

Representative Todd E. Kiser proposes the following substitute bill:

**PORTABLE ELECTRONICS INSURANCE RELATED
AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd E. Kiser

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Insurance Code to enact the Portable Electronics Insurance Act, address adjusting of portable electronics insurance claims, and make conforming amendments.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ enacts the Portable Electronics Insurance Act, including:
 - defining terms;
 - requiring vendors to hold a limited lines license to sell or offer coverage under a portable electronics insurance policy;
 - providing for application and fees to obtain limited lines license;
 - addressing employees and authorized representatives of vendors;
 - providing for penalties for violation of part;
 - imposing requirements for the sale of portable electronics insurance;
 - making coverage primary coverage;
 - addressing terminating or changing a portable electronics insurance policy; **§→ [and]**

←§

1st Sub. H.B. 61



- 26 • addressing billing; ~~§~~→ and
- 26a • addressing applicability of provisions; ←~~§~~
- 27 ▶ addresses portable electronics claims adjusting and supervision of nonlicensed
- 28 individuals; and
- 29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on July 1, 2012.

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **31A-1-301**, as last amended by Laws of Utah 2011, Chapters 284 and 366
- 37 **31A-23a-106**, as last amended by Laws of Utah 2011, Chapter 284
- 38 **31A-26-102**, as last amended by Laws of Utah 1995, Chapter 20

39 ENACTS:

- 40 **31A-22-1801**, Utah Code Annotated 1953
- 41 **31A-22-1802**, Utah Code Annotated 1953
- 42 **31A-22-1803**, Utah Code Annotated 1953
- 43 **31A-22-1804**, Utah Code Annotated 1953
- 44 **31A-22-1805**, Utah Code Annotated 1953
- 45 **31A-22-1806**, Utah Code Annotated 1953
- 46 **31A-22-1807**, Utah Code Annotated 1953
- 47 **31A-22-1808**, Utah Code Annotated 1953
- 48 **31A-22-1809**, Utah Code Annotated 1953

48a ~~§~~→ **31A-22-1810, Utah Code Annotated 1953** ←~~§~~

49 **31A-26-216**, Utah Code Annotated 1953



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

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

53 **31A-1-301. Definitions.**

54 As used in this title, unless otherwise specified:

- 55 (1) (a) "Accident and health insurance" means insurance to provide protection against
- 56 economic losses resulting from:

- 57 (i) a medical condition including:
- 58 (A) a medical care expense; or
- 59 (B) the risk of disability;
- 60 (ii) accident; or
- 61 (iii) sickness.
- 62 (b) "Accident and health insurance":
- 63 (i) includes a contract with disability contingencies including:
- 64 (A) an income replacement contract;
- 65 (B) a health care contract;
- 66 (C) an expense reimbursement contract;
- 67 (D) a credit accident and health contract;
- 68 (E) a continuing care contract; and
- 69 (F) a long-term care contract; and
- 70 (ii) may provide:
- 71 (A) hospital coverage;
- 72 (B) surgical coverage;
- 73 (C) medical coverage;
- 74 (D) loss of income coverage;
- 75 (E) prescription drug coverage;
- 76 (F) dental coverage; or
- 77 (G) vision coverage.
- 78 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 79 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
- 80 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 81 (3) "Administrator" is defined in Subsection (161).
- 82 (4) "Adult" means an individual who has attained the age of at least 18 years.
- 83 (5) "Affiliate" means a person who controls, is controlled by, or is under common
- 84 control with, another person. A corporation is an affiliate of another corporation, regardless of
- 85 ownership, if substantially the same group of individuals manage the corporations.
- 86 (6) "Agency" means:
- 87 (a) a person other than an individual, including a sole proprietorship by which an

88 individual does business under an assumed name; and

89 (b) an insurance organization licensed or required to be licensed under Section
90 31A-23a-301, 31A-25-207, or 31A-26-209.

91 (7) "Alien insurer" means an insurer domiciled outside the United States.

92 (8) "Amendment" means an endorsement to an insurance policy or certificate.

93 (9) "Annuity" means an agreement to make periodical payments for a period certain or
94 over the lifetime of one or more individuals if the making or continuance of all or some of the
95 series of the payments, or the amount of the payment, is dependent upon the continuance of
96 human life.

97 (10) "Application" means a document:

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

100 (ii) that contains information that is used by the insurer to evaluate risk and decide
101 whether to:

102 (A) insure the risk under:

103 (I) the coverage as originally offered; or

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

105 (B) decline to insure the risk; or

106 (b) used by the insurer to gather information from the applicant before issuance of an
107 annuity contract.

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

109 (a) the original articles;

110 (b) a special law;

111 (c) a charter;

112 (d) an amendment;

113 (e) restated articles;

114 (f) articles of merger or consolidation;

115 (g) a trust instrument;

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

117 and

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

119 (12) "Bail bond insurance" means a guarantee that a person will attend court when
120 required, up to and including surrender of the person in execution of a sentence imposed under
121 Subsection 77-20-7(1), as a condition to the release of that person from confinement.

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

123 (14) "Blanket insurance policy" means a group policy covering a defined class of
124 persons:

125 (a) without individual underwriting or application; and

126 (b) that is determined by definition without designating each person covered.

127 (15) "Board," "board of trustees," or "board of directors" means the group of persons
128 with responsibility over, or management of, a corporation, however designated.

129 (16) "Bona fide office" means a physical office in this state:

130 (a) that is open to the public;

131 (b) that is staffed during regular business hours on regular business days; and

132 (c) at which the public may appear in person to obtain services.

133 (17) "Business entity" means:

134 (a) a corporation;

135 (b) an association;

136 (c) a partnership;

137 (d) a limited liability company;

138 (e) a limited liability partnership; or

139 (f) another legal entity.

140 (18) "Business of insurance" is defined in Subsection (87).

141 (19) "Business plan" means the information required to be supplied to the
142 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
143 when these subsections apply by reference under:

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

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

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

147 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
148 corporation's affairs, however designated.

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

150 corporation.

151 (21) "Captive insurance company" means:

152 (a) an insurer:

153 (i) owned by another organization; and

154 (ii) whose exclusive purpose is to insure risks of the parent organization and an
155 affiliated company; or

156 (b) in the case of a group or association, an insurer:

157 (i) owned by the insureds; and

158 (ii) whose exclusive purpose is to insure risks of:

159 (A) a member organization;

160 (B) a group member; or

161 (C) an affiliate of:

162 (I) a member organization; or

163 (II) a group member.

164 (22) "Casualty insurance" means liability insurance.

165 (23) "Certificate" means evidence of insurance given to:

166 (a) an insured under a group insurance policy; or

167 (b) a third party.

168 (24) "Certificate of authority" is included within the term "license."

169 (25) "Claim," unless the context otherwise requires, means a request or demand on an
170 insurer for payment of a benefit according to the terms of an insurance policy.

171 (26) "Claims-made coverage" means an insurance contract or provision limiting
172 coverage under a policy insuring against legal liability to claims that are first made against the
173 insured while the policy is in force.

174 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
175 commissioner.

176 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
177 supervisory official of another jurisdiction.

178 (28) (a) "Continuing care insurance" means insurance that:

179 (i) provides board and lodging;

180 (ii) provides one or more of the following:

181 (A) a personal service;
182 (B) a nursing service;
183 (C) a medical service; or
184 (D) any other health-related service; and
185 (iii) provides the coverage described in this Subsection (28)(a) under an agreement
186 effective:

187 (A) for the life of the insured; or
188 (B) for a period in excess of one year.

189 (b) Insurance is continuing care insurance regardless of whether or not the board and
190 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

191 (29) (a) "Control," "controlling," "controlled," or "under common control" means the
192 direct or indirect possession of the power to direct or cause the direction of the management
193 and policies of a person. This control may be:

194 (i) by contract;
195 (ii) by common management;
196 (iii) through the ownership of voting securities; or
197 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

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

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

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

205 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly
206 controlled by a producer.

207 (31) "Controlling person" means a person that directly or indirectly has the power to
208 direct or cause to be directed, the management, control, or activities of a reinsurance
209 intermediary.

210 (32) "Controlling producer" means a producer who directly or indirectly controls an
211 insurer.

212 (33) (a) "Corporation" means an insurance corporation, except when referring to:
213 (i) a corporation doing business:
214 (A) as:
215 (I) an insurance producer;
216 (II) a limited line producer;
217 (III) a consultant;
218 (IV) a managing general agent;
219 (V) a reinsurance intermediary;
220 (VI) a third party administrator; or
221 (VII) an adjuster; and
222 (B) under:
223 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
224 Reinsurance Intermediaries;
225 (II) Chapter 25, Third Party Administrators; or
226 (III) Chapter 26, Insurance Adjusters; or
227 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
228 Holding Companies.
229 (b) "Stock corporation" means a stock insurance corporation.
230 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.
231 (34) (a) "Creditable coverage" has the same meaning as provided in federal regulations
232 adopted pursuant to the Health Insurance Portability and Accountability Act.
233 (b) "Creditable coverage" includes coverage that is offered through a public health plan
234 such as:
235 (i) the Primary Care Network Program under a Medicaid primary care network
236 demonstration waiver obtained subject to Section 26-18-3;
237 (ii) the Children's Health Insurance Program under Section 26-40-106; or
238 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.
239 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.
240 (35) "Credit accident and health insurance" means insurance on a debtor to provide
241 indemnity for payments coming due on a specific loan or other credit transaction while the
242 debtor has a disability.

243 (36) (a) "Credit insurance" means insurance offered in connection with an extension of
244 credit that is limited to partially or wholly extinguishing that credit obligation.

245 (b) "Credit insurance" includes:

246 (i) credit accident and health insurance;

247 (ii) credit life insurance;

248 (iii) credit property insurance;

249 (iv) credit unemployment insurance;

250 (v) guaranteed automobile protection insurance;

251 (vi) involuntary unemployment insurance;

252 (vii) mortgage accident and health insurance;

253 (viii) mortgage guaranty insurance; and

254 (ix) mortgage life insurance.

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

257 (38) "Credit property insurance" means insurance:

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

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

260 (39) "Credit unemployment insurance" means insurance:

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

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

263 (i) specific loan; or

264 (ii) credit transaction.

265 (40) "Creditor" means a person, including an insured, having a claim, whether:

266 (a) matured;

267 (b) unmatured;

268 (c) liquidated;

269 (d) unliquidated;

270 (e) secured;

271 (f) unsecured;

272 (g) absolute;

273 (h) fixed; or

- 274 (i) contingent.
- 275 (41) (a) "Customer service representative" means a person that provides an insurance
276 service and insurance product information:
- 277 (i) for the customer service representative's:
- 278 (A) producer; or
- 279 (B) consultant employer; and
- 280 (ii) to the customer service representative's employer's:
- 281 (A) customer;
- 282 (B) client; or
- 283 (C) organization.
- 284 (b) A customer service representative may only operate within the scope of authority of
285 the customer service representative's producer or consultant employer.
- 286 (42) "Deadline" means a final date or time:
- 287 (a) imposed by:
- 288 (i) statute;
- 289 (ii) rule; or
- 290 (iii) order; and
- 291 (b) by which a required filing or payment must be received by the department.
- 292 (43) "Deemer clause" means a provision under this title under which upon the
293 occurrence of a condition precedent, the commissioner is considered to have taken a specific
294 action. If the statute so provides, a condition precedent may be the commissioner's failure to
295 take a specific action.
- 296 (44) "Degree of relationship" means the number of steps between two persons
297 determined by counting the generations separating one person from a common ancestor and
298 then counting the generations to the other person.
- 299 (45) "Department" means the Insurance Department.
- 300 (46) "Director" means a member of the board of directors of a corporation.
- 301 (47) "Disability" means a physiological or psychological condition that partially or
302 totally limits an individual's ability to:
- 303 (a) perform the duties of:
- 304 (i) that individual's occupation; or

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

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

308 (i) eating;

309 (ii) toileting;

310 (iii) transferring;

311 (iv) bathing; or

312 (v) dressing.

313 (48) "Disability income insurance" is defined in Subsection (78).

314 (49) "Domestic insurer" means an insurer organized under the laws of this state.

315 (50) "Domiciliary state" means the state in which an insurer:

316 (a) is incorporated;

317 (b) is organized; or

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

319 (51) (a) "Eligible employee" means:

320 (i) an employee who:

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

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

323 (ii) a person described in Subsection (51)(b).

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

326 (i) a sole proprietor;

327 (ii) a partner in a partnership; or

328 (iii) an independent contractor.

329 (c) "Eligible employee" does not include, unless eligible under Subsection (51)(b):

330 (i) an individual who works on a temporary or substitute basis for a small employer;

331 (ii) an employer's spouse; or

332 (iii) a dependent of an employer.

333 (52) "Employee" means an individual employed by an employer.

334 (53) "Employee benefits" means one or more benefits or services provided to:

335 (a) an employee; or

- 336 (b) a dependent of an employee.
- 337 (54) (a) "Employee welfare fund" means a fund:
- 338 (i) established or maintained, whether directly or through a trustee, by:
- 339 (A) one or more employers;
- 340 (B) one or more labor organizations; or
- 341 (C) a combination of employers and labor organizations; and
- 342 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 343 from investments of the fund:
- 344 (A) by or on behalf of an employer doing business in this state; or
- 345 (B) for the benefit of a person employed in this state.
- 346 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 347 revenues.
- 348 (55) "Endorsement" means a written agreement attached to a policy or certificate to
- 349 modify the policy or certificate coverage.
- 350 (56) "Enrollment date," with respect to a health benefit plan, means:
- 351 (a) the first day of coverage; or
- 352 (b) if there is a waiting period, the first day of the waiting period.
- 353 (57) (a) "Escrow" means:
- 354 (i) a real estate settlement or real estate closing conducted by a third party pursuant to
- 355 the requirements of a written agreement between the parties in a real estate transaction; or
- 356 (ii) a settlement or closing involving:
- 357 (A) a mobile home;
- 358 (B) a grazing right;
- 359 (C) a water right; or
- 360 (D) other personal property authorized by the commissioner.
- 361 (b) "Escrow" includes the act of conducting a:
- 362 (i) real estate settlement; or
- 363 (ii) real estate closing.
- 364 (58) "Escrow agent" means:
- 365 (a) an insurance producer with:
- 366 (i) a title insurance line of authority; and

367 (ii) an escrow subline of authority; or

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

369 (59) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
370 excluded.

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

373 (60) "Exclusion" means for the purposes of accident and health insurance that an
374 insurer does not provide insurance coverage, for whatever reason, for one of the following:

375 (a) a specific physical condition;

376 (b) a specific medical procedure;

377 (c) a specific disease or disorder; or

378 (d) a specific prescription drug or class of prescription drugs.

379 (61) "Expense reimbursement insurance" means insurance:

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

382 (b) written:

383 (i) as a daily limit for a specific number of days in a hospital; and

384 (ii) to have a one or two day waiting period following a hospitalization.

385 (62) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
386 a position of public or private trust.

387 (63) (a) "Filed" means that a filing is:

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

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

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

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

394 (B) rule.

395 (b) "Filed" does not include a filing that is rejected by the department because it is not
396 submitted in accordance with Subsection (63)(a).

397 (64) "Filing," when used as a noun, means an item required to be filed with the

398 department including:

- 399 (a) a policy;
- 400 (b) a rate;
- 401 (c) a form;
- 402 (d) a document;
- 403 (e) a plan;
- 404 (f) a manual;
- 405 (g) an application;
- 406 (h) a report;
- 407 (i) a certificate;
- 408 (j) an endorsement;
- 409 (k) an actuarial certification;
- 410 (l) a licensee annual statement;
- 411 (m) a licensee renewal application;
- 412 (n) an advertisement; or
- 413 (o) an outline of coverage.

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

416 (66) "Foreign insurer" means an insurer domiciled outside of this state, including an
417 alien insurer.

418 (67) (a) "Form" means one of the following prepared for general use:

- 419 (i) a policy;
- 420 (ii) a certificate;
- 421 (iii) an application;
- 422 (iv) an outline of coverage; or
- 423 (v) an endorsement.

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

426 (68) "Franchise insurance" means an individual insurance policy provided through a
427 mass marketing arrangement involving a defined class of persons related in some way other
428 than through the purchase of insurance.

- 429 (69) "General lines of authority" include:
- 430 (a) the general lines of insurance in Subsection (70);
- 431 (b) title insurance under one of the following sublines of authority:
- 432 (i) search, including authority to act as a title marketing representative;
- 433 (ii) escrow, including authority to act as a title marketing representative; and
- 434 (iii) title marketing representative only;
- 435 (c) surplus lines;
- 436 (d) workers' compensation; and
- 437 (e) any other line of insurance that the commissioner considers necessary to recognize
- 438 in the public interest.
- 439 (70) "General lines of insurance" include:
- 440 (a) accident and health;
- 441 (b) casualty;
- 442 (c) life;
- 443 (d) personal lines;
- 444 (e) property; and
- 445 (f) variable contracts, including variable life and annuity.
- 446 (71) "Group health plan" means an employee welfare benefit plan to the extent that the
- 447 plan provides medical care:
- 448 (a) (i) to an employee; or
- 449 (ii) to a dependent of an employee; and
- 450 (b) (i) directly;
- 451 (ii) through insurance reimbursement; or
- 452 (iii) through another method.
- 453 (72) (a) "Group insurance policy" means a policy covering a group of persons that is
- 454 issued:
- 455 (i) to a policyholder on behalf of the group; and
- 456 (ii) for the benefit of a member of the group who is selected under a procedure defined
- 457 in:
- 458 (A) the policy; or
- 459 (B) an agreement that is collateral to the policy.

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

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

465 (74) (a) Except as provided in Subsection (74)(b), "health benefit plan" means a policy
466 or certificate that:

- 467 (i) provides health care insurance;
- 468 (ii) provides major medical expense insurance; or
- 469 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
 - 470 (A) a hospital confinement indemnity; or
 - 471 (B) a limited benefit plan.

472 (b) "Health benefit plan" does not include a policy or certificate that:

- 473 (i) provides benefits solely for:
 - 474 (A) accident;
 - 475 (B) dental;
 - 476 (C) income replacement;
 - 477 (D) long-term care;
 - 478 (E) a Medicare supplement;
 - 479 (F) a specified disease;
 - 480 (G) vision; or
 - 481 (H) a short-term limited duration; or

482 (ii) is offered and marketed as supplemental health insurance.

483 (75) "Health care" means any of the following intended for use in the diagnosis,
484 treatment, mitigation, or prevention of a human ailment or impairment:

- 485 (a) a professional service;
- 486 (b) a personal service;
- 487 (c) a facility;
- 488 (d) equipment;
- 489 (e) a device;
- 490 (f) supplies; or

- 491 (g) medicine.
- 492 (76) (a) "Health care insurance" or "health insurance" means insurance providing:
- 493 (i) a health care benefit; or
- 494 (ii) payment of an incurred health care expense.
- 495 (b) "Health care insurance" or "health insurance" does not include accident and health
- 496 insurance providing a benefit for:
- 497 (i) replacement of income;
- 498 (ii) short-term accident;
- 499 (iii) fixed indemnity;
- 500 (iv) credit accident and health;
- 501 (v) supplements to liability;
- 502 (vi) workers' compensation;
- 503 (vii) automobile medical payment;
- 504 (viii) no-fault automobile;
- 505 (ix) equivalent self-insurance; or
- 506 (x) a type of accident and health insurance coverage that is a part of or attached to
- 507 another type of policy.
- 508 (77) "Health Insurance Portability and Accountability Act" means the Health Insurance
- 509 Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.
- 510 (78) "Income replacement insurance" or "disability income insurance" means insurance
- 511 written to provide payments to replace income lost from accident or sickness.
- 512 (79) "Indemnity" means the payment of an amount to offset all or part of an insured
- 513 loss.
- 514 (80) "Independent adjuster" means an insurance adjuster required to be licensed under
- 515 Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.
- 516 (81) "Independently procured insurance" means insurance procured under Section
- 517 31A-15-104.
- 518 (82) "Individual" means a natural person.
- 519 (83) "Inland marine insurance" includes insurance covering:
- 520 (a) property in transit on or over land;
- 521 (b) property in transit over water by means other than boat or ship;

- 522 (c) bailee liability;
- 523 (d) fixed transportation property such as bridges, electric transmission systems, radio
524 and television transmission towers and tunnels; and
- 525 (e) personal and commercial property floaters.
- 526 (84) "Insolvency" means that:
- 527 (a) an insurer is unable to pay its debts or meet its obligations as the debts and
528 obligations mature;
- 529 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
530 RBC under Subsection 31A-17-601(8)(c); or
- 531 (c) an insurer is determined to be hazardous under this title.
- 532 (85) (a) "Insurance" means:
- 533 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
534 persons to one or more other persons; or
- 535 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
536 group of persons that includes the person seeking to distribute that person's risk.
- 537 (b) "Insurance" includes:
- 538 (i) a risk distributing arrangement providing for compensation or replacement for
539 damages or loss through the provision of a service or a benefit in kind;
- 540 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
541 business and not as merely incidental to a business transaction; and
- 542 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
543 but with a class of persons who have agreed to share the risk.
- 544 (86) "Insurance adjuster" means a person who directs the investigation, negotiation, or
545 settlement of a claim under an insurance policy other than life insurance or an annuity, on
546 behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 547 (87) "Insurance business" or "business of insurance" includes:
- 548 (a) providing health care insurance by an organization that is or is required to be
549 licensed under this title;
- 550 (b) providing a benefit to an employee in the event of a contingency not within the
551 control of the employee, in which the employee is entitled to the benefit as a right, which
552 benefit may be provided either:

- 553 (i) by a single employer or by multiple employer groups; or
554 (ii) through one or more trusts, associations, or other entities;
555 (c) providing an annuity:
556 (i) including an annuity issued in return for a gift; and
557 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
558 and (3);
559 (d) providing the characteristic services of a motor club as outlined in Subsection
560 (115);
561 (e) providing another person with insurance;
562 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
563 or surety, a contract or policy of title insurance;
564 (g) transacting or proposing to transact any phase of title insurance, including:
565 (i) solicitation;
566 (ii) negotiation preliminary to execution;
567 (iii) execution of a contract of title insurance;
568 (iv) insuring; and
569 (v) transacting matters subsequent to the execution of the contract and arising out of
570 the contract, including reinsurance;
571 (h) transacting or proposing a life settlement; and
572 (i) doing, or proposing to do, any business in substance equivalent to Subsections
573 (87)(a) through (h) in a manner designed to evade this title.
574 (88) "Insurance consultant" or "consultant" means a person who:
575 (a) advises another person about insurance needs and coverages;
576 (b) is compensated by the person advised on a basis not directly related to the insurance
577 placed; and
578 (c) except as provided in Section 31A-23a-501, is not compensated directly or
579 indirectly by an insurer or producer for advice given.
580 (89) "Insurance holding company system" means a group of two or more affiliated
581 persons, at least one of whom is an insurer.
582 (90) (a) "Insurance producer" or "producer" means a person licensed or required to be
583 licensed under the laws of this state to sell, solicit, or negotiate insurance.

584 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
585 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
586 insurer.

587 (ii) "Producer for the insurer" may be referred to as an "agent."

588 (c) (i) "Producer for the insured" means a producer who:

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

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

593 (ii) "Producer for the insured" may be referred to as a "broker."

594 (91) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
595 promise in an insurance policy and includes:

596 (i) a policyholder;

597 (ii) a subscriber;

598 (iii) a member; and

599 (iv) a beneficiary.

600 (b) The definition in Subsection (91)(a):

601 (i) applies only to this title; and

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

604 (92) (a) "Insurer" means a person doing an insurance business as a principal including:

605 (i) a fraternal benefit society;

606 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
607 31A-22-1305(2) and (3);

608 (iii) a motor club;

609 (iv) an employee welfare plan; and

610 (v) a person purporting or intending to do an insurance business as a principal on that
611 person's own account.

612 (b) "Insurer" does not include a governmental entity to the extent the governmental
613 entity is engaged in an activity described in Section 31A-12-107.

614 (93) "Interinsurance exchange" is defined in Subsection (144).

- 615 (94) "Involuntary unemployment insurance" means insurance:
616 (a) offered in connection with an extension of credit; and
617 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
618 coming due on a:
619 (i) specific loan; or
620 (ii) credit transaction.
- 621 (95) "Large employer," in connection with a health benefit plan, means an employer
622 who, with respect to a calendar year and to a plan year:
623 (a) employed an average of at least 51 eligible employees on each business day during
624 the preceding calendar year; and
625 (b) employs at least two employees on the first day of the plan year.
- 626 (96) "Late enrollee," with respect to an employer health benefit plan, means an
627 individual whose enrollment is a late enrollment.
- 628 (97) "Late enrollment," with respect to an employer health benefit plan, means
629 enrollment of an individual other than:
630 (a) on the earliest date on which coverage can become effective for the individual
631 under the terms of the plan; or
632 (b) through special enrollment.
- 633 (98) (a) Except for a retainer contract or legal assistance described in Section
634 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a
635 specified legal expense.
636 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
637 expectation of an enforceable right.
638 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
639 legal services incidental to other insurance coverage.
- 640 (99) (a) "Liability insurance" means insurance against liability:
641 (i) for death, injury, or disability of a human being, or for damage to property,
642 exclusive of the coverages under:
643 (A) Subsection (109) for medical malpractice insurance;
644 (B) Subsection (136) for professional liability insurance; and
645 (C) Subsection (170) for workers' compensation insurance;

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

650 (A) Subsection (109) for medical malpractice insurance;

651 (B) Subsection (136) for professional liability insurance; and

652 (C) Subsection (170) for workers' compensation insurance;

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

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

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

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

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

660 (b) "Liability insurance" includes:

661 (i) vehicle liability insurance;

662 (ii) residential dwelling liability insurance; and

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

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

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

669 (101) (a) "Life insurance" means:

670 (i) insurance on a human life; and

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

672 (b) The business of life insurance includes:

673 (i) granting a death benefit;

674 (ii) granting an annuity benefit;

675 (iii) granting an endowment benefit;

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

- 677 (v) granting an additional benefit to safeguard the policy against lapse; and
678 (vi) providing an optional method of settlement of proceeds.
- 679 (102) "Limited license" means a license that:
680 (a) is issued for a specific product of insurance; and
681 (b) limits an individual or agency to transact only for that product or insurance.
- 682 (103) "Limited line credit insurance" includes the following forms of insurance:
683 (a) credit life;
684 (b) credit accident and health;
685 (c) credit property;
686 (d) credit unemployment;
687 (e) involuntary unemployment;
688 (f) mortgage life;
689 (g) mortgage guaranty;
690 (h) mortgage accident and health;
691 (i) guaranteed automobile protection; and
692 (j) another form of insurance offered in connection with an extension of credit that:
693 (i) is limited to partially or wholly extinguishing the credit obligation; and
694 (ii) the commissioner determines by rule should be designated as a form of limited line
695 credit insurance.
- 696 (104) "Limited line credit insurance producer" means a person who sells, solicits, or
697 negotiates one or more forms of limited line credit insurance coverage to an individual through
698 a master, corporate, group, or individual policy.
- 699 (105) "Limited line insurance" includes:
700 (a) bail bond;
701 (b) limited line credit insurance;
702 (c) legal expense insurance;
703 (d) motor club insurance;
704 (e) car rental related insurance;
705 (f) travel insurance;
706 (g) crop insurance;
707 (h) self-service storage insurance;

- 708 (i) guaranteed asset protection waiver; [~~and~~]
709 (j) portable electronics insurance; and
710 [~~(j)~~] (k) another form of limited insurance that the commissioner determines by rule
711 should be designated a form of limited line insurance.
- 712 (106) "Limited lines authority" includes:
713 (a) the lines of insurance listed in Subsection (105); and
714 (b) a customer service representative.
- 715 (107) "Limited lines producer" means a person who sells, solicits, or negotiates limited
716 lines insurance.
- 717 (108) (a) "Long-term care insurance" means an insurance policy or rider advertised,
718 marketed, offered, or designated to provide coverage:
719 (i) in a setting other than an acute care unit of a hospital;
720 (ii) for not less than 12 consecutive months for a covered person on the basis of:
721 (A) expenses incurred;
722 (B) indemnity;
723 (C) prepayment; or
724 (D) another method;
725 (iii) for one or more necessary or medically necessary services that are:
726 (A) diagnostic;
727 (B) preventative;
728 (C) therapeutic;
729 (D) rehabilitative;
730 (E) maintenance; or
731 (F) personal care; and
732 (iv) that may be issued by:
733 (A) an insurer;
734 (B) a fraternal benefit society;
735 (C) (I) a nonprofit health hospital; and
736 (II) a medical service corporation;
737 (D) a prepaid health plan;
738 (E) a health maintenance organization; or

739 (F) an entity similar to the entities described in Subsections (108)(a)(iv)(A) through (E)
740 to the extent that the entity is otherwise authorized to issue life or health care insurance.

741 (b) "Long-term care insurance" includes:

742 (i) any of the following that provide directly or supplement long-term care insurance:

743 (A) a group or individual annuity or rider; or

744 (B) a life insurance policy or rider;

745 (ii) a policy or rider that provides for payment of benefits on the basis of:

746 (A) cognitive impairment; or

747 (B) functional capacity; or

748 (iii) a qualified long-term care insurance contract.

749 (c) "Long-term care insurance" does not include:

750 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;

751 (ii) basic hospital expense coverage;

752 (iii) basic medical/surgical expense coverage;

753 (iv) hospital confinement indemnity coverage;

754 (v) major medical expense coverage;

755 (vi) income replacement or related asset-protection coverage;

756 (vii) accident only coverage;

757 (viii) coverage for a specified:

758 (A) disease; or

759 (B) accident;

760 (ix) limited benefit health coverage; or

761 (x) a life insurance policy that accelerates the death benefit to provide the option of a
762 lump sum payment:

763 (A) if the following are not conditioned on the receipt of long-term care:

764 (I) benefits; or

765 (II) eligibility; and

766 (B) the coverage is for one or more the following qualifying events:

767 (I) terminal illness;

768 (II) medical conditions requiring extraordinary medical intervention; or

769 (III) permanent institutional confinement.

770 (109) "Medical malpractice insurance" means insurance against legal liability incident
771 to the practice and provision of a medical service other than the practice and provision of a
772 dental service.

773 (110) "Member" means a person having membership rights in an insurance
774 corporation.

775 (111) "Minimum capital" or "minimum required capital" means the capital that must be
776 constantly maintained by a stock insurance corporation as required by statute.

777 (112) "Mortgage accident and health insurance" means insurance offered in connection
778 with an extension of credit that provides indemnity for payments coming due on a mortgage
779 while the debtor has a disability.

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

782 (114) "Mortgage life insurance" means insurance on the life of a debtor in connection
783 with an extension of credit that pays if the debtor dies.

784 (115) "Motor club" means a person:

785 (a) licensed under:

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

787 (ii) Chapter 11, Motor Clubs; or

788 (iii) Chapter 14, Foreign Insurers; and

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

790 one or more:

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

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

793 (iii) (A) trip reimbursement;

794 (B) towing services;

795 (C) emergency road services;

796 (D) stolen automobile services;

797 (E) a combination of the services listed in Subsections (115)(b)(iii)(A) through (D); or

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

799 (116) "Mutual" means a mutual insurance corporation.

800 (117) "Network plan" means health care insurance:

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

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

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

807 (119) "Ocean marine insurance" means insurance against loss of or damage to:

808 (a) ships or hulls of ships;

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

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

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

817 (120) "Order" means an order of the commissioner.

818 (121) "Outline of coverage" means a summary that explains an accident and health
819 insurance policy.

820 (122) "Participating" means a plan of insurance under which the insured is entitled to
821 receive a dividend representing a share of the surplus of the insurer.

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

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

827 (b) receives:

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

830 (ii) another government health benefit.

831 (124) "Person" includes:

- 832 (a) an individual;
- 833 (b) a partnership;
- 834 (c) a corporation;
- 835 (d) an incorporated or unincorporated association;
- 836 (e) a joint stock company;
- 837 (f) a trust;
- 838 (g) a limited liability company;
- 839 (h) a reciprocal;
- 840 (i) a syndicate; or
- 841 (j) another similar entity or combination of entities acting in concert.
- 842 (125) "Personal lines insurance" means property and casualty insurance coverage sold
- 843 for primarily noncommercial purposes to:
 - 844 (a) an individual; or
 - 845 (b) a family.
- 846 (126) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 847 (127) "Plan year" means:
 - 848 (a) the year that is designated as the plan year in:
 - 849 (i) the plan document of a group health plan; or
 - 850 (ii) a summary plan description of a group health plan;
 - 851 (b) if the plan document or summary plan description does not designate a plan year or
 - 852 there is no plan document or summary plan description:
 - 853 (i) the year used to determine deductibles or limits;
 - 854 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 855 or
 - 856 (iii) the employer's taxable year if:
 - 857 (A) the plan does not impose deductibles or limits on a yearly basis; and
 - 858 (B) (I) the plan is not insured; or
 - 859 (II) the insurance policy is not renewed on an annual basis; or
 - 860 (c) in a case not described in Subsection (127)(a) or (b), the calendar year.
- 861 (128) (a) "Policy" means a document, including an attached endorsement or application
- 862 that:

- 863 (i) purports to be an enforceable contract; and
864 (ii) memorializes in writing some or all of the terms of an insurance contract.
865 (b) "Policy" includes a service contract issued by:
866 (i) a motor club under Chapter 11, Motor Clubs;
867 (ii) a service contract provided under Chapter 6a, Service Contracts; and
868 (iii) a corporation licensed under:
869 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
870 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
871 (c) "Policy" does not include:
872 (i) a certificate under a group insurance contract; or
873 (ii) a document that does not purport to have legal effect.
874 (129) "Policyholder" means a person who controls a policy, binder, or oral contract by
875 ownership, premium payment, or otherwise.
876 (130) "Policy illustration" means a presentation or depiction that includes
877 nonguaranteed elements of a policy of life insurance over a period of years.
878 (131) "Policy summary" means a synopsis describing the elements of a life insurance
879 policy.
880 (132) "Preexisting condition," with respect to a health benefit plan:
881 (a) means a condition that was present before the effective date of coverage, whether or
882 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
883 and
884 (b) does not include a condition indicated by genetic information unless an actual
885 diagnosis of the condition by a physician has been made.
886 (133) (a) "Premium" means the monetary consideration for an insurance policy.
887 (b) "Premium" includes, however designated:
888 (i) an assessment;
889 (ii) a membership fee;
890 (iii) a required contribution; or
891 (iv) monetary consideration.
892 (c) (i) "Premium" does not include consideration paid to a third party administrator for
893 the third party administrator's services.

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

896 (134) "Principal officers" for a corporation means the officers designated under
897 Subsection 31A-5-203(3).

898 (135) "Proceeding" includes an action or special statutory proceeding.

899 (136) "Professional liability insurance" means insurance against legal liability incident
900 to the practice of a profession and provision of a professional service.

901 (137) (a) Except as provided in Subsection (137)(b), "property insurance" means
902 insurance against loss or damage to real or personal property of every kind and any interest in
903 that property:

904 (i) from all hazards or causes; and

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

907 (b) "Property insurance" does not include:

908 (i) inland marine insurance; and

909 (ii) ocean marine insurance.

910 (138) "Qualified long-term care insurance contract" or "federally tax qualified
911 long-term care insurance contract" means:

912 (a) an individual or group insurance contract that meets the requirements of Section
913 7702B(b), Internal Revenue Code; or

914 (b) the portion of a life insurance contract that provides long-term care insurance:

915 (i) (A) by rider; or

916 (B) as a part of the contract; and

917 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
918 Code.

919 (139) "Qualified United States financial institution" means an institution that:

920 (a) is:

921 (i) organized under the laws of the United States or any state; or

922 (ii) in the case of a United States office of a foreign banking organization, licensed
923 under the laws of the United States or any state;

924 (b) is regulated, supervised, and examined by a United States federal or state authority

925 having regulatory authority over a bank or trust company; and

926 (c) meets the standards of financial condition and standing that are considered
927 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
928 will be acceptable to the commissioner as determined by:

929 (i) the commissioner by rule; or

930 (ii) the Securities Valuation Office of the National Association of Insurance

931 Commissioners.

932 (140) (a) "Rate" means:

933 (i) the cost of a given unit of insurance; or

934 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
935 expressed as:

936 (A) a single number; or

937 (B) a pure premium rate, adjusted before the application of individual risk variations
938 based on loss or expense considerations to account for the treatment of:

939 (I) expenses;

940 (II) profit; and

941 (III) individual insurer variation in loss experience.

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

943 (141) (a) Except as provided in Subsection (141)(b), "rate service organization" means
944 a person who assists an insurer in rate making or filing by:

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

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

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

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

949 (i) an employee of an insurer;

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

951 (iii) a joint underwriting group; or

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

953 (142) "Rating manual" means any of the following used to determine initial and
954 renewal policy premiums:

955 (a) a manual of rates;

- 956 (b) a classification;
- 957 (c) a rate-related underwriting rule; and
- 958 (d) a rating formula that describes steps, policies, and procedures for determining
- 959 initial and renewal policy premiums.

960 (143) "Received by the department" means:

- 961 (a) the date delivered to and stamped received by the department, if delivered in
- 962 person;
- 963 (b) the post mark date, if delivered by mail;
- 964 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 965 (d) the received date recorded on an item delivered, if delivered by:
- 966 (i) facsimile;
- 967 (ii) email; or
- 968 (iii) another electronic method; or
- 969 (e) a date specified in:
- 970 (i) a statute;
- 971 (ii) a rule; or
- 972 (iii) an order.

973 (144) "Reciprocal" or "interinsurance exchange" means an unincorporated association

974 of persons:

- 975 (a) operating through an attorney-in-fact common to all of the persons; and
- 976 (b) exchanging insurance contracts with one another that provide insurance coverage
- 977 on each other.

978 (145) "Reinsurance" means an insurance transaction where an insurer, for

979 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to

980 reinsurance transactions, this title sometimes refers to:

- 981 (a) the insurer transferring the risk as the "ceding insurer"; and
- 982 (b) the insurer assuming the risk as the:
- 983 (i) "assuming insurer"; or
- 984 (ii) "assuming reinsurer."

985 (146) "Reinsurer" means a person licensed in this state as an insurer with the authority

986 to assume reinsurance.

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

990 (148) (a) "Retrocession" means reinsurance with another insurer of a liability assumed
991 under a reinsurance contract.

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

994 (149) "Rider" means an endorsement to:

995 (a) an insurance policy; or

996 (b) an insurance certificate.

997 (150) (a) "Security" means a:

998 (i) note;

999 (ii) stock;

1000 (iii) bond;

1001 (iv) debenture;

1002 (v) evidence of indebtedness;

1003 (vi) certificate of interest or participation in a profit-sharing agreement;

1004 (vii) collateral-trust certificate;

1005 (viii) preorganization certificate or subscription;

1006 (ix) transferable share;

1007 (x) investment contract;

1008 (xi) voting trust certificate;

1009 (xii) certificate of deposit for a security;

1010 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
1011 payments out of production under such a title or lease;

1012 (xiv) commodity contract or commodity option;

1013 (xv) certificate of interest or participation in, temporary or interim certificate for,

1014 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
1015 in Subsections (150)(a)(i) through (xiv); or

1016 (xvi) another interest or instrument commonly known as a security.

1017 (b) "Security" does not include:

1018 (i) any of the following under which an insurance company promises to pay money in a
1019 specific lump sum or periodically for life or some other specified period:

1020 (A) insurance;

1021 (B) an endowment policy; or

1022 (C) an annuity contract; or

1023 (ii) a burial certificate or burial contract.

1024 (151) "Secondary medical condition" means a complication related to an exclusion
1025 from coverage in accident and health insurance.

1026 (152) (a) "Self-insurance" means an arrangement under which a person provides for
1027 spreading its own risks by a systematic plan.

1028 (b) Except as provided in this Subsection (152), "self-insurance" does not include an
1029 arrangement under which a number of persons spread their risks among themselves.

1030 (c) "Self-insurance" includes:

1031 (i) an arrangement by which a governmental entity undertakes to indemnify an
1032 employee for liability arising out of the employee's employment; and

1033 (ii) an arrangement by which a person with a managed program of self-insurance and
1034 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
1035 employees for liability or risk that is related to the relationship or employment.

1036 (d) "Self-insurance" does not include an arrangement with an independent contractor.

1037 (153) "Sell" means to exchange a contract of insurance:

1038 (a) by any means;

1039 (b) for money or its equivalent; and

1040 (c) on behalf of an insurance company.

1041 (154) "Short-term care insurance" means an insurance policy or rider advertised,
1042 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,
1043 but that provides coverage for less than 12 consecutive months for each covered person.

1044 (155) "Significant break in coverage" means a period of 63 consecutive days during
1045 each of which an individual does not have creditable coverage.

1046 (156) "Small employer," in connection with a health benefit plan, means an employer
1047 who, with respect to a calendar year and to a plan year:

1048 (a) employed an average of at least two employees but not more than 50 eligible

1049 employees on each business day during the preceding calendar year; and

1050 (b) employs at least two employees on the first day of the plan year.

1051 (157) "Special enrollment period," in connection with a health benefit plan, has the
1052 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
1053 Portability and Accountability Act.

1054 (158) (a) "Subsidiary" of a person means an affiliate controlled by that person either
1055 directly or indirectly through one or more affiliates or intermediaries.

1056 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
1057 shares are owned by that person either alone or with its affiliates, except for the minimum
1058 number of shares the law of the subsidiary's domicile requires to be owned by directors or
1059 others.

1060 (159) Subject to Subsection (85)(b), "surety insurance" includes:

1061 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1062 perform the principal's obligations to a creditor or other obligee;

1063 (b) bail bond insurance; and

1064 (c) fidelity insurance.

1065 (160) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
1066 liabilities.

1067 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that is designated by
1068 the insurer as permanent.

1069 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require
1070 that mutuals doing business in this state maintain specified minimum levels of permanent
1071 surplus.

1072 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
1073 same as the minimum required capital requirement that applies to stock insurers.

1074 (c) "Excess surplus" means:

1075 (i) for a life insurer, accident and health insurer, health organization, or property and
1076 casualty insurer as defined in Section 31A-17-601, the lesser of:

1077 (A) that amount of an insurer's or health organization's total adjusted capital that
1078 exceeds the product of:

1079 (I) 2.5; and

1080 (II) the sum of the insurer's or health organization's minimum capital or permanent
1081 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1082 (B) that amount of an insurer's or health organization's total adjusted capital that
1083 exceeds the product of:

1084 (I) 3.0; and

1085 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1086 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
1087 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1088 (A) 1.5; and

1089 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1090 (161) "Third party administrator" or "administrator" means a person who collects
1091 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of
1092 the state in connection with insurance coverage, annuities, or service insurance coverage,
1093 except:

1094 (a) a union on behalf of its members;

1095 (b) a person administering a:

1096 (i) pension plan subject to the federal Employee Retirement Income Security Act of
1097 1974;

1098 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1099 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1100 (c) an employer on behalf of the employer's employees or the employees of one or
1101 more of the subsidiary or affiliated corporations of the employer;

1102 (d) an insurer licensed under the following, but only for a line of insurance for which
1103 the insurer holds a license in this state:

1104 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1105 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

1106 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1107 (iv) Chapter 9, Insurance Fraternal; or

1108 (v) Chapter 14, Foreign Insurers; or

1109 (e) a person:

1110 (i) licensed or exempt from licensing under:

1111 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1112 Reinsurance Intermediaries; or

1113 (B) Chapter 26, Insurance Adjusters; and

1114 (ii) whose activities are limited to those authorized under the license the person holds
1115 or for which the person is exempt.

1116 (162) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
1117 of real or personal property or the holder of liens or encumbrances on that property, or others
1118 interested in the property against loss or damage suffered by reason of liens or encumbrances
1119 upon, defects in, or the unmarketability of the title to the property, or invalidity or
1120 unenforceability of any liens or encumbrances on the property.

1121 (163) "Total adjusted capital" means the sum of an insurer's or health organization's
1122 statutory capital and surplus as determined in accordance with:

1123 (a) the statutory accounting applicable to the annual financial statements required to be
1124 filed under Section 31A-4-113; and

1125 (b) another item provided by the RBC instructions, as RBC instructions is defined in
1126 Section 31A-17-601.

1127 (164) (a) "Trustee" means "director" when referring to the board of directors of a
1128 corporation.

1129 (b) "Trustee," when used in reference to an employee welfare fund, means an
1130 individual, firm, association, organization, joint stock company, or corporation, whether acting
1131 individually or jointly and whether designated by that name or any other, that is charged with
1132 or has the overall management of an employee welfare fund.

1133 (165) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
1134 means an insurer:

1135 (i) not holding a valid certificate of authority to do an insurance business in this state;
1136 or

1137 (ii) transacting business not authorized by a valid certificate.

1138 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1139 (i) holding a valid certificate of authority to do an insurance business in this state; and

1140 (ii) transacting business as authorized by a valid certificate.

1141 (166) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

1142 (167) "Vehicle liability insurance" means insurance against liability resulting from or
1143 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle
1144 comprehensive or vehicle physical damage coverage under Subsection (137).

1145 (168) "Voting security" means a security with voting rights, and includes a security
1146 convertible into a security with a voting right associated with the security.

1147 (169) "Waiting period" for a health benefit plan means the period that must pass before
1148 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
1149 benefit plan, can become effective.

1150 (170) "Workers' compensation insurance" means:

1151 (a) insurance for indemnification of an employer against liability for compensation
1152 based on:

1153 (i) a compensable accidental injury; and

1154 (ii) occupational disease disability;

1155 (b) employer's liability insurance incidental to workers' compensation insurance and
1156 written in connection with workers' compensation insurance; and

1157 (c) insurance assuring to a person entitled to workers' compensation benefits the
1158 compensation provided by law.

1159 Section 2. Section **31A-22-1801** is enacted to read:

1160 **Part 18. Portable Electronics Insurance Act**

1161 **31A-22-1801. Title.**

1162 This part is known as the "Portable Electronics Insurance Act."

1163 Section 3. Section **31A-22-1802** is enacted to read:

1164 **31A-22-1802. Definitions.**

1165 As used in this part:

1166 (1) "Customer" means a person who purchases portable electronics.

1167 (2) "Enrolled customer" means a customer who elects coverage under a portable
1168 electronics insurance policy issued to a vendor of portable electronics.

1169 (3) "Location" means a physical location in the state or a website, call center site, or
1170 similar location directed to residents of the state.

1171 (4) "Portable electronics" means:

1172 (a) an electronic device that is portable in nature; and

1173 (b) an accessory or service related to the use of the portable electronic device.

1174 (5) (a) "Portable electronics insurance" means insurance providing coverage for the
 1175 repair or replacement of portable electronics that provides coverage for portable electronics
 1176 against any one or more of the following:

1177 (i) loss;

1178 (ii) theft;

1179 (iii) inoperability due to mechanical failure;

1180 (iv) malfunction;

1181 (v) damage; or

1182 (vi) other similar cause of loss.

1183 (b) "Portable electronics insurance" does not include:

1183a ~~§~~→ (i) a manufacturer's or vendor's warranty; ←~~§~~

1184 ~~§~~→ ~~[(i)]~~ (ii) ←~~§~~ a service contract ~~§~~→ [governed by Chapter 6a, Service Contracts] ←~~§~~ ;

1185 ~~§~~→ ~~[(ii)]~~ (iii) ←~~§~~ a policy of insurance covering a vendor's or manufacturer's obligations

1185a under a

1186 warranty; or

1187 ~~§~~→ ~~[(iii)]~~ (iv) ←~~§~~ a homeowner's, renter's, private passenger motor vehicle, commercial

1187a multi-peril,

1188 or similar policy.

1189 (6) "Portable electronics transaction" means:

1190 (a) the sale or lease of portable electronics by a vendor to a customer; or

1191 (b) the sale by a vendor to a customer of an accessory or a service related to the use of
 1192 portable electronics.

1192a ~~§~~→ (7) "Service contract" means a contract or agreement for the repair or

1192b maintenance of goods or property, for their operational or structural failure due to a defect in

1192c materials, workmanship, or normal wear and tear, with or without additional provisions for

1192d incidental payment of indemnity under limited circumstances. ←~~§~~

1193 ~~§~~→ ~~[(7)]~~ (8) ←~~§~~ "Supervising entity" mean a business entity that is:

1194 (a) a licensed insurer; or

1195 (b) an insurance producer that is appointed by an insurer to supervise the
 1196 administration of a portable electronics insurance program.

1197 ~~§~~→ ~~[(8)]~~ (9) ←~~§~~ "Vendor" means a person in the business of engaging in portable electronics
 1198 transactions directly or indirectly.

1198a ~~§~~→ (10) "Warranty" means a promise made solely by the manufacturer,

1198b importer, seller, or lessor of property or services without consideration, that is not negotiated
1198c or separated from the sale of the product and is incidental to the sale of the product, that
1198d guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other
1198e remedial measures, such as repair or replacement of the property or repetition of services. ←§

1199 Section 4. Section **31A-22-1803** is enacted to read:

1200 **31A-22-1803. Licensure required.**

1201 (1) Subject to Subsection 31A-22-1804(2) and Section 31A-23a-103, a vendor is
1202 required to hold a portable electronics limited lines license to sell or offer coverage under a
1203 portable electronics insurance policy.

1204 (2) A portable electronics limited lines license issued under this section authorizes an
 1205 employee or authorized representative of the vendor to sell or offer coverage under a portable
 1206 electronics insurance policy to a customer at each location at which the vendor who holds the
 1207 limited lines license engages in portable electronics transactions.

1208 (3) Notwithstanding any other provision of law, a limited lines license issued under
 1209 this section authorizes the licensee and the licensee's employees or authorized representatives
 1210 to engage in those activities that are permitted by this section.

1211 (4) A supervising entity shall maintain a registry of vendor locations at which the
 1212 vendor is authorized to sell or offer portable electronics insurance coverage in this state. Upon
 1213 request by the commissioner and with three business days notice to the supervising entity, the
 1214 supervising entity shall make the registry open to inspection and examination by the
 1215 commissioner during regular business hours of the supervising entity.

1216 Section 5. Section **31A-22-1804** is enacted to read:

1217 **31A-22-1804. Application for license and fees.**

1218 (1) To obtain or renew a portable electronics insurance limited lines license under this
 1219 part, a person shall:

1220 (a) file with the department an application for a portable electronics limited lines
 1221 license on forms and in the manner the commissioner prescribes;

1222 (b) subject to Subsection (4), provide the name ~~H~~→ [;residence address;] ←~~H~~ and other
 1223 information required by the commissioner for ~~H~~→ [an employee or officer of the vendor that] a
 1223a licensed individual who ←~~H~~ is
 1224 designated by the applicant as the person responsible for the vendor's compliance with the
 1225 requirements of this chapter; and

1226 (c) pay a fee established by the department in accordance with Section 31A-3-103,
 1227 except for an initial or renewal portable electronics limited lines license in no event may the fee
 1228 exceed \$100 per location in the state at which the vendor engages in portable electronics
 1229 transactions.

1230 (2) A vendor engaged in portable electronics insurance transactions before July 1,
 1231 2012, shall apply for licensure within 90 days of the application being made available by the
 1232 department. An applicant commencing operations on or after July 1, 2012, shall obtain a
 1233 portable electronics limited lines license before offering portable electronics insurance.

1234 (3) A portable electronics limited lines license under this part has a term of two years

1235 and expires two years after issuance, unless renewed.

1236 (4) If the vendor derives more than 50% of its revenue from the sale of portable
1237 electronics insurance, the applicant shall provide the information listed in Subsection (1)(b) for
1238 all officers, directors, and shareholders of record having beneficial ownership of 10% or more
1239 of any class of securities registered under the federal securities law.

1240 Section 6. Section **31A-22-1805** is enacted to read:

1241 **31A-22-1805. Employees and authorized representatives of a vendor.**

1242 (1) An employee or authorized representative of a vendor may sell or offer portable
1243 electronics insurance to a customer and is not subject to licensure as an insurance producer
1244 under this title if:

1245 (a) the vendor obtains a portable electronics limited lines license that authorizes the
1246 vendor's employee or authorized representative to sell or offer portable electronics insurance
1247 pursuant to this section;

1248 (b) the insurer issuing the portable electronics insurance either directly supervises or
1249 appoints a supervising entity to supervise the administration of the portable electronics
1250 insurance program, including development of a training program for each employee or
1251 authorized representative of the vendor that complies with the following:

1252 (i) the training shall be delivered to an employee or authorized representative of a
1253 vendor who is directly engaged in the activity of selling or offering portable electronics
1254 insurance;

1255 (ii) the training may be provided in electronic form if the supervising entity implements
1256 a supplemental education program regarding the portable electronics insurance product that is
1257 conducted and overseen by a licensed employee of the supervising entity that holds a portable
1258 electronics limited lines producer license; and

1259 (iii) each employee and authorized representative shall receive basic instruction about
1260 the portable electronics insurance offered to customers and the disclosures required under
1261 Section 31A-22-1807; and

1262 (c) an employee or authorized representative of a vendor of portable electronics may
1263 not advertise, represent, or otherwise hold the individual out as an insurance producer of any
1264 type.

1265 (2) Notwithstanding any other provision of law, an employee or authorized

1266 representative of a vendor of portable electronics may not be compensated based primarily on
 1267 the number of customers enrolled for portable electronics insurance coverage, but may receive
 1268 compensation for activities under the limited lines license that are incidental to the employee's
 1269 or authorized representative's overall compensation.

1270 Section 7. Section 31A-22-1806 is enacted to read:

1271 **31A-22-1806. Penalties.**

1272 Notwithstanding Section 31A-2-308, if a vendor or the vendor's employee or authorized
 1273 representative violate this part, the commissioner may do any of the following in accordance
 1274 with Title 63G, Chapter 4, Administrative Procedures Act:

1275 (1) impose a fine not to exceed:

1276 (a) (i) Ĥ→ [\$100] \$2,500 ←Ĥ per violation by Ĥ→ [an] a licensed ←Ĥ individual; or

1277 (ii) \$5,000 per violation by an entity; or

1278 (b) \$40,000 in the aggregate for the conduct; or

1279 (2) impose other penalties that the commissioner considers necessary and reasonable to
 1280 carry out the purpose of this part, including:

1281 (a) suspending or revoking the privilege of transacting portable electronics insurance
 1282 pursuant to this part at a specific location where violations have occurred; and

1283 (b) suspending or revoking the ability of individual employees or authorized
 1284 representatives to act under the vendor's limited lines license.

1285 Section 8. Section 31A-22-1807 is enacted to read:

1286 **31A-22-1807. Requirements for sale of portable electronics insurance -- Policy**
 1287 **provides primary coverage.**

1288 (1) At each location where a vendor offers portable electronics insurance to a customer,
 1289 the vendor shall make available to a prospective customer written materials that:

1290 (a) disclose that portable electronics insurance may provide a duplication of coverage
 1291 already provided by the customer's homeowner's insurance policy, renter's insurance policy,
 1292 private passenger motor vehicle policy, or other source of coverage;

1293 (b) state that the enrollment by the customer in a portable electronics insurance
 1294 program is not required in order to purchase or lease portable electronics;

1295 (c) summarize the material terms of the portable electronics insurance coverage,
 1296 including:

1297 (i) the identity of the insurer;
 1298 (ii) the identity of the supervising entity;
 1299 (iii) the amount of any applicable deductible and how it is to be paid;
 1300 (iv) benefits of the coverage; and
 1301 (v) key terms and conditions of coverage, such as whether portable electronics may be
 1302 repaired or replaced with similar make and model reconditioned or non-original manufacturer
 1303 parts or equipment;

1304 (d) summarize the process for filing a claim, including a description of how to return
 1305 portable electronics and the maximum fee applicable in the event the customer fails to comply
 1306 with any equipment return requirements; and

1307 (e) state the cancellation rights under Subsection (2).

1308 (2) An enrolled customer may cancel enrollment for coverage under a portable
 1309 electronics insurance policy at any time, and the person paying the premium shall receive a
 1310 refund or credit of any applicable unearned premium.

1311 (3) Portable electronics insurance may be offered on a month to month or other
 1312 periodic basis as a group or master commercial inland marine policy issued to a vendor of
 1313 portable electronics for its enrolled customers. Notwithstanding any other provision of law to
 1314 the contrary, ~~H~~→ [a policy of] forms for ←~~H~~ portable electronics insurance shall be filed with the
 1314a commissioner in
 1315 accordance with Section 31A-21-201, and rates for portable electronics insurance shall be filed
 1316 in accordance with Section 31A-19a-203.

1317 (4) Eligibility and underwriting standards for customers electing to enroll in coverage
 1318 shall be filed with the department for each portable electronics insurance program.

1319 (5) A policy of portable electronics insurance shall provide primary coverage in the
 1320 event of a covered loss under more than one policy.

1321 Section 9. Section **31A-22-1808** is enacted to read:

1322 **31A-22-1808. Termination of or changes to portable electronics insurance.**

1323 Notwithstanding any other provision of law:

1324 (1) (a) An insurer may terminate or otherwise change the terms and conditions of a
 1325 policy of portable electronics insurance only upon providing the policyholder and enrolled
 1326 customers with at least 30 days notice.

1327 (b) Notwithstanding Subsection (1)(a), an insurer may terminate an enrolled customer's

1328 enrollment under a portable electronics insurance policy upon 30 days notice for discovery of
1329 fraud or material misrepresentation in obtaining coverage or in the presentation of a claim
1330 under the portable electronics insurance policy.

1331 (c) Notwithstanding Subsection (1)(a), an insurer may immediately terminate an
1332 enrolled customer's enrollment under a portable electronics insurance policy:

1333 (i) for nonpayment of premium;

1334 (ii) if the enrolled customer ceases to have an active service with the vendor of the
1335 portable electronics; or

1336 (iii) subject to Subsection (2), if the enrolled customer exhausts the aggregate limit of
1337 liability, if any, under the terms of the portable electronics insurance policy and the insurer
1338 sends notice of termination to the enrolled customer within 30 days after exhaustion of the
1339 limit.

1340 (2) If notice is not timely sent under Subsection (1)(c)(iii), enrollment shall continue
1341 notwithstanding the aggregate limit of liability until the insurer sends notice of termination to
1342 the enrolled customer.

1343 (3) If an insurer changes the terms and conditions of a portable electronics insurance
1344 policy, the insurer shall provide:

1345 (a) the vendor policyholder with a revised policy or endorsement; and

1346 (b) each enrolled customer with:

1347 (i) a revised certificate, endorsement, brochure, or other evidence indicating a change
1348 in the terms and conditions has occurred; and

1349 (ii) a summary of material changes.

1350 (4) When a vendor policyholder of a portable electronics insurance policy terminates
1351 the portable electronics insurance policy, the vendor policyholder shall mail or deliver written
1352 notice to each enrolled customer advising the enrolled customer of the termination of the
1353 portable electronics insurance policy and the effective date of termination. The vendor shall
1354 mail or deliver the written notice to the enrolled customer at least 30 days before the
1355 termination.

1356 (5) (a) When notice or correspondence with respect to coverage under a policy of
1357 portable electronics insurance is required under this section or is otherwise required by law, the
1358 notice or correspondence shall be in writing and be mailed or delivered to the vendor at the

1359 vendor's mailing address and to its affected enrolled customers' last known mailing addresses
1360 on file with the insurer.

1361 (b) If mailed, the insurer or vendor, as the case may be, shall maintain proof of mailing
1362 in a form authorized or accepted by the United States Postal Service or other commercial mail
1363 delivery service.

1364 (c) An insurer or vendor policyholder may comply with this Subsection (5) by
1365 providing notice or correspondence to a vendor or its affected enrolled customers, as the case
1366 may be, by electronic means. If accomplished through electronic means, the insurer or vendor,
1367 as the case may be, shall maintain proof that the notice or correspondence was sent. For
1368 purposes of this Subsection (5)(c) and Title 46, Chapter 4, Uniform Electronic Transactions
1369 Act, the provision of an electronic mail address to an insurer or vendor by an enrolled customer
1370 is considered consent to receive notice and correspondence by electronic means as long as a
1371 disclosure to the effect is provided to the customer.

1372 (6) Notice or correspondence required by this section or otherwise required by law may
1373 be sent on behalf of an insurer or vendor by the supervising entity appointed by the insurer.

1374 Section 10. Section **31A-22-1809** is enacted to read:

1375 **31A-22-1809. Billing.**

1376 (1) A vendor may bill and collect the premium for portable electronics insurance
1377 coverage.

1378 (2) (a) Any charge to an enrolled customer for portable electronics insurance coverage
1379 that is not included in the cost associated with the purchase or lease of portable electronics or
1380 related services shall be separately itemized on the enrolled customer's bill.

1381 (b) If the portable electronics insurance coverage is included with the purchase or lease
1382 of portable electronics or related services, the vendor shall clearly and conspicuously disclose
1383 to the enrolled customer that the portable electronics insurance coverage is included with the
1384 portable electronics or related services.

1385 (3) A vendor who bills and collects the premium for the portable electronics insurance
1386 may not be required to maintain the money in a segregated account if the vendor is authorized
1387 by the insurer to hold the money in an alternative manner and remits the money to the
1388 supervising entity within 60 days of receipt. Money received by a vendor from an enrolled
1389 customer for the sale of portable electronics insurance is considered money held in trust by the

1390 vendor in a fiduciary capacity for the benefit of the insurer.

1391 (4) A vendor may receive compensation for billing and collection services.

1391a **§→Section. 11. Section 31A-22-1810 is enacted to read:**

1391b **31A-22-1810. Applicability.**

1391c **This part is not applicable to a loan or lease originated by a federally insured depository**

1391d **institution, or a subsidiary or affiliate of a federally insured depository institution, or**

1391e **originated by any other entity as part of a plan to sell or assign an interest in the loan or lease**

1391f **to a federally insured depository institution, or a subsidiary or affiliate of a federally insured**

1391g **depository institution. ←§**

1392 Section **§→ [H] 12 ←§** . Section 31A-23a-106 is amended to read:

1393 **31A-23a-106. License types.**

1394 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
1395 the license types described under Subsection (2).

1396 (b) A license type and a line of authority pertaining to a license type describe the type
1397 of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license
1398 type is intended to describe the matters to be considered under any education, examination, and
1399 training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and
1400 31A-23a-203.

1401 (2) (a) A producer license type includes the following lines of authority:

1402 (i) life insurance, including a nonvariable contract;

1403 (ii) variable contracts, including variable life and annuity, if the producer has the life
1404 insurance line of authority;

1405 (iii) accident and health insurance, including a contract issued to a policyholder under
1406 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
1407 Organizations and Limited Health Plans;

1408 (iv) property insurance;

1409 (v) casualty insurance, including a surety or other bond;

1410 (vi) title insurance under one or more of the following categories:

1411 (A) search, including authority to act as a title marketing representative;

1412 (B) escrow, including authority to act as a title marketing representative; and

1413 (C) title marketing representative only;

1414 (vii) personal lines insurance; and

1415 (viii) surplus lines, if the producer has the property or casualty or both lines of
1416 authority.

1417 (b) A limited line producer license type includes the following limited lines of
1418 authority:
1419 (i) limited line credit insurance;
1420 (ii) travel insurance;

- 1421 (iii) motor club insurance;
- 1422 (iv) car rental related insurance;
- 1423 (v) legal expense insurance;
- 1424 (vi) crop insurance;
- 1425 (vii) self-service storage insurance;
- 1426 (viii) bail bond producer; [~~and~~]
- 1427 (ix) guaranteed asset protection waiver[-]; and
- 1428 (x) portable electronics insurance.
- 1429 (c) A customer service representative license type includes the following lines of
- 1430 authority, if held by the customer service representative's employer producer:
- 1431 (i) life insurance, including a nonvariable contract;
- 1432 (ii) accident and health insurance, including a contract issued to a policyholder under
- 1433 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 1434 Organizations and Limited Health Plans;
- 1435 (iii) property insurance;
- 1436 (iv) casualty insurance, including a surety or other bond;
- 1437 (v) personal lines insurance; and
- 1438 (vi) surplus lines, if the employer producer has the property or casualty or both lines of
- 1439 authority.
- 1440 (d) A consultant license type includes the following lines of authority:
- 1441 (i) life insurance, including a nonvariable contract;
- 1442 (ii) variable contracts, including variable life and annuity, if the consultant has the life
- 1443 insurance line of authority;
- 1444 (iii) accident and health insurance, including a contract issued to a policyholder under
- 1445 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 1446 Organizations and Limited Health Plans;
- 1447 (iv) property insurance;
- 1448 (v) casualty insurance, including a surety or other bond; and
- 1449 (vi) personal lines insurance.
- 1450 (e) A managing general agent license type includes the following lines of authority:
- 1451 (i) life insurance, including a nonvariable contract;

1452 (ii) variable contracts, including variable life and annuity, if the managing general
1453 agent has the life insurance line of authority;

1454 (iii) accident and health insurance, including a contract issued to a policyholder under
1455 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
1456 Organizations and Limited Health Plans;

1457 (iv) property insurance;

1458 (v) casualty insurance, including a surety or other bond; and

1459 (vi) personal lines insurance.

1460 (f) A reinsurance intermediary license type includes the following lines of authority:

1461 (i) life insurance, including a nonvariable contract;

1462 (ii) variable contracts, including variable life and annuity, if the reinsurance
1463 intermediary has the life insurance line of authority;

1464 (iii) accident and health insurance, including a contract issued to a policyholder under
1465 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
1466 Organizations and Limited Health Plans;

1467 (iv) property insurance;

1468 (v) casualty insurance, including a surety or other bond; and

1469 (vi) personal lines insurance.

1470 (g) A person who holds a license under Subsection (2)(a), (d), (e), or (f) has the
1471 qualifications necessary to act as a holder of a license under Subsections (2)(b) and (c), except
1472 that the person may not act under Subsection (2)(b)(viii) or (ix).

1473 (3) (a) The commissioner may by rule recognize other producer, limited line producer,
1474 customer service representative, consultant, managing general agent, or reinsurance
1475 intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a)
1476 through (f).

1477 (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and
1478 Escrow Commission may by rule, with the concurrence of the commissioner and subject to
1479 Section 31A-2-404, recognize other categories for a title insurance producer line of authority
1480 not listed under Subsection (2)(a)(vi).

1481 (4) The variable contracts, including variable life and annuity line of authority requires:

1482 (a) licensure as a registered agent or broker by the Financial Industry Regulatory

1483 Authority; and

1484 (b) current registration with a securities broker-dealer.

1485 (5) A surplus lines producer is a producer who has a surplus lines line of authority.

1486 Section 12. Section **31A-26-102** is amended to read:

1487 **31A-26-102. Definitions.**

1488 As used in this chapter, unless expressly provided otherwise:

1489 (1) "Company adjuster" means a person employed by an insurer whose regular duties
1490 include insurance adjusting.

1491 (2) "Independent adjuster" means an insurance adjuster required to be licensed under
1492 Section 31A-26-201, who engages in insurance adjusting as a representative of insurers.

1493 (3) "Insurance adjusting" or "adjusting" means directing the investigation, negotiation,
1494 or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a
1495 claimant under an insurance policy.

1496 (4) "Organization" means a person other than a natural person, and includes a sole
1497 proprietorship by which a natural person does business under an assumed name.

1498 (5) "Portable electronics insurance" is as defined in Section 31A-22-1802.

1499 [~~5~~] (6) "Public adjuster" means a person required to be licensed under Section
1500 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants
1501 under insurance policies.

1502 Section 13. Section **31A-26-216** is enacted to read:

1503 **31A-26-216. Portable electronics adjusting.**

1504 (1) As used in this section, "automated claims adjudication system" means a
1505 preprogrammed computer system designed for the collection, data entry, calculation, and final
1506 resolution of a portable electronics insurance claim that:

1507 (a) may only be used by a Utah licensed independent adjuster, a Utah licensed
1508 producer, or an individual supervised as provided in this section;

1509 (b) complies with the claims payment requirements of this title; and

1510 (c) is certified as compliant with this section by a Utah licensed independent adjuster
1511 that is an officer of an organization licensed under this chapter.

1512 (2) An individual is exempt from licensure as an adjuster, if the individual for purposes
1513 of a portable electronics insurance claim:

1514 (a) collects claim information from, or furnishes claim information to, insureds or
1515 claimants;

1516 (b) conducts data entry, including entering data into an automated claims adjudication
1517 system;

1518 (c) is an employee of a licensed independent adjuster or its affiliate; and

1519 (d) is one of no more than 25 individuals who are under the supervision of:

1520 (i) a Utah licensed independent adjuster; or

1521 (ii) a Utah licensed producer who is exempt from licensure pursuant to Section

1522 31A-26-201.

1523 Section 14. **Effective date.**

1524 This bill takes effect on July 1, 2012.