided in Section 41-1a-1201;

2969 [~~ff~~] (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act,

2970 as provided in Section 41-1a-1221;

2971 [~~gg~~] (kk) certain fees collected for administering and enforcing the Motor Vehicle

2972 Business Regulation Act, as provided in Section 41-3-601;



2973            [~~(hh)~~] (ll) certain fees for the cost of electronic payments under the Motor Vehicle  
2974 Business Regulation Act, as provided in Section 41-3-604;  
2975            [~~(ii)~~] (mm) the Off-Highway Access and Education Restricted Account created in  
2976 Section 41-22-19.5;  
2977            [~~(jj)~~] (nn) certain fees for the cost of electronic payments under the Motor Vehicle Act,  
2978 as provided in Section 41-22-36;  
2979            [~~(kk)~~] (oo) monies collected under the Notaries Public Reform Act, as provided under  
2980 46-1-23;  
2981            [~~(H)~~] (pp) certain funds associated with the Law Enforcement Operations Account, as  
2982 provided in Section 51-9-411;  
2983            [~~(mm)~~] (qq) the Public Safety Honoring Heroes Restricted Account created in Section  
2984 53-1-118;  
2985            [~~(nn)~~] (rr) funding for the Search and Rescue Financial Assistance Program, as  
2986 provided in Section 53-2-107;  
2987            [~~(oo)~~] (ss) appropriations made to the Department of Public Safety from the  
2988 Department of Public Safety Restricted Account, as provided in Section 53-3-106;  
2989            [~~(pp)~~] (tt) appropriations to the Motorcycle Rider Education Program, as provided in  
2990 Section 53-3-905;  
2991            [~~(qq)~~] (uu) fees collected by the State Fire Marshal Division under the Utah Fire  
2992 Prevention and Safety Act, as provided in Section 53-7-314;  
2993            [~~(rr)~~] (vv) the DNA Specimen Restricted Account created in Section 53-10-407;  
2994            [~~(ss)~~] (ww) the minimum school program, as provided in Section 53A-17a-105;  
2995            [~~(tt)~~] (xx) certain funds appropriated from the Uniform School Fund to the State Board  
2996 of Education for new teacher bonus and performance-based compensation plans, as provided in  
2997 Section 53A-17a-148;  
2998            [~~(uu)~~] (yy) certain funds appropriated from the Uniform School Fund to the State  
2999 Board of Education for implementation of proposals to improve mathematics achievement test  
3000 scores, as provided in Section 53A-17a-152;  
3001            [~~(vv)~~] (zz) the School Building Revolving Account created in Section 53A-21-401;  
3002            [~~(ww)~~] (aaa) monies received by the State Office of Rehabilitation for the sale of  
3003 certain products or services, as provided in Section 53A-24-105;

3004            [~~(xx)~~] (bbb) the State Board of Regents, as provided in Section 53B-6-104;  
3005            [~~(yy)~~] (ccc) certain funds appropriated from the General Fund to the State Board of  
3006 Regents for teacher preparation programs, as provided in Section 53B-6-104;  
3007            [~~(zz)~~] (ddd) a certain portion of monies collected for administrative costs under the  
3008 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202;  
3009            [~~(aaa)~~] (eee) certain surcharges on residence and business telecommunications access  
3010 lines imposed by the Public Service Commission, as provided in Section 54-8b-10;  
3011            [~~(bbb)~~] (fff) certain fines collected by the Division of Occupational and Professional  
3012 Licensing for violation of unlawful or unprofessional conduct that are used for education and  
3013 enforcement purposes, as provided in Section 58-17b-505;  
3014            [~~(ccc)~~] (ggg) the Nurse Education and Enforcement Fund created in Section  
3015 58-31b-103;  
3016            [~~(ddd)~~] (hhh) funding of the controlled substance database, as provided in Section  
3017 58-37-7.7;  
3018            [~~(eee)~~] (iii) the Certified Nurse Midwife Education and Enforcement Fund created in  
3019 Section 58-44a-103;  
3020            [~~(fff)~~] (jjj) funding for the building inspector's education program, as provided in  
3021 Section 58-56-9;  
3022            [~~(ggg)~~] (kkk) certain fines collected by the Division of Occupational and Professional  
3023 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as  
3024 provided in Section 58-63-103;  
3025            [~~(hhh)~~] (lll) the Professional Geologist Education and Enforcement Fund created in  
3026 Section 58-76-103;  
3027            [~~(iii)~~] (mmm) certain monies in the Water Resources Conservation and Development  
3028 Fund, as provided in Section 59-12-103;  
3029            [~~(jjj)~~] (nnn) funds paid to the Division of Real Estate for the cost of a criminal  
3030 background check for broker and sales agent licenses, as provided in Section 61-2-9;  
3031            [~~(kkk)~~] (ooo) the Utah Housing Opportunity Restricted Account created in Section  
3032 61-2-28;  
3033            [~~(lll)~~] (ppp) funds paid to the Division of Real Estate for the cost of a criminal  
3034 background check for a mortgage loan license, as provided in Section 61-2c-202;

3035 [~~(mmmm)~~] (qqq) funds paid to the Division of Real Estate in relation to examination of  
3036 records in an investigation, as provided in Section 61-2c-401;

3037 [~~(mmm)~~] (rrr) certain funds donated to the Department of Human Services, as provided  
3038 in Section 62A-1-111;

3039 [~~(ooo)~~] (sss) certain funds donated to the Division of Child and Family Services, as  
3040 provided in Section 62A-4a-110;

3041 [~~(ppp)~~] (ttt) the Mental Health Therapist Grant and Scholarship Program, as provided  
3042 in Section 62A-13-109;

3043 [~~(qqq)~~] (uuu) assessments for DUI violations that are forwarded to an account created  
3044 by a county treasurer, as provided in Section 62A-15-503;

3045 [~~(rrr)~~] (vvv) appropriations to the Division of Services for People with Disabilities, as  
3046 provided in Section 62A-5-102;

3047 [~~(sss)~~] (www) certain donations to the Division of Substance Abuse and Mental  
3048 Health, as provided in Section 62A-15-103;

3049 [~~(ttt)~~] (xxx) certain funds received by the Division of Parks and Recreation from the  
3050 sale or disposal of buffalo, as provided under Section 63-11-19.2;

3051 [~~(uuu)~~] (yyy) revenue for golf user fees at the Wasatch Mountain State Park, Palisades  
3052 State Park, or Jordan River State Park, as provided under Section 63-11-19.5;

3053 [~~(vvv)~~] (zzz) revenue for golf user fees at the Green River State Park, as provided  
3054 under Section 63-11-19.6;

3055 [~~(www)~~] (aaa) the Centennial Nonmotorized Paths and Trail Crossings Program  
3056 created under Section 63-11a-503;

3057 [~~(xxx)~~] (bbb) the Bonneville Shoreline Trail Program created under Section  
3058 63-11a-504;

3059 [~~(yyy)~~] (ccc) the account for the Utah Geological Survey, as provided in Section  
3060 63-73-10;

3061 [~~(zzz)~~] (ddd) the Risk Management Fund created under Section 63A-4-201;

3062 [~~(aaa)~~] (eee) the Child Welfare Parental Defense Fund created in Section  
3063 63A-11-203;

3064 [~~(bbb)~~] (fff) the Constitutional Defense Restricted Account created in Section  
3065 63C-4-103;

3066            [~~eeee~~] (gggg) a portion of the funds appropriated to the Utah Seismic Safety  
3067 Commission, as provided in Section 63C-6-104;  
3068            [~~dddd~~] (hhhh) funding for the Medical Education Program administered by the  
3069 Medical Education Council, as provided in Section 63C-8-102;  
3070            [~~eeee~~] (iiii) certain monies payable for commission expenses of the Pete Suazo Utah  
3071 Athletic Commission, as provided under Section 63C-11-301;  
3072            [~~ffff~~] (jjjj) funds collected for publishing the Division of Administrative Rules'  
3073 publications, as provided in Section 63G-3-402;  
3074            [~~gggg~~] (kkkk) the appropriation to fund the Governor's Office of Economic  
3075 Development's Enterprise Zone Act, as provided in Section 63M-1-416;  
3076            [~~hhhh~~] (llll) the Tourism Marketing Performance Account, as provided in Section  
3077 63M-1-1406;  
3078            [~~iiii~~] (mmmm) certain funding for rural development provided to the Office of Rural  
3079 Development in the Governor's Office of Economic Development, as provided in Section  
3080 63M-1-1604;  
3081            [~~jjjj~~] (nnnn) certain monies in the Development for Disadvantaged Rural  
3082 Communities Restricted Account, as provided in Section 63M-1-2003;  
3083            [~~kkkk~~] (oooo) appropriations to the Utah Science Technology and Research  
3084 Governing Authority, created under Section 63M-2-301, as provided under Section  
3085 63M-3-302;  
3086            [~~HHH~~] (pppp) certain monies in the Rural Broadband Service Fund, as provided in  
3087 Section 63M-1-2303;  
3088            [~~mmmm~~] (qqqq) funds collected from monthly offender supervision fees, as provided  
3089 in Section 64-13-21.2;  
3090            [~~nnnn~~] (rrrr) funds collected by the housing of state probationary inmates or state  
3091 parole inmates, as provided in Subsection 64-13e-104(2);  
3092            [~~oooo~~] (ssss) the Sovereign Lands Management account created in Section 65A-5-1;  
3093            [~~pppp~~] (tttt) certain forestry and fire control funds utilized by the Division of  
3094 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;  
3095            [~~qqqq~~] (uuuu) the Department of Human Resource Management user training  
3096 program, as provided in Section 67-19-6;

3097            [~~(rrrr)~~] (vvvv) funds for the University of Utah Poison Control Center program, as  
3098 provided in Section 69-2-5.5;

3099            [~~(ssss)~~] (www) appropriations to the Transportation Corridor Preservation Revolving  
3100 Loan Fund, as provided in Section 72-2-117;

3101            [~~(tttt)~~] (xxxx) appropriations to the Local Transportation Corridor Preservation Fund,  
3102 as provided in Section 72-2-117.5;

3103            [~~(uuuu)~~] (yyyy) appropriations to the Tollway Restricted Special Revenue Fund, as  
3104 provided in Section 77-2-120;

3105            [~~(vvvv)~~] (zzzz) appropriations to the Aeronautics Construction Revolving Loan Fund,  
3106 as provided in Section 77-2-122;

3107            [~~(wwww)~~] (aaaa) appropriations to the State Park Access Highways Improvement  
3108 Program, as provided in Section 72-3-207;

3109            [~~(xxxx)~~] (bbbb) the Traffic Noise Abatement Program created in Section 72-6-112;  
3110 [~~(yyyy)~~] (cccc) certain funds received by the Office of the State Engineer for well  
3111 drilling fines or bonds, as provided in Section 73-3-25;

3112            [~~(zzzz)~~] (dddd) certain monies appropriated to increase the carrying capacity of the  
3113 Jordan River that are transferred to the Division of Parks and Recreation, as provided in  
3114 Section 73-10e-1;

3115            [~~(aaaa)~~] (eeee) certain fees for the cost of electronic payments under the State  
3116 Boating Act, as provided in Section 73-18-25;

3117            [~~(bbbb)~~] (ffff) certain monies appropriated from the Water Resources Conservation  
3118 and Development Fund, as provided in Section 73-23-2;

3119            [~~(cccc)~~] (gggg) the Lake Powell Pipeline Project Operation and Maintenance Fund  
3120 created in Section 73-28-404;

3121            [~~(ddd)~~] (hhhh) certain funds in the Water Development and Flood Mitigation  
3122 Reserve Account, as provided in Section 73-103-1;

3123            [~~(eeee)~~] (iiii) certain funds appropriated for compensation for special prosecutors, as  
3124 provided in Section 77-10a-19;

3125            [~~(ffff)~~] (jjjj) the Indigent Aggravated Murder Defense Trust Fund created in Section  
3126 77-32-601;

3127            [~~(gggg)~~] (kkkk) the Indigent Felony Defense Trust Fund created in Section

3128 77-32-701;

3129 ~~[(hhhh)]~~ (lllll) funds donated or paid to a juvenile court by private sources, as  
3130 provided in Subsection 78A-6-203(c);

3131 ~~[(iiii)]~~ (mmmmm) a state rehabilitative employment program, as provided in Section  
3132 78A-6-210; and

3133 ~~[(jjjj)]~~ (nnnnn) fees from the issuance and renewal of licenses for certified court  
3134 interpreters, as provided in Section 78B-1-146.

3135 (2) No revenue collection, appropriation from a fund or account, or appropriation to a  
3136 program may be treated as nonlapsing unless:

3137 (a) it is expressly referenced by this section;

3138 (b) it is designated in a condition of appropriation in the appropriations bill; or

3139 (c) nonlapsing authority is granted under Section 63J-1-603.

3140 (3) Each legislative appropriations subcommittee shall review the accounts and funds  
3141 that have been granted nonlapsing authority under this section or Section 63J-1-603.

3142 Section 31. **Intent language regarding lapsing of money.**

3143 It is the intent of the Legislature that money received by the Insurance Department  
3144 during fiscal year 2009-10 under the following shall be considered dedicated credits and in  
3145 closing out fiscal year 2009-10 the unspent dedicated credits shall lapse to the appropriate  
3146 restricted account created by the amendments made by this bill:

3147 (1) Section 31A-3-104;

3148 (2) Section 31A-3-304 (Superseded 07/01/10);

3149 (3) Subsection 31A-16-103(3);

3150 (4) Subsection 31A-23a-105(3);

3151 (5) Section 31A-23a-415;

3152 (6) Subsection 31A-25-203(3); and

3153 (7) Subsection 31A-26-203(3).

3154 Section 32. **Effective date.**

3155 This bill takes effect on May 11, 2010, except the amendments in this bill to Section  
3156 31A-3-304 (Effective 07/01/10) take effect on July 1, 2010.

**Legislative Review Note**  
as of 11-18-09 3:01 PM

**Office of Legislative Research and General Counsel**

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**H.B. 39 - 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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