

1 **PORTABLE ELECTRONICS INSURANCE RELATED**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd E. Kiser**

6 Senate Sponsor: John L. Valentine

8 **LONG TITLE**

9 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ modifies definitions;
- 16 ▶ enacts the Portable Electronics Insurance Act, including:
 - 17 • defining terms;
 - 18 • requiring vendors to hold a limited lines license to sell or offer coverage under a
 - 19 portable electronics insurance policy;
 - 20 • providing for application and fees to obtain limited lines license;
 - 21 • addressing employees and authorized representatives of vendors;
 - 22 • providing for penalties for violation of part;
 - 23 • imposing requirements for the sale of portable electronics insurance;
 - 24 • making coverage primary coverage;
 - 25 • addressing terminating or changing a portable electronics insurance policy;
 - 26 • addressing billing; and
 - 27 • addressing applicability of provisions;
- 28 ▶ addresses portable electronics claims adjusting and supervision of nonlicensed

29 individuals; and

30 ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill takes effect on July 1, 2012.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **31A-1-301**, as last amended by Laws of Utah 2011, Chapters 284 and 366

38 **31A-23a-106**, as last amended by Laws of Utah 2011, Chapter 284

39 **31A-26-102**, as last amended by Laws of Utah 1995, Chapter 20

40 ENACTS:

41 **31A-22-1801**, Utah Code Annotated 1953

42 **31A-22-1802**, Utah Code Annotated 1953

43 **31A-22-1803**, Utah Code Annotated 1953

44 **31A-22-1804**, Utah Code Annotated 1953

45 **31A-22-1805**, Utah Code Annotated 1953

46 **31A-22-1806**, Utah Code Annotated 1953

47 **31A-22-1807**, Utah Code Annotated 1953

48 **31A-22-1808**, Utah Code Annotated 1953

49 **31A-22-1809**, Utah Code Annotated 1953

50 **31A-22-1810**, Utah Code Annotated 1953

51 **31A-26-216**, Utah Code Annotated 1953

52

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

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

55 **31A-1-301. Definitions.**

56 As used in this title, unless otherwise specified:

57 (1) (a) "Accident and health insurance" means insurance to provide protection against

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

86 control with, another person. A corporation is an affiliate of another corporation, regardless of
87 ownership, if substantially the same group of individuals manage the corporations.

88 (6) "Agency" means:

89 (a) a person other than an individual, including a sole proprietorship by which an
90 individual does business under an assumed name; and

91 (b) an insurance organization licensed or required to be licensed under Section
92 31A-23a-301, 31A-25-207, or 31A-26-209.

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

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

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

99 (10) "Application" means a document:

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

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

104 (A) insure the risk under:

105 (I) the coverage as originally offered; or

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

107 (B) decline to insure the risk; or

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

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

111 (a) the original articles;

112 (b) a special law;

113 (c) a charter;

- 114 (d) an amendment;
- 115 (e) restated articles;
- 116 (f) articles of merger or consolidation;
- 117 (g) a trust instrument;
- 118 (h) another constitutive document for a trust or other entity that is not a corporation;
- 119 and
- 120 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 121 (12) "Bail bond insurance" means a guarantee that a person will attend court when
- 122 required, up to and including surrender of the person in execution of a sentence imposed under
- 123 Subsection 77-20-7(1), as a condition to the release of that person from confinement.
- 124 (13) "Binder" is defined in Section 31A-21-102.
- 125 (14) "Blanket insurance policy" means a group policy covering a defined class of
- 126 persons:
- 127 (a) without individual underwriting or application; and
- 128 (b) that is determined by definition without designating each person covered.
- 129 (15) "Board," "board of trustees," or "board of directors" means the group of persons
- 130 with responsibility over, or management of, a corporation, however designated.
- 131 (16) "Bona fide office" means a physical office in this state:
- 132 (a) that is open to the public;
- 133 (b) that is staffed during regular business hours on regular business days; and
- 134 (c) at which the public may appear in person to obtain services.
- 135 (17) "Business entity" means:
- 136 (a) a corporation;
- 137 (b) an association;
- 138 (c) a partnership;
- 139 (d) a limited liability company;
- 140 (e) a limited liability partnership; or
- 141 (f) another legal entity.

- 142 (18) "Business of insurance" is defined in Subsection (87).
- 143 (19) "Business plan" means the information required to be supplied to the
144 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
145 when these subsections apply by reference under:
- 146 (a) Section 31A-7-201;
 - 147 (b) Section 31A-8-205; or
 - 148 (c) Subsection 31A-9-205(2).
- 149 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
150 corporation's affairs, however designated.
- 151 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
152 corporation.
- 153 (21) "Captive insurance company" means:
- 154 (a) an insurer:
 - 155 (i) owned by another organization; and
 - 156 (ii) whose exclusive purpose is to insure risks of the parent organization and an
157 affiliated company; or
 - 158 (b) in the case of a group or association, an insurer:
 - 159 (i) owned by the insureds; and
 - 160 (ii) whose exclusive purpose is to insure risks of:
 - 161 (A) a member organization;
 - 162 (B) a group member; or
 - 163 (C) an affiliate of:
 - 164 (I) a member organization; or
 - 165 (II) a group member.
- 166 (22) "Casualty insurance" means liability insurance.
- 167 (23) "Certificate" means evidence of insurance given to:
- 168 (a) an insured under a group insurance policy; or
 - 169 (b) a third party.

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

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

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

176 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
177 commissioner.

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

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

181 (i) provides board and lodging;

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

183 (A) a personal service;

184 (B) a nursing service;

185 (C) a medical service; or

186 (D) any other health-related service; and

187 (iii) provides the coverage described in this Subsection (28)(a) under an agreement
188 effective:

189 (A) for the life of the insured; or

190 (B) for a period in excess of one year.

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

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

196 (i) by contract;

197 (ii) by common management;

- 198 (iii) through the ownership of voting securities; or
199 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).
200 (b) There is no presumption that an individual holding an official position with another
201 person controls that person solely by reason of the position.
202 (c) A person having a contract or arrangement giving control is considered to have
203 control despite the illegality or invalidity of the contract or arrangement.
204 (d) There is a rebuttable presumption of control in a person who directly or indirectly
205 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the
206 voting securities of another person.
207 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly
208 controlled by a producer.
209 (31) "Controlling person" means a person that directly or indirectly has the power to
210 direct or cause to be directed, the management, control, or activities of a reinsurance
211 intermediary.
212 (32) "Controlling producer" means a producer who directly or indirectly controls an
213 insurer.
214 (33) (a) "Corporation" means an insurance corporation, except when referring to:
215 (i) a corporation doing business:
216 (A) as:
217 (I) an insurance producer;
218 (II) a limited line producer;
219 (III) a consultant;
220 (IV) a managing general agent;
221 (V) a reinsurance intermediary;
222 (VI) a third party administrator; or
223 (VII) an adjuster; and
224 (B) under:
225 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

226 Reinsurance Intermediaries;

227 (II) Chapter 25, Third Party Administrators; or

228 (III) Chapter 26, Insurance Adjusters; or

229 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance

230 Holding Companies.

231 (b) "Stock corporation" means a stock insurance corporation.

232 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.

233 (34) (a) "Creditable coverage" has the same meaning as provided in federal regulations

234 adopted pursuant to the Health Insurance Portability and Accountability Act.

235 (b) "Creditable coverage" includes coverage that is offered through a public health plan

236 such as:

237 (i) the Primary Care Network Program under a Medicaid primary care network

238 demonstration waiver obtained subject to Section 26-18-3;

239 (ii) the Children's Health Insurance Program under Section 26-40-106; or

240 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.

241 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.

242 (35) "Credit accident and health insurance" means insurance on a debtor to provide

243 indemnity for payments coming due on a specific loan or other credit transaction while the

244 debtor has a disability.

245 (36) (a) "Credit insurance" means insurance offered in connection with an extension of

246 credit that is limited to partially or wholly extinguishing that credit obligation.

247 (b) "Credit insurance" includes:

248 (i) credit accident and health insurance;

249 (ii) credit life insurance;

250 (iii) credit property insurance;

251 (iv) credit unemployment insurance;

252 (v) guaranteed automobile protection insurance;

253 (vi) involuntary unemployment insurance;

254 (vii) mortgage accident and health insurance;

255 (viii) mortgage guaranty insurance; and

256 (ix) mortgage life insurance.

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

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

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

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

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

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

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

265 (i) specific loan; or

266 (ii) credit transaction.

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

268 (a) matured;

269 (b) unmatured;

270 (c) liquidated;

271 (d) unliquidated;

272 (e) secured;

273 (f) unsecured;

274 (g) absolute;

275 (h) fixed; or

276 (i) contingent.

277 (41) (a) "Customer service representative" means a person that provides an insurance
278 service and insurance product information:

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

280 (A) producer; or

281 (B) consultant employer; and

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

283 (A) customer;

284 (B) client; or

285 (C) organization.

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

288 (42) "Deadline" means a final date or time:

289 (a) imposed by:

290 (i) statute;

291 (ii) rule; or

292 (iii) order; and

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

294 (43) "Deemer clause" means a provision under this title under which upon the
295 occurrence of a condition precedent, the commissioner is considered to have taken a specific
296 action. If the statute so provides, a condition precedent may be the commissioner's failure to
297 take a specific action.

298 (44) "Degree of relationship" means the number of steps between two persons
299 determined by counting the generations separating one person from a common ancestor and
300 then counting the generations to the other person.

301 (45) "Department" means the Insurance Department.

302 (46) "Director" means a member of the board of directors of a corporation.

303 (47) "Disability" means a physiological or psychological condition that partially or
304 totally limits an individual's ability to:

305 (a) perform the duties of:

306 (i) that individual's occupation; or

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

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

- 310 (i) eating;
- 311 (ii) toileting;
- 312 (iii) transferring;
- 313 (iv) bathing; or
- 314 (v) dressing.
- 315 (48) "Disability income insurance" is defined in Subsection (78).
- 316 (49) "Domestic insurer" means an insurer organized under the laws of this state.
- 317 (50) "Domiciliary state" means the state in which an insurer:
- 318 (a) is incorporated;
- 319 (b) is organized; or
- 320 (c) in the case of an alien insurer, enters into the United States.
- 321 (51) (a) "Eligible employee" means:
- 322 (i) an employee who:
- 323 (A) works on a full-time basis; and
- 324 (B) has a normal work week of 30 or more hours; or
- 325 (ii) a person described in Subsection (51)(b).
- 326 (b) "Eligible employee" includes, if the individual is included under a health benefit
- 327 plan of a small employer:
- 328 (i) a sole proprietor;
- 329 (ii) a partner in a partnership; or
- 330 (iii) an independent contractor.
- 331 (c) "Eligible employee" does not include, unless eligible under Subsection (51)(b):
- 332 (i) an individual who works on a temporary or substitute basis for a small employer;
- 333 (ii) an employer's spouse; or
- 334 (iii) a dependent of an employer.
- 335 (52) "Employee" means an individual employed by an employer.
- 336 (53) "Employee benefits" means one or more benefits or services provided to:
- 337 (a) an employee; or

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

366 (58) "Escrow agent" means:
367 (a) an insurance producer with:
368 (i) a title insurance line of authority; and
369 (ii) an escrow subline of authority; or
370 (b) a person defined as an escrow agent in Section 7-22-101.

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

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

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

- 377 (a) a specific physical condition;
- 378 (b) a specific medical procedure;
- 379 (c) a specific disease or disorder; or
- 380 (d) a specific prescription drug or class of prescription drugs.

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

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

384 (b) written:

- 385 (i) as a daily limit for a specific number of days in a hospital; and
- 386 (ii) to have a one or two day waiting period following a hospitalization.

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

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

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

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

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

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

396 (B) rule.

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

399 (64) "Filing," when used as a noun, means an item required to be filed with the
400 department including:

401 (a) a policy;

402 (b) a rate;

403 (c) a form;

404 (d) a document;

405 (e) a plan;

406 (f) a manual;

407 (g) an application;

408 (h) a report;

409 (i) a certificate;

410 (j) an endorsement;

411 (k) an actuarial certification;

412 (l) a licensee annual statement;

413 (m) a licensee renewal application;

414 (n) an advertisement; or

415 (o) an outline of coverage.

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

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

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

421 (i) a policy;

- 422 (ii) a certificate;
- 423 (iii) an application;
- 424 (iv) an outline of coverage; or
- 425 (v) an endorsement.

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

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

431 (69) "General lines of authority" include:

- 432 (a) the general lines of insurance in Subsection (70);
- 433 (b) title insurance under one of the following sublines of authority:
 - 434 (i) search, including authority to act as a title marketing representative;
 - 435 (ii) escrow, including authority to act as a title marketing representative; and
 - 436 (iii) title marketing representative only;
- 437 (c) surplus lines;
- 438 (d) workers' compensation; and
- 439 (e) any other line of insurance that the commissioner considers necessary to recognize
440 in the public interest.

441 (70) "General lines of insurance" include:

- 442 (a) accident and health;
- 443 (b) casualty;
- 444 (c) life;
- 445 (d) personal lines;
- 446 (e) property; and
- 447 (f) variable contracts, including variable life and annuity.

448 (71) "Group health plan" means an employee welfare benefit plan to the extent that the
449 plan provides medical care:

- 450 (a) (i) to an employee; or
- 451 (ii) to a dependent of an employee; and
- 452 (b) (i) directly;
- 453 (ii) through insurance reimbursement; or
- 454 (iii) through another method.
- 455 (72) (a) "Group insurance policy" means a policy covering a group of persons that is
- 456 issued:
- 457 (i) to a policyholder on behalf of the group; and
- 458 (ii) for the benefit of a member of the group who is selected under a procedure defined
- 459 in:
- 460 (A) the policy; or
- 461 (B) an agreement that is collateral to the policy.
- 462 (b) A group insurance policy may include a member of the policyholder's family or a
- 463 dependent.
- 464 (73) "Guaranteed automobile protection insurance" means insurance offered in
- 465 connection with an extension of credit that pays the difference in amount between the
- 466 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 467 (74) (a) Except as provided in Subsection (74)(b), "health benefit plan" means a policy
- 468 or certificate that:
- 469 (i) provides health care insurance;
- 470 (ii) provides major medical expense insurance; or
- 471 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
- 472 (A) a hospital confinement indemnity; or
- 473 (B) a limited benefit plan.
- 474 (b) "Health benefit plan" does not include a policy or certificate that:
- 475 (i) provides benefits solely for:
- 476 (A) accident;
- 477 (B) dental;

- 478 (C) income replacement;
- 479 (D) long-term care;
- 480 (E) a Medicare supplement;
- 481 (F) a specified disease;
- 482 (G) vision; or
- 483 (H) a short-term limited duration; or
- 484 (ii) is offered and marketed as supplemental health insurance.
- 485 (75) "Health care" means any of the following intended for use in the diagnosis,
- 486 treatment, mitigation, or prevention of a human ailment or impairment:
- 487 (a) a professional service;
- 488 (b) a personal service;
- 489 (c) a facility;
- 490 (d) equipment;
- 491 (e) a device;
- 492 (f) supplies; or
- 493 (g) medicine.
- 494 (76) (a) "Health care insurance" or "health insurance" means insurance providing:
- 495 (i) a health care benefit; or
- 496 (ii) payment of an incurred health care expense.
- 497 (b) "Health care insurance" or "health insurance" does not include accident and health
- 498 insurance providing a benefit for:
- 499 (i) replacement of income;
- 500 (ii) short-term accident;
- 501 (iii) fixed indemnity;
- 502 (iv) credit accident and health;
- 503 (v) supplements to liability;
- 504 (vi) workers' compensation;
- 505 (vii) automobile medical payment;

506 (viii) no-fault automobile;
507 (ix) equivalent self-insurance; or
508 (x) a type of accident and health insurance coverage that is a part of or attached to
509 another type of policy.

510 (77) "Health Insurance Portability and Accountability Act" means the Health Insurance
511 Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

512 (78) "Income replacement insurance" or "disability income insurance" means insurance
513 written to provide payments to replace income lost from accident or sickness.

514 (79) "Indemnity" means the payment of an amount to offset all or part of an insured
515 loss.

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

518 (81) "Independently procured insurance" means insurance procured under Section
519 31A-15-104.

520 (82) "Individual" means a natural person.

521 (83) "Inland marine insurance" includes insurance covering:

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

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

524 (c) bailee liability;

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

527 (e) personal and commercial property floaters.

528 (84) "Insolvency" means that:

529 (a) an insurer is unable to pay its debts or meet its obligations as the debts and
530 obligations mature;

531 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
532 RBC under Subsection 31A-17-601(8)(c); or

533 (c) an insurer is determined to be hazardous under this title.

- 534 (85) (a) "Insurance" means:
- 535 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
- 536 persons to one or more other persons; or
- 537 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
- 538 group of persons that includes the person seeking to distribute that person's risk.
- 539 (b) "Insurance" includes:
- 540 (i) a risk distributing arrangement providing for compensation or replacement for
- 541 damages or loss through the provision of a service or a benefit in kind;
- 542 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
- 543 business and not as merely incidental to a business transaction; and
- 544 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
- 545 but with a class of persons who have agreed to share the risk.
- 546 (86) "Insurance adjuster" means a person who directs the investigation, negotiation, or
- 547 settlement of a claim under an insurance policy other than life insurance or an annuity, on
- 548 behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 549 (87) "Insurance business" or "business of insurance" includes:
- 550 (a) providing health care insurance by an organization that is or is required to be
- 551 licensed under this title;
- 552 (b) providing a benefit to an employee in the event of a contingency not within the
- 553 control of the employee, in which the employee is entitled to the benefit as a right, which
- 554 benefit may be provided either:
- 555 (i) by a single employer or by multiple employer groups; or
- 556 (ii) through one or more trusts, associations, or other entities;
- 557 (c) providing an annuity:
- 558 (i) including an annuity issued in return for a gift; and
- 559 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
- 560 and (3);
- 561 (d) providing the characteristic services of a motor club as outlined in Subsection

- 562 (115);
- 563 (e) providing another person with insurance;
- 564 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
- 565 or surety, a contract or policy of title insurance;
- 566 (g) transacting or proposing to transact any phase of title insurance, including:
- 567 (i) solicitation;
- 568 (ii) negotiation preliminary to execution;
- 569 (iii) execution of a contract of title insurance;
- 570 (iv) insuring; and
- 571 (v) transacting matters subsequent to the execution of the contract and arising out of
- 572 the contract, including reinsurance;
- 573 (h) transacting or proposing a life settlement; and
- 574 (i) doing, or proposing to do, any business in substance equivalent to Subsections
- 575 (87)(a) through (h) in a manner designed to evade this title.
- 576 (88) "Insurance consultant" or "consultant" means a person who:
- 577 (a) advises another person about insurance needs and coverages;
- 578 (b) is compensated by the person advised on a basis not directly related to the insurance
- 579 placed; and
- 580 (c) except as provided in Section 31A-23a-501, is not compensated directly or
- 581 indirectly by an insurer or producer for advice given.
- 582 (89) "Insurance holding company system" means a group of two or more affiliated
- 583 persons, at least one of whom is an insurer.
- 584 (90) (a) "Insurance producer" or "producer" means a person licensed or required to be
- 585 licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 586 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
- 587 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
- 588 insurer.
- 589 (ii) "Producer for the insurer" may be referred to as an "agent."

590 (c) (i) "Producer for the insured" means a producer who:
591 (A) is compensated directly and only by an insurance customer or an insured; and
592 (B) receives no compensation directly or indirectly from an insurer for selling,
593 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
594 insured.

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

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

598 (i) a policyholder;

599 (ii) a subscriber;

600 (iii) a member; and

601 (iv) a beneficiary.

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

603 (i) applies only to this title; and

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

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

607 (i) a fraternal benefit society;

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

609 31A-22-1305(2) and (3);

610 (iii) a motor club;

611 (iv) an employee welfare plan; and

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

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

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

617 (94) "Involuntary unemployment insurance" means insurance:

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

- 646 (B) Subsection (136) for professional liability insurance; and
647 (C) Subsection (170) for workers' compensation insurance;
648 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
649 insured who is injured, irrespective of legal liability of the insured, when issued with or
650 supplemental to insurance against legal liability for the death, injury, or disability of a human
651 being, exclusive of the coverages under:
- 652 (A) Subsection (109) for medical malpractice insurance;
653 (B) Subsection (136) for professional liability insurance; and
654 (C) Subsection (170) for workers' compensation insurance;
655 (iii) for loss or damage to property resulting from an accident to or explosion of a
656 boiler, pipe, pressure container, machinery, or apparatus;
657 (iv) for loss or damage to property caused by:
658 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
659 (B) water entering through a leak or opening in a building; or
660 (v) for other loss or damage properly the subject of insurance not within another kind
661 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.
- 662 (b) "Liability insurance" includes:
663 (i) vehicle liability insurance;
664 (ii) residential dwelling liability insurance; and
665 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,
666 boiler, machinery, or apparatus of any kind when done in connection with insurance on the
667 elevator, boiler, machinery, or apparatus.
- 668 (100) (a) "License" means authorization issued by the commissioner to engage in an
669 activity that is part of or related to the insurance business.
- 670 (b) "License" includes a certificate of authority issued to an insurer.
- 671 (101) (a) "Life insurance" means:
672 (i) insurance on a human life; and
673 (ii) insurance pertaining to or connected with human life.

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

- 702 (a) bail bond;
- 703 (b) limited line credit insurance;
- 704 (c) legal expense insurance;
- 705 (d) motor club insurance;
- 706 (e) car rental related insurance;
- 707 (f) travel insurance;
- 708 (g) crop insurance;
- 709 (h) self-service storage insurance;
- 710 (i) guaranteed asset protection waiver; ~~[and]~~
- 711 (j) portable electronics insurance; and
- 712 ~~[(j)]~~ (k) another form of limited insurance that the commissioner determines by rule
- 713 should be designated a form of limited line insurance.

714 (106) "Limited lines authority" includes:

- 715 (a) the lines of insurance listed in Subsection (105); and
- 716 (b) a customer service representative.

717 (107) "Limited lines producer" means a person who sells, solicits, or negotiates limited

718 lines insurance.

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

720 marketed, offered, or designated to provide coverage:

- 721 (i) in a setting other than an acute care unit of a hospital;
- 722 (ii) for not less than 12 consecutive months for a covered person on the basis of:
 - 723 (A) expenses incurred;
 - 724 (B) indemnity;
 - 725 (C) prepayment; or
 - 726 (D) another method;
- 727 (iii) for one or more necessary or medically necessary services that are:
 - 728 (A) diagnostic;
 - 729 (B) preventative;

- 730 (C) therapeutic;
- 731 (D) rehabilitative;
- 732 (E) maintenance; or
- 733 (F) personal care; and
- 734 (iv) that may be issued by:
 - 735 (A) an insurer;
 - 736 (B) a fraternal benefit society;
 - 737 (C) (I) a nonprofit health hospital; and
 - 738 (II) a medical service corporation;
 - 739 (D) a prepaid health plan;
 - 740 (E) a health maintenance organization; or
 - 741 (F) an entity similar to the entities described in Subsections (108)(a)(iv)(A) through (E)
- 742 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 743 (b) "Long-term care insurance" includes:
 - 744 (i) any of the following that provide directly or supplement long-term care insurance:
 - 745 (A) a group or individual annuity or rider; or
 - 746 (B) a life insurance policy or rider;
 - 747 (ii) a policy or rider that provides for payment of benefits on the basis of:
 - 748 (A) cognitive impairment; or
 - 749 (B) functional capacity; or
 - 750 (iii) a qualified long-term care insurance contract.
- 751 (c) "Long-term care insurance" does not include:
 - 752 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
 - 753 (ii) basic hospital expense coverage;
 - 754 (iii) basic medical/surgical expense coverage;
 - 755 (iv) hospital confinement indemnity coverage;
 - 756 (v) major medical expense coverage;
 - 757 (vi) income replacement or related asset-protection coverage;

758 (vii) accident only coverage;
759 (viii) coverage for a specified:
760 (A) disease; or
761 (B) accident;
762 (ix) limited benefit health coverage; or
763 (x) a life insurance policy that accelerates the death benefit to provide the option of a
764 lump sum payment:
765 (A) if the following are not conditioned on the receipt of long-term care:
766 (I) benefits; or
767 (II) eligibility; and
768 (B) the coverage is for one or more the following qualifying events:
769 (I) terminal illness;
770 (II) medical conditions requiring extraordinary medical intervention; or
771 (III) permanent institutional confinement.
772 (109) "Medical malpractice insurance" means insurance against legal liability incident
773 to the practice and provision of a medical service other than the practice and provision of a
774 dental service.
775 (110) "Member" means a person having membership rights in an insurance
776 corporation.
777 (111) "Minimum capital" or "minimum required capital" means the capital that must be
778 constantly maintained by a stock insurance corporation as required by statute.
779 (112) "Mortgage accident and health insurance" means insurance offered in connection
780 with an extension of credit that provides indemnity for payments coming due on a mortgage
781 while the debtor has a disability.
782 (113) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
783 or other creditor is indemnified against losses caused by the default of a debtor.
784 (114) "Mortgage life insurance" means insurance on the life of a debtor in connection
785 with an extension of credit that pays if the debtor dies.

- 786 (115) "Motor club" means a person:
- 787 (a) licensed under:
- 788 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 789 (ii) Chapter 11, Motor Clubs; or
- 790 (iii) Chapter 14, Foreign Insurers; and
- 791 (b) that promises for an advance consideration to provide for a stated period of time
- 792 one or more:
- 793 (i) legal services under Subsection 31A-11-102(1)(b);
- 794 (ii) bail services under Subsection 31A-11-102(1)(c); or
- 795 (iii) (A) trip reimbursement;
- 796 (B) towing services;
- 797 (C) emergency road services;
- 798 (D) stolen automobile services;
- 799 (E) a combination of the services listed in Subsections (115)(b)(iii)(A) through (D); or
- 800 (F) other services given in Subsections 31A-11-102(1)(b) through (f).
- 801 (116) "Mutual" means a mutual insurance corporation.
- 802 (117) "Network plan" means health care insurance:
- 803 (a) that is issued by an insurer; and
- 804 (b) under which the financing and delivery of medical care is provided, in whole or in
- 805 part, through a defined set of providers under contract with the insurer, including the financing
- 806 and delivery of an item paid for as medical care.
- 807 (118) "Nonparticipating" means a plan of insurance under which the insured is not
- 808 entitled to receive a dividend representing a share of the surplus of the insurer.
- 809 (119) "Ocean marine insurance" means insurance against loss of or damage to:
- 810 (a) ships or hulls of ships;
- 811 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
- 812 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
- 813 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

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

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

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

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

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

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

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

829 (b) receives:

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

832 (ii) another government health benefit.

833 (124) "Person" includes:

834 (a) an individual;

835 (b) a partnership;

836 (c) a corporation;

837 (d) an incorporated or unincorporated association;

838 (e) a joint stock company;

839 (f) a trust;

840 (g) a limited liability company;

841 (h) a reciprocal;

- 842 (i) a syndicate; or
- 843 (j) another similar entity or combination of entities acting in concert.
- 844 (125) "Personal lines insurance" means property and casualty insurance coverage sold
- 845 for primarily noncommercial purposes to:
 - 846 (a) an individual; or
 - 847 (b) a family.
- 848 (126) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 849 (127) "Plan year" means:
 - 850 (a) the year that is designated as the plan year in:
 - 851 (i) the plan document of a group health plan; or
 - 852 (ii) a summary plan description of a group health plan;
 - 853 (b) if the plan document or summary plan description does not designate a plan year or
 - 854 there is no plan document or summary plan description:
 - 855 (i) the year used to determine deductibles or limits;
 - 856 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 857 or
 - 858 (iii) the employer's taxable year if:
 - 859 (A) the plan does not impose deductibles or limits on a yearly basis; and
 - 860 (B) (I) the plan is not insured; or
 - 861 (II) the insurance policy is not renewed on an annual basis; or
 - 862 (c) in a case not described in Subsection (127)(a) or (b), the calendar year.
- 863 (128) (a) "Policy" means a document, including an attached endorsement or application
- 864 that:
 - 865 (i) purports to be an enforceable contract; and
 - 866 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 867 (b) "Policy" includes a service contract issued by:
 - 868 (i) a motor club under Chapter 11, Motor Clubs;
 - 869 (ii) a service contract provided under Chapter 6a, Service Contracts; and

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

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

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

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

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

906 (i) from all hazards or causes; and

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

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

910 (i) inland marine insurance; and

911 (ii) ocean marine insurance.

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

914 (a) an individual or group insurance contract that meets the requirements of Section
915 7702B(b), Internal Revenue Code; or

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

917 (i) (A) by rider; or

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

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

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

922 (a) is:

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

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

926 (b) is regulated, supervised, and examined by a United States federal or state authority
927 having regulatory authority over a bank or trust company; and

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

931 (i) the commissioner by rule; or

932 (ii) the Securities Valuation Office of the National Association of Insurance
933 Commissioners.

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

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

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

938 (A) a single number; or

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

941 (I) expenses;

942 (II) profit; and

943 (III) individual insurer variation in loss experience.

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

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

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

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

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

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

951 (i) an employee of an insurer;

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

953 (iii) a joint underwriting group; or

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

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

957 (a) a manual of rates;

958 (b) a classification;

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

960 (d) a rating formula that describes steps, policies, and procedures for determining
961 initial and renewal policy premiums.

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

963 (a) the date delivered to and stamped received by the department, if delivered in
964 person;

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

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

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

968 (i) facsimile;

969 (ii) email; or

970 (iii) another electronic method; or

971 (e) a date specified in:

972 (i) a statute;

973 (ii) a rule; or

974 (iii) an order.

975 (144) "Reciprocal" or "interinsurance exchange" means an unincorporated association
976 of persons:

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

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

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

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

982 reinsurance transactions, this title sometimes refers to:

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

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

985 (i) "assuming insurer"; or

986 (ii) "assuming reinsurer."

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

988 to assume reinsurance.

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

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

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

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

997 (a) an insurance policy; or

998 (b) an insurance certificate.

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

1000 (i) note;

1001 (ii) stock;

1002 (iii) bond;

1003 (iv) debenture;

1004 (v) evidence of indebtedness;

1005 (vi) certificate of interest or participation in a profit-sharing agreement;

1006 (vii) collateral-trust certificate;

1007 (viii) preorganization certificate or subscription;

1008 (ix) transferable share;

1009 (x) investment contract;

- 1010 (xi) voting trust certificate;
- 1011 (xii) certificate of deposit for a security;
- 1012 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1013 payments out of production under such a title or lease;
- 1014 (xiv) commodity contract or commodity option;
- 1015 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1016 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1017 in Subsections (150)(a)(i) through (xiv); or
- 1018 (xvi) another interest or instrument commonly known as a security.
- 1019 (b) "Security" does not include:
- 1020 (i) any of the following under which an insurance company promises to pay money in a
- 1021 specific lump sum or periodically for life or some other specified period:
- 1022 (A) insurance;
- 1023 (B) an endowment policy; or
- 1024 (C) an annuity contract; or
- 1025 (ii) a burial certificate or burial contract.
- 1026 (151) "Secondary medical condition" means a complication related to an exclusion
- 1027 from coverage in accident and health insurance.
- 1028 (152) (a) "Self-insurance" means an arrangement under which a person provides for
- 1029 spreading its own risks by a systematic plan.
- 1030 (b) Except as provided in this Subsection (152), "self-insurance" does not include an
- 1031 arrangement under which a number of persons spread their risks among themselves.
- 1032 (c) "Self-insurance" includes:
- 1033 (i) an arrangement by which a governmental entity undertakes to indemnify an
- 1034 employee for liability arising out of the employee's employment; and
- 1035 (ii) an arrangement by which a person with a managed program of self-insurance and
- 1036 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
- 1037 employees for liability or risk that is related to the relationship or employment.

1038 (d) "Self-insurance" does not include an arrangement with an independent contractor.

1039 (153) "Sell" means to exchange a contract of insurance:

1040 (a) by any means;

1041 (b) for money or its equivalent; and

1042 (c) on behalf of an insurance company.

1043 (154) "Short-term care insurance" means an insurance policy or rider advertised,
1044 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,
1045 but that provides coverage for less than 12 consecutive months for each covered person.

1046 (155) "Significant break in coverage" means a period of 63 consecutive days during
1047 each of which an individual does not have creditable coverage.

1048 (156) "Small employer," in connection with a health benefit plan, means an employer
1049 who, with respect to a calendar year and to a plan year:

1050 (a) employed an average of at least two employees but not more than 50 eligible
1051 employees on each business day during the preceding calendar year; and

1052 (b) employs at least two employees on the first day of the plan year.

1053 (157) "Special enrollment period," in connection with a health benefit plan, has the
1054 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
1055 Portability and Accountability Act.

1056 (158) (a) "Subsidiary" of a person means an affiliate controlled by that person either
1057 directly or indirectly through one or more affiliates or intermediaries.

1058 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
1059 shares are owned by that person either alone or with its affiliates, except for the minimum
1060 number of shares the law of the subsidiary's domicile requires to be owned by directors or
1061 others.

1062 (159) Subject to Subsection (85)(b), "surety insurance" includes:

1063 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1064 perform the principal's obligations to a creditor or other obligee;

1065 (b) bail bond insurance; and

1066 (c) fidelity insurance.

1067 (160) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
1068 liabilities.

1069 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that is designated by
1070 the insurer as permanent.

1071 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require
1072 that mutuals doing business in this state maintain specified minimum levels of permanent
1073 surplus.

1074 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
1075 same as the minimum required capital requirement that applies to stock insurers.

1076 (c) "Excess surplus" means:

1077 (i) for a life insurer, accident and health insurer, health organization, or property and
1078 casualty insurer as defined in Section 31A-17-601, the lesser of:

1079 (A) that amount of an insurer's or health organization's total adjusted capital that
1080 exceeds the product of:

1081 (I) 2.5; and

1082 (II) the sum of the insurer's or health organization's minimum capital or permanent
1083 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1084 (B) that amount of an insurer's or health organization's total adjusted capital that
1085 exceeds the product of:

1086 (I) 3.0; and

1087 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1088 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
1089 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1090 (A) 1.5; and

1091 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1092 (161) "Third party administrator" or "administrator" means a person who collects
1093 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of

1094 the state in connection with insurance coverage, annuities, or service insurance coverage,
1095 except:

- 1096 (a) a union on behalf of its members;
- 1097 (b) a person administering a:
 - 1098 (i) pension plan subject to the federal Employee Retirement Income Security Act of
1099 1974;
 - 1100 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or
 - 1101 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;
- 1102 (c) an employer on behalf of the employer's employees or the employees of one or
1103 more of the subsidiary or affiliated corporations of the employer;
- 1104 (d) an insurer licensed under the following, but only for a line of insurance for which
1105 the insurer holds a license in this state:
 - 1106 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
 - 1107 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;
 - 1108 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
 - 1109 (iv) Chapter 9, Insurance Fraternal; or
 - 1110 (v) Chapter 14, Foreign Insurers; or
 - 1111 (e) a person:
 - 1112 (i) licensed or exempt from licensing under:
 - 1113 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1114 Reinsurance Intermediaries; or
 - 1115 (B) Chapter 26, Insurance Adjusters; and
 - 1116 (ii) whose activities are limited to those authorized under the license the person holds
1117 or for which the person is exempt.
- 1118 (162) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
1119 of real or personal property or the holder of liens or encumbrances on that property, or others
1120 interested in the property against loss or damage suffered by reason of liens or encumbrances
1121 upon, defects in, or the unmarketability of the title to the property, or invalidity or

1122 unenforceability of any liens or encumbrances on the property.

1123 (163) "Total adjusted capital" means the sum of an insurer's or health organization's
1124 statutory capital and surplus as determined in accordance with:

1125 (a) the statutory accounting applicable to the annual financial statements required to be
1126 filed under Section 31A-4-113; and

1127 (b) another item provided by the RBC instructions, as RBC instructions is defined in
1128 Section 31A-17-601.

1129 (164) (a) "Trustee" means "director" when referring to the board of directors of a
1130 corporation.

1131 (b) "Trustee," when used in reference to an employee welfare fund, means an
1132 individual, firm, association, organization, joint stock company, or corporation, whether acting
1133 individually or jointly and whether designated by that name or any other, that is charged with
1134 or has the overall management of an employee welfare fund.

1135 (165) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
1136 means an insurer:

1137 (i) not holding a valid certificate of authority to do an insurance business in this state;

1138 or

1139 (ii) transacting business not authorized by a valid certificate.

1140 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1141 (i) holding a valid certificate of authority to do an insurance business in this state; and

1142 (ii) transacting business as authorized by a valid certificate.

1143 (166) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

1144 (167) "Vehicle liability insurance" means insurance against liability resulting from or
1145 incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle
1146 comprehensive or vehicle physical damage coverage under Subsection (137).

1147 (168) "Voting security" means a security with voting rights, and includes a security
1148 convertible into a security with a voting right associated with the security.

1149 (169) "Waiting period" for a health benefit plan means the period that must pass before

1150 coverage for an individual, who is otherwise eligible to enroll under the terms of the health
1151 benefit plan, can become effective.

1152 (170) "Workers' compensation insurance" means:

1153 (a) insurance for indemnification of an employer against liability for compensation
1154 based on:

1155 (i) a compensable accidental injury; and

1156 (ii) occupational disease disability;

1157 (b) employer's liability insurance incidental to workers' compensation insurance and
1158 written in connection with workers' compensation insurance; and

1159 (c) insurance assuring to a person entitled to workers' compensation benefits the
1160 compensation provided by law.

1161 Section 2. Section **31A-22-1801** is enacted to read:

1162 **Part 18. Portable Electronics Insurance Act**

1163 **31A-22-1801. Title.**

1164 This part is known as the "Portable Electronics Insurance Act."

1165 Section 3. Section **31A-22-1802** is enacted to read:

1166 **31A-22-1802. Definitions.**

1167 As used in this part:

1168 (1) "Customer" means a person who purchases portable electronics.

1169 (2) "Enrolled customer" means a customer who elects coverage under a portable
1170 electronics insurance policy issued to a vendor of portable electronics.

1171 (3) "Location" means a physical location in the state or a website, call center site, or
1172 similar location directed to residents of the state.

1173 (4) "Portable electronics" means:

1174 (a) an electronic device that is portable in nature; and

1175 (b) an accessory or service related to the use of the portable electronic device.

1176 (5) (a) "Portable electronics insurance" means insurance providing coverage for the
1177 repair or replacement of portable electronics that provides coverage for portable electronics

1178 against any one or more of the following:

1179 (i) loss;

1180 (ii) theft;

1181 (iii) inoperability due to mechanical failure;

1182 (iv) malfunction;

1183 (v) damage; or

1184 (vi) other similar cause of loss.

1185 (b) "Portable electronics insurance" does not include:

1186 (i) a manufacturer's or vendor's warranty;

1187 (ii) a service contract;

1188 (iii) a policy of insurance covering a vendor's or manufacturer's obligations under a
1189 warranty; or

1190 (iv) a homeowner's, renter's, private passenger motor vehicle, commercial multi-peril,
1191 or similar policy.

1192 (6) "Portable electronics transaction" means:

1193 (a) the sale or lease of portable electronics by a vendor to a customer; or

1194 (b) the sale by a vendor to a customer of an accessory or a service related to the use of
1195 portable electronics.

1196 (7) "Service contract" means a contract or agreement for the repair or maintenance of
1197 goods or property, for their operational or structural failure due to a defect in materials,
1198 workmanship, or normal wear and tear, with or without additional provisions for incidental
1199 payment of indemnity under limited circumstances.

1200 (8) "Supervising entity" mean a business entity that is:

1201 (a) a licensed insurer; or

1202 (b) an insurance producer that is appointed by an insurer to supervise the
1203 administration of a portable electronics insurance program.

1204 (9) "Vendor" means a person in the business of engaging in portable electronics
1205 transactions directly or indirectly.

1206 (10) "Warranty" means a promise made solely by the manufacturer, importer, seller, or
1207 lessor of property or services without consideration, that is not negotiated or separated from the
1208 sale of the product and is incidental to the sale of the product, that guarantees indemnity for
1209 defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as
1210 repair or replacement of the property or repetition of services.

1211 Section 4. Section **31A-22-1803** is enacted to read:

1212 **31A-22-1803. Licensure required.**

1213 (1) Subject to Subsection 31A-22-1804(2) and Section 31A-23a-103, a vendor is
1214 required to hold a portable electronics limited lines license to sell or offer coverage under a
1215 portable electronics insurance policy.

1216 (2) A portable electronics limited lines license issued under this section authorizes an
1217 employee or authorized representative of the vendor to sell or offer coverage under a portable
1218 electronics insurance policy to a customer at each location at which the vendor who holds the
1219 limited lines license engages in portable electronics transactions.

1220 (3) Notwithstanding any other provision of law, a limited lines license issued under
1221 this section authorizes the licensee and the licensee's employees or authorized representatives
1222 to engage in those activities that are permitted by this section.

1223 (4) A supervising entity shall maintain a registry of vendor locations at which the
1224 vendor is authorized to sell or offer portable electronics insurance coverage in this state. Upon
1225 request by the commissioner and with three business days notice to the supervising entity, the
1226 supervising entity shall make the registry open to inspection and examination by the
1227 commissioner during regular business hours of the supervising entity.

1228 Section 5. Section **31A-22-1804** is enacted to read:

1229 **31A-22-1804. Application for license and fees.**

1230 (1) To obtain or renew a portable electronics insurance limited lines license under this
1231 part, a person shall:

1232 (a) file with the department an application for a portable electronics limited lines
1233 license on forms and in the manner the commissioner prescribes;

- 1234 (b) subject to Subsection (4), provide the name and other information required by the
1235 commissioner for a licensed individual who is designated by the applicant as the person
1236 responsible for the vendor's compliance with the requirements of this chapter; and
- 1237 (c) pay a fee established by the department in accordance with Section 31A-3-103,
1238 except for an initial or renewal portable electronics limited lines license in no event may the fee
1239 exceed \$100 per location in the state at which the vendor engages in portable electronics
1240 transactions.
- 1241 (2) A vendor engaged in portable electronics insurance transactions before July 1,
1242 2012, shall apply for licensure within 90 days of the application being made available by the
1243 department. An applicant commencing operations on or after July 1, 2012, shall obtain a
1244 portable electronics limited lines license before offering portable electronics insurance.
- 1245 (3) A portable electronics limited lines license under this part has a term of two years
1246 and expires two years after issuance, unless renewed.
- 1247 (4) If the vendor derives more than 50% of its revenue from the sale of portable
1248 electronics insurance, the applicant shall provide the information listed in Subsection (1)(b) for
1249 all officers, directors, and shareholders of record having beneficial ownership of 10% or more
1250 of any class of securities registered under the federal securities law.
- 1251 Section 6. Section **31A-22-1805** is enacted to read:
- 1252 **31A-22-1805. Employees and authorized representatives of a vendor.**
- 1253 (1) An employee or authorized representative of a vendor may sell or offer portable
1254 electronics insurance to a customer and is not subject to licensure as an insurance producer
1255 under this title if:
- 1256 (a) the vendor obtains a portable electronics limited lines license that authorizes the
1257 vendor's employee or authorized representative to sell or offer portable electronics insurance
1258 pursuant to this section;
- 1259 (b) the insurer issuing the portable electronics insurance either directly supervises or
1260 appoints a supervising entity to supervise the administration of the portable electronics
1261 insurance program, including development of a training program for each employee or

1262 authorized representative of the vendor that complies with the following:

1263 (i) the training shall be delivered to an employee or authorized representative of a
1264 vendor who is directly engaged in the activity of selling or offering portable electronics
1265 insurance;

1266 (ii) the training may be provided in electronic form if the supervising entity implements
1267 a supplemental education program regarding the portable electronics insurance product that is
1268 conducted and overseen by a licensed employee of the supervising entity that holds a portable
1269 electronics limited lines producer license; and

1270 (iii) each employee and authorized representative shall receive basic instruction about
1271 the portable electronics insurance offered to customers and the disclosures required under
1272 Section 31A-22-1807; and

1273 (c) an employee or authorized representative of a vendor of portable electronics may
1274 not advertise, represent, or otherwise hold the individual out as an insurance producer of any
1275 type.

1276 (2) Notwithstanding any other provision of law, an employee or authorized
1277 representative of a vendor of portable electronics may not be compensated based primarily on
1278 the number of customers enrolled for portable electronics insurance coverage, but may receive
1279 compensation for activities under the limited lines license that are incidental to the employee's
1280 or authorized representative's overall compensation.

1281 Section 7. Section **31A-22-1806** is enacted to read:

1282 **31A-22-1806. Penalties.**

1283 Notwithstanding Section 31A-2-308, if a vendor or the vendor's employee or authorized
1284 representative violate this part, the commissioner may do any of the following in accordance
1285 with Title 63G, Chapter 4, Administrative Procedures Act:

1286 (1) impose a fine not to exceed:

1287 (a) (i) \$2,500 per violation by a licensed individual; or

1288 (ii) \$5,000 per violation by an entity; or

1289 (b) \$40,000 in the aggregate for the conduct; or

1290 (2) impose other penalties that the commissioner considers necessary and reasonable to
1291 carry out the purpose of this part, including:

1292 (a) suspending or revoking the privilege of transacting portable electronics insurance
1293 pursuant to this part at a specific location where violations have occurred; and

1294 (b) suspending or revoking the ability of individual employees or authorized
1295 representatives to act under the vendor's limited lines license.

1296 Section 8. Section **31A-22-1807** is enacted to read:

1297 **31A-22-1807. Requirements for sale of portable electronics insurance -- Policy**
1298 **provides primary coverage.**

1299 (1) At each location where a vendor offers portable electronics insurance to a customer,
1300 the vendor shall make available to a prospective customer written materials that:

1301 (a) disclose that portable electronics insurance may provide a duplication of coverage
1302 already provided by the customer's homeowner's insurance policy, renter's insurance policy,
1303 private passenger motor vehicle policy, or other source of coverage;

1304 (b) state that the enrollment by the customer in a portable electronics insurance
1305 program is not required in order to purchase or lease portable electronics;

1306 (c) summarize the material terms of the portable electronics insurance coverage,
1307 including:

1308 (i) the identity of the insurer;

1309 (ii) the identity of the supervising entity;

1310 (iii) the amount of any applicable deductible and how it is to be paid;

1311 (iv) benefits of the coverage; and

1312 (v) key terms and conditions of coverage, such as whether portable electronics may be
1313 repaired or replaced with similar make and model reconditioned or non-original manufacturer
1314 parts or equipment;

1315 (d) summarize the process for filing a claim, including a description of how to return
1316 portable electronics and the maximum fee applicable in the event the customer fails to comply
1317 with any equipment return requirements; and

1318 (e) state the cancellation rights under Subsection (2).

1319 (2) An enrolled customer may cancel enrollment for coverage under a portable
1320 electronics insurance policy at any time, and the person paying the premium shall receive a
1321 refund or credit of any applicable unearned premium.

1322 (3) Portable electronics insurance may be offered on a month to month or other
1323 periodic basis as a group or master commercial inland marine policy issued to a vendor of
1324 portable electronics for its enrolled customers. Notwithstanding any other provision of law to
1325 the contrary, forms for portable electronics insurance shall be filed with the commissioner in
1326 accordance with Section 31A-21-201, and rates for portable electronics insurance shall be filed
1327 in accordance with Section 31A-19a-203.

1328 (4) Eligibility and underwriting standards for customers electing to enroll in coverage
1329 shall be filed with the department for each portable electronics insurance program.

1330 (5) A policy of portable electronics insurance shall provide primary coverage in the
1331 event of a covered loss under more than one policy.

1332 Section 9. Section **31A-22-1808** is enacted to read:

1333 **31A-22-1808. Termination of or changes to portable electronics insurance.**

1334 Notwithstanding any other provision of law:

1335 (1) (a) An insurer may terminate or otherwise change the terms and conditions of a
1336 policy of portable electronics insurance only upon providing the policyholder and enrolled
1337 customers with at least 30 days notice.

1338 (b) Notwithstanding Subsection (1)(a), an insurer may terminate an enrolled customer's
1339 enrollment under a portable electronics insurance policy upon 30 days notice for discovery of
1340 fraud or material misrepresentation in obtaining coverage or in the presentation of a claim
1341 under the portable electronics insurance policy.

1342 (c) Notwithstanding Subsection (1)(a), an insurer may immediately terminate an
1343 enrolled customer's enrollment under a portable electronics insurance policy:

1344 (i) for nonpayment of premium;

1345 (ii) if the enrolled customer ceases to have an active service with the vendor of the

1346 portable electronics; or
1347 (iii) subject to Subsection (2), if the enrolled customer exhausts the aggregate limit of
1348 liability, if any, under the terms of the portable electronics insurance policy and the insurer
1349 sends notice of termination to the enrolled customer within 30 days after exhaustion of the
1350 limit.

1351 (2) If notice is not timely sent under Subsection (1)(c)(iii), enrollment shall continue
1352 notwithstanding the aggregate limit of liability until the insurer sends notice of termination to
1353 the enrolled customer.

1354 (3) If an insurer changes the terms and conditions of a portable electronics insurance
1355 policy, the insurer shall provide:

1356 (a) the vendor policyholder with a revised policy or endorsement; and

1357 (b) each enrolled customer with:

1358 (i) a revised certificate, endorsement, brochure, or other evidence indicating a change
1359 in the terms and conditions has occurred; and

1360 (ii) a summary of material changes.

1361 (4) When a vendor policyholder of a portable electronics insurance policy terminates
1362 the portable electronics insurance policy, the vendor policyholder shall mail or deliver written
1363 notice to each enrolled customer advising the enrolled customer of the termination of the
1364 portable electronics insurance policy and the effective date of termination. The vendor shall
1365 mail or deliver the written notice to the enrolled customer at least 30 days before the
1366 termination.

1367 (5) (a) When notice or correspondence with respect to coverage under a policy of
1368 portable electronics insurance is required under this section or is otherwise required by law, the
1369 notice or correspondence shall be in writing and be mailed or delivered to the vendor at the
1370 vendor's mailing address and to its affected enrolled customers' last known mailing addresses
1371 on file with the insurer.

1372 (b) If mailed, the insurer or vendor, as the case may be, shall maintain proof of mailing
1373 in a form authorized or accepted by the United States Postal Service or other commercial mail

1374 delivery service.

1375 (c) An insurer or vendor policyholder may comply with this Subsection (5) by
1376 providing notice or correspondence to a vendor or its affected enrolled customers, as the case
1377 may be, by electronic means. If accomplished through electronic means, the insurer or vendor,
1378 as the case may be, shall maintain proof that the notice or correspondence was sent. For
1379 purposes of this Subsection (5)(c) and Title 46, Chapter 4, Uniform Electronic Transactions
1380 Act, the provision of an electronic mail address to an insurer or vendor by an enrolled customer
1381 is considered consent to receive notice and correspondence by electronic means as long as a
1382 disclosure to the effect is provided to the customer.

1383 (6) Notice or correspondence required by this section or otherwise required by law may
1384 be sent on behalf of an insurer or vendor by the supervising entity appointed by the insurer.

1385 Section 10. Section **31A-22-1809** is enacted to read:

1386 **31A-22-1809. Billing.**

1387 (1) A vendor may bill and collect the premium for portable electronics insurance
1388 coverage.

1389 (2) (a) Any charge to an enrolled customer for portable electronics insurance coverage
1390 that is not included in the cost associated with the purchase or lease of portable electronics or
1391 related services shall be separately itemized on the enrolled customer's bill.

1392 (b) If the portable electronics insurance coverage is included with the purchase or lease
1393 of portable electronics or related services, the vendor shall clearly and conspicuously disclose
1394 to the enrolled customer that the portable electronics insurance coverage is included with the
1395 portable electronics or related services.

1396 (3) A vendor who bills and collects the premium for the portable electronics insurance
1397 may not be required to maintain the money in a segregated account if the vendor is authorized
1398 by the insurer to hold the money in an alternative manner and remits the money to the
1399 supervising entity within 60 days of receipt. Money received by a vendor from an enrolled
1400 customer for the sale of portable electronics insurance is considered money held in trust by the
1401 vendor in a fiduciary capacity for the benefit of the insurer.

1402 (4) A vendor may receive compensation for billing and collection services.

1403 Section 11. Section **31A-22-1810** is enacted to read:

1404 **31A-22-1810. Applicability.**

1405 This part is not applicable to a loan or lease originated by a federally insured depository
1406 institution, or a subsidiary or affiliate of a federally insured depository institution, or originated
1407 by any other entity as part of a plan to sell or assign an interest in the loan or lease to a federally
1408 insured depository institution, or a subsidiary or affiliate of a federally insured depository
1409 institution.

1410 Section 12. Section **31A-23a-106** is amended to read:

1411 **31A-23a-106. License types.**

1412 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
1413 the license types described under Subsection (2).

1414 (b) A license type and a line of authority pertaining to a license type describe the type
1415 of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license
1416 type is intended to describe the matters to be considered under any education, examination, and
1417 training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and
1418 31A-23a-203.

1419 (2) (a) A producer license type includes the following lines of authority:

1420 (i) life insurance, including a nonvariable contract;

1421 (ii) variable contracts, including variable life and annuity, if the producer has the life
1422 insurance line of authority;

1423 (iii) accident and health insurance, including a contract issued to a policyholder under
1424 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
1425 Organizations and Limited Health Plans;

1426 (iv) property insurance;

1427 (v) casualty insurance, including a surety or other bond;

1428 (vi) title insurance under one or more of the following categories:

1429 (A) search, including authority to act as a title marketing representative;

- 1430 (B) escrow, including authority to act as a title marketing representative; and
1431 (C) title marketing representative only;
1432 (vii) personal lines insurance; and
1433 (viii) surplus lines, if the producer has the property or casualty or both lines of
1434 authority.
- 1435 (b) A limited line producer license type includes the following limited lines of
1436 authority:
- 1437 (i) limited line credit insurance;
 - 1438 (ii) travel insurance;
 - 1439 (iii) motor club insurance;
 - 1440 (iv) car rental related insurance;
 - 1441 (v) legal expense insurance;
 - 1442 (vi) crop insurance;
 - 1443 (vii) self-service storage insurance;
 - 1444 (viii) bail bond producer; [~~and~~]
 - 1445 (ix) guaranteed asset protection waiver[-]; and
 - 1446 (x) portable electronics insurance.
- 1447 (c) A customer service representative license type includes the following lines of
1448 authority, if held by the customer service representative's employer producer:
- 1449 (i) life insurance, including a nonvariable contract;
 - 1450 (ii) accident and health insurance, including a contract issued to a policyholder under
1451 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
1452 Organizations and Limited Health Plans;
 - 1453 (iii) property insurance;
 - 1454 (iv) casualty insurance, including a surety or other bond;
 - 1455 (v) personal lines insurance; and
 - 1456 (vi) surplus lines, if the employer producer has the property or casualty or both lines of
1457 authority.

- 1458 (d) A consultant license type includes the following lines of authority:
- 1459 (i) life insurance, including a nonvariable contract;
- 1460 (ii) variable contracts, including variable life and annuity, if the consultant has the life
- 1461 insurance line of authority;
- 1462 (iii) accident and health insurance, including a contract issued to a policyholder under
- 1463 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 1464 Organizations and Limited Health Plans;
- 1465 (iv) property insurance;
- 1466 (v) casualty insurance, including a surety or other bond; and
- 1467 (vi) personal lines insurance.
- 1468 (e) A managing general agent license type includes the following lines of authority:
- 1469 (i) life insurance, including a nonvariable contract;
- 1470 (ii) variable contracts, including variable life and annuity, if the managing general
- 1471 agent has the life insurance line of authority;
- 1472 (iii) accident and health insurance, including a contract issued to a policyholder under
- 1473 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 1474 Organizations and Limited Health Plans;
- 1475 (iv) property insurance;
- 1476 (v) casualty insurance, including a surety or other bond; and
- 1477 (vi) personal lines insurance.
- 1478 (f) A reinsurance intermediary license type includes the following lines of authority:
- 1479 (i) life insurance, including a nonvariable contract;
- 1480 (ii) variable contracts, including variable life and annuity, if the reinsurance
- 1481 intermediary has the life insurance line of authority;
- 1482 (iii) accident and health insurance, including a contract issued to a policyholder under
- 1483 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 1484 Organizations and Limited Health Plans;
- 1485 (iv) property insurance;

1486 (v) casualty insurance, including a surety or other bond; and

1487 (vi) personal lines insurance.

1488 (g) A person who holds a license under Subsection (2)(a), (d), (e), or (f) has the
1489 qualifications necessary to act as a holder of a license under Subsections (2)(b) and (c), except
1490 that the person may not act under Subsection (2)(b)(viii) or (ix).

1491 (3) (a) The commissioner may by rule recognize other producer, limited line producer,
1492 customer service representative, consultant, managing general agent, or reinsurance
1493 intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a)
1494 through (f).

1495 (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and
1496 Escrow Commission may by rule, with the concurrence of the commissioner and subject to
1497 Section 31A-2-404, recognize other categories for a title insurance producer line of authority
1498 not listed under Subsection (2)(a)(vi).

1499 (4) The variable contracts, including variable life and annuity line of authority requires:

1500 (a) licensure as a registered agent or broker by the Financial Industry Regulatory
1501 Authority; and

1502 (b) current registration with a securities broker-dealer.

1503 (5) A surplus lines producer is a producer who has a surplus lines line of authority.

1504 Section 13. Section **31A-26-102** is amended to read:

1505 **31A-26-102. Definitions.**

1506 As used in this chapter, unless expressly provided otherwise:

1507 (1) "Company adjuster" means a person employed by an insurer whose regular duties
1508 include insurance adjusting.

1509 (2) "Independent adjuster" means an insurance adjuster required to be licensed under
1510 Section 31A-26-201, who engages in insurance adjusting as a representative of insurers.

1511 (3) "Insurance adjusting" or "adjusting" means directing the investigation, negotiation,
1512 or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a
1513 claimant under an insurance policy.

1514 (4) "Organization" means a person other than a natural person, and includes a sole
1515 proprietorship by which a natural person does business under an assumed name.

1516 (5) "Portable electronics insurance" is as defined in Section 31A-22-1802.

1517 ~~(5)~~ (6) "Public adjuster" means a person required to be licensed under Section
1518 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants
1519 under insurance policies.

1520 Section 14. Section **31A-26-216** is enacted to read:

1521 **31A-26-216. Portable electronics adjusting.**

1522 (1) As used in this section, "automated claims adjudication system" means a
1523 preprogrammed computer system designed for the collection, data entry, calculation, and final
1524 resolution of a portable electronics insurance claim that:

1525 (a) may only be used by a Utah licensed independent adjuster, a Utah licensed
1526 producer, or an individual supervised as provided in this section;

1527 (b) complies with the claims payment requirements of this title; and

1528 (c) is certified as compliant with this section by a Utah licensed independent adjuster
1529 that is an officer of an organization licensed under this chapter.

1530 (2) An individual is exempt from licensure as an adjuster, if the individual for purposes
1531 of a portable electronics insurance claim:

1532 (a) collects claim information from, or furnishes claim information to, insureds or
1533 claimants;

1534 (b) conducts data entry, including entering data into an automated claims adjudication
1535 system;

1536 (c) is an employee of a licensed independent adjuster or its affiliate; and

1537 (d) is one of no more than 25 individuals who are under the supervision of:

1538 (i) a Utah licensed independent adjuster; or

1539 (ii) a Utah licensed producer who is exempt from licensure pursuant to Section
1540 31A-26-201.

1541 Section 15. **Effective date.**

1542

This bill takes effect on July 1, 2012.