

28 for reinsurance ceded by a domestic insurer to another assuming insurer;

28a **H→ ▶ addresses rulemaking authority of the commissioner; ←H**

29 ▶ provides ~~H→ [when the liability of insurer under a motor vehicle liability possibility~~
 30 ~~becomes absolute]~~ **when a motor vehicle liability policy may be rescinded or cancelled** ←H ;

31 ▶ modifies reference to husband and wife;

32 ▶ addresses insurance for alcohol and drug dependency treatment;

33 ▶ provides that violation of an order by a regulatory agency in any jurisdiction may be
 34 grounds for discipline;

35 ▶ addresses continuing education requirements;

36 ▶ provides that a person's variable contracts line of authority is canceled when that
 37 person's securities license is no longer active;

38 ▶ addresses insurer's liability if the insured pays a premium to a licensee or group
 39 policyholder;

39a **H→ ▶ addresses exemption from claims filing requirements; ←H**

40 ▶ modifies citations related to allowance of contingent and unliquidated claims;

41 ▶ modifies disclosure requirements when a policy or contract is not covered by a
 42 guarantee association;

43 ▶ amends training requirements for insurance producers related to the Health
 44 Insurance Exchange;

45 ▶ requires insurers to have antifraud plans;

46 ▶ modifies minimum financial requirements for bail bond surety company license;

47 ▶ amends definitions related to captive insurers;

48 ▶ addresses the application of the Risk Retention Groups Act to captive insurers;

49 ~~H→ [← addresses capital requirements for captive insurers;]~~ ←H

50 ▶ modifies provisions related to reinsurance and captive insurance companies;

51 ▶ amends reporting requirements for captive insurance companies;

52 ▶ clarifies timing of examinations of captive insurance companies;

53 ▶ addresses assessments related to title insurance;

54 ▶ modifies provisions related to the Title Insurance Recovery, Education, and
 55 Research Fund Act;

56 ▶ modifies the repeal date for ~~H→ [a]~~ ←H specified ~~H→ [section]~~ **statutory**
 56a **provisions** ←H ;

57 ▶ repeals provisions related to employee welfare funds and plans;

58 ▶ repeals provisions related to credit allowed a foreign ceding insurer; and

59 ▶ makes technical and conforming amendments.

60 **Money Appropriated in this Bill:**

61 None

62 **Other Special Clauses:**

63 None

64 **Utah Code Sections Affected:**

65 **AMENDS:**

66 **13-51-108**, as enacted by Laws of Utah 2015, Chapter 244 and last amended by
67 Coordination Clause, Laws of Utah 2015, Chapter 244

68 **31A-1-301**, as last amended by Laws of Utah 2015, Chapters 244 and 330

69 **31A-2-208.5**, as enacted by Laws of Utah 1990, Chapter 129

70 **31A-2-212**, as last amended by Laws of Utah 2015, Chapter 283

71 **31A-2-309**, as last amended by Laws of Utah 2008, Chapter 257

72 **31A-6a-101**, as last amended by Laws of Utah 2015, Chapter 244

73 **31A-6a-104**, as last amended by Laws of Utah 2015, Chapter 244

74 **31A-15-202**, as last amended by Laws of Utah 2010, Chapter 324

75 **31A-15-203**, as last amended by Laws of Utah 2011, Chapter 297

76 **31A-15-204**, as last amended by Laws of Utah 2003, Chapter 298

77 **31A-15-208**, as last amended by Laws of Utah 2010, Chapter 10

78 **31A-15-209**, as enacted by Laws of Utah 1992, Chapter 258

79 **31A-15-212**, as last amended by Laws of Utah 2003, Chapter 298

80 **31A-17-404**, as last amended by Laws of Utah 2008, Chapter 257

81 **31A-17-404.1**, as enacted by Laws of Utah 2008, Chapter 257

81a **Ĥ→ 31A-17-404.3, as enacted by Laws of Utah 2008, Chapter 257 ←Ĥ**

82 **31A-22-202**, as enacted by Laws of Utah 1985, Chapter 242

83 **31A-22-603**, as last amended by Laws of Utah 2001, Chapter 116

84 **31A-22-715**, as last amended by Laws of Utah 2001, Chapter 116

85 **31A-22-1201**, as last amended by Laws of Utah 2008, Chapter 257

86 **31A-23a-111**, as last amended by Laws of Utah 2012, Chapter 253

87 **31A-23a-202**, as last amended by Laws of Utah 2014, Chapters 290 and 300

88 **31A-23a-206**, as last amended by Laws of Utah 2012, Chapter 253

89 **31A-23a-410**, as last amended by Laws of Utah 2009, Chapter 349

- 90 **31A-23b-401**, as enacted by Laws of Utah 2013, Chapter 341
- 91 **31A-25-208**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 92 **31A-26-213**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 92a **Ĥ→ 31A-27a-601, as enacted by Laws of Utah 2007, Chapter 309 ←Ĥ**
- 93 **31A-27a-605**, as enacted by Laws of Utah 2007, Chapter 309
- 94 **31A-28-119**, as last amended by Laws of Utah 2010, Chapter 292
- 95 **31A-30-116**, as last amended by Laws of Utah 2015, Chapter 283
- 96 **31A-30-209**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 97 **31A-35-404**, as last amended by Laws of Utah 2000, Chapter 259
- 98 **31A-37-102**, as last amended by Laws of Utah 2015, Chapter 244
- 99 **31A-37-103**, as last amended by Laws of Utah 2011, Chapter 284
- 100 **31A-37-204**, as last amended by Laws of Utah 2015, Chapter 244
- 101 **31A-37-303**, as last amended by Laws of Utah 2015, Chapter 244
- 102 **31A-37-501**, as last amended by Laws of Utah 2015, Chapter 244
- 103 **31A-37-502**, as last amended by Laws of Utah 2015, Chapter 244
- 104 **31A-40-208**, as last amended by Laws of Utah 2012, Chapter 169
- 105 **31A-41-202**, as last amended by Laws of Utah 2015, Chapter 330
- 106 **31A-41-301**, as last amended by Laws of Utah 2012, Chapter 253
- 107 **31A-41-303**, as enacted by Laws of Utah 2008, Chapter 220
- 108 **63I-2-231**, as last amended by Laws of Utah 2015, Chapter 244

ENACTS:

- 110 **31A-15-206.5**, Utah Code Annotated 1953
- 111 **31A-15-213.5**, Utah Code Annotated 1953
- 112 **31A-31-112**, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 114 **31A-41-302**, as enacted by Laws of Utah 2008, Chapter 220

REPEALS:

- 116 **31A-13-101**, as last amended by Laws of Utah 1986, Chapter 204
- 117 **31A-13-102**, as enacted by Laws of Utah 1985, Chapter 242
- 118 **31A-13-103**, as last amended by Laws of Utah 1986, Chapter 204
- 119 **31A-13-104**, as enacted by Laws of Utah 1985, Chapter 242
- 120 **31A-13-105**, as enacted by Laws of Utah 1985, Chapter 242

183 network company shall verify that the driver has purchased a policy that complies with
 184 Subsections (1), (2), and (3).

185 (8) An insurance policy that a transportation network company or a transportation
 186 network driver maintains under Subsection (1) or (2):

187 (a) satisfies the security requirements of Section 41-12a-301; and

188 (b) may, along with insurance maintained under Subsection (3), be placed with:

189 (i) an insurer that is certified under Section 31A-4-103; or

190 (ii) a surplus lines insurer ~~H→~~ **[licensed] eligible** ~~←H~~ under Section
 190a ~~[31A-23a-104]~~ 31A-15-103.

191 (9) An insurer that provides coverage for a transportation network driver explicitly for
 192 the transportation network driver's transportation network services under Subsection (1) or (2)
 193 shall have the duty to defend a liability claim arising from an occurrence while the
 194 transportation network driver is providing transportation network services.

195 (10) (a) If insurance a transportation network driver maintains under Subsection (1),
 196 (2), or (3) lapses or ceases to exist, a transportation network company shall provide coverage
 197 complying with Subsection (1), (2), or (3) beginning with the first dollar of a claim.

198 (b) Subsection (10)(a) does not apply to comprehensive or collision insurance
 199 otherwise required under Subsection (3) if, at the time of a claim for damage to a vehicle being
 200 used to provide transportation network services, there is no outstanding lien on the vehicle.

201 (11) (a) An insurance policy that a transportation network company or transportation
 202 network driver maintains under Subsection (1) or (2) may not provide that coverage is
 203 dependent on a transportation network driver's personal automobile insurance policy first
 204 denying a claim.

205 (b) Subsection (11)(a) does not apply to coverage a transportation network company
 206 provides under Subsection ~~H→~~ **[(9)] (10)** ~~←H~~ in the event a transportation network driver's
 206a coverage under

207 Subsection (1) or (2) lapses or ceases to exist.

208 (12) A personal automobile insurer:

209 (a) notwithstanding Section 31A-22-302, may offer a personal automobile liability
 210 policy that excludes coverage for a loss that arises from the use of the insured vehicle to
 211 provide transportation network services; and

212 (b) does not have the duty to defend or indemnify a loss if an exclusion described in
 213 Subsection (12)(a) excludes coverage according to the policy's terms.

- 493 (B) has a normal work week of 30 or more hours; or
- 494 (ii) a person described in Subsection (52)(b).
- 495 (b) "Eligible employee" includes ~~H~~→ [;] :
- 495a **(i) an owner who:**
- 495b **(A) works on a full-time basis; and**
- 495c **(B) has a normal work week of 30 or more hours; and**
- 495d **(ii) ←H** if the individual is included under a health benefit
- 496 plan of a small employer:
- 497 ~~H~~→ [(i)] **(A) ←H** a sole proprietor;
- 498 ~~H~~→ [(ii)] **(B) ←H** a partner in a partnership; or
- 499 ~~H~~→ [(iii)] **(C) ←H** an independent contractor.
- 500 (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
- 501 (i) an individual who works on a temporary or substitute basis for a small employer;
- 502 (ii) an employer's spouse ~~H~~→ **who does not meet the requirements of Subsection**
- 502a **(52)(a)(i) ←H** ; or
- 503 (iii) a dependent of an employer ~~H~~→ **who does not meet the requirements of Subsection**
- 503a **(52)(a)(i) ←H** .
- 504 (53) "Employee" means ~~H~~→ :
- 504a **(a) ←H** an individual employed by an employer ~~H~~→ [;] ; **and**
- 504b **(b) an owner who meets the requirements of Subsection (52)(b)(i). ←H**
- 505 (54) "Employee benefits" means one or more benefits or services provided to:
- 506 (a) an employee; or
- 507 (b) a dependent of an employee.
- 508 (55) (a) "Employee welfare fund" means a fund:
- 509 (i) established or maintained, whether directly or through a trustee, by:
- 510 (A) one or more employers;
- 511 (B) one or more labor organizations; or
- 512 (C) a combination of employers and labor organizations; and
- 513 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 514 from investments of the fund:
- 515 (A) by or on behalf of an employer doing business in this state; or
- 516 (B) for the benefit of a person employed in this state.
- 517 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 518 revenues.

1237 (b) Except as provided in this Subsection (157), "self-insurance" does not include an
1238 arrangement under which a number of persons spread their risks among themselves.

1239 (c) "Self-insurance" includes:

1240 (i) an arrangement by which a governmental entity undertakes to indemnify an
1241 employee for liability arising out of the employee's employment; and

1242 (ii) an arrangement by which a person with a managed program of self-insurance and
1243 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
1244 employees for liability or risk that is related to the relationship or employment.

1245 (d) "Self-insurance" does not include an arrangement with an independent contractor.

1246 (158) "Sell" means to exchange a contract of insurance:

1247 (a) by any means;

1248 (b) for money or its equivalent; and

1249 (c) on behalf of an insurance company.

1250 (159) "Short-term care insurance" means an insurance policy or rider advertised,
1251 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,
1252 but that provides coverage for less than 12 consecutive months for each covered person.

1253 (160) "Significant break in coverage" means a period of 63 consecutive days during
1254 each of which an individual does not have creditable coverage.

1255 (161) (a) "Small employer" means, in connection with a health benefit plan and with
1256 respect to a calendar year and to a plan year ~~H→~~ [~~an employer who~~] ~~←H~~ :

1257 ~~[(a)]~~ (i) ~~H→~~ an employer who ~~←H~~ employed at least one employee but not more than ~~an~~
1257a ~~average of~~ 50 ~~eligible~~

1258 employees on business days during the preceding calendar year; and

1259 ~~[(b)]~~ (ii) employs at least one employee on the first day of the plan year.

1260 (b) The number of employees shall ~~H→~~ :

1260a (i) ~~←H~~ be determined using the method set forth in 26

1261 U.S.C. Sec. 4980H(c)(2) ~~H→~~ ; **and**

1261a (ii) include an owner described in Subsection (52)(b)(i) ~~←H~~ .

1262 (162) "Special enrollment period," in connection with a health benefit plan, has the
1263 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
1264 Portability and Accountability Act.

1265 (163) (a) "Subsidiary" of a person means an affiliate controlled by that person either
1266 directly or indirectly through one or more affiliates or intermediaries.

1267 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting

2570 (b) a security:

2571 (i) listed by the Securities Valuation Office of the National Association of Insurance

2572 Commissioners, including those considered exempt from filing as defined by the Purposes and

2573 Procedures Manual of the Securities Valuation Office; and

2574 (ii) qualifying as an admitted asset;

2575 (c) subject to Subsection (3), a clean, irrevocable, unconditional letter of credit, issued

2576 or confirmed by a qualified United States financial institution:

2577 (i) effective no later than December 31 of the year for which the filing is being made;

2578 and

2579 (ii) in the possession of, or in trust for, the ceding [~~company~~] insurer on or before the

2580 filing date of its annual statement; or

2581 (d) another form of security acceptable to the commissioner.

2582 (3) Notwithstanding an issuing or confirming institution's subsequent failure to meet an

2583 applicable standard of acceptability, a letter of credit described in Subsection (2) that meets the

2584 applicable standards of issuer acceptability as of the day on which it is issued or confirmed

2585 shall continue to be acceptable as security until the sooner of the day on which the letter of

2586 credit expires, is extended, is renewed, is modified, or is amended.

2586a **H→ Section 18. Section 31A-17-404.3 is amended to read: ←H**

2586b **31A-17-404.3. Rules.**

2586c **H→ (1) ←H** In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

2586d this chapter, the commissioner may make rules prescribing:

2586e **H→ [(1)] (a) ←H** the form of a letter of credit required under this chapter;

2586f **H→ [(2)] (b) ←H** the requirements for a trust or trust instrument required by this chapter;

2586g **H→ [(3)] (c) ←H** the procedures for licensing and accrediting; **H→ [and**

2586h **— [(4)] (d) ←H** minimum capital and surplus requirements **H→ [;]** :

2586i **(e) additional requirements relating to calculation of credit allowed a domestic ceding insurer**

2586j **against reserves for reinsurance under Section 31A-17-404; and**

2586k **(f) additional requirements relating to calculation of asset reduction from liability for**

2586l **reinsurance ceded by a domestic insurer to other ceding insurers under Section 31A-17-404.1.**

2586m **(2) A rule made pursuant to Subsection (1)(e) or (f) may apply to reinsurance relating to:**

2586n **(a) a life insurance policy with guaranteed nonlevel gross premiums or guaranteed nonlevel**

2586o **benefits;**

2586p **(b) a universal life insurance policy with provisions resulting in the ability of a policyholder to**

2586q **keep a policy in force over a secondary guarantee period;**

2586r **(c) a variable annuity with guaranteed death or living benefits;**

2586s (d) a long-term care insurance policy; or
 2586t (e) such other life and health insurance or annuity product as to which the National Association
 2586u of Insurance Commissioners adopts model regulatory requirements with respect for credit for
 2586v reinsurance.

2586w (3) A rule adopted pursuant to Subsection (1)(e) or (1)(f) may apply to a treaty containing:
 2586x (a) a policy issued on or after January 1, 2015;
 2586y (b) a policy issued before January 1, 2015, if risk pertaining to the policy is ceded in connection
 2586z with the treaty, either in whole or in part, on or after January 1, 2015.

2586aa (4) A rule adopted pursuant Subsection (1)(e) or (1)(f) may require the ceding insurer, in
 2586ab calculating the amounts or forms of security required to be held under rules made under this section,
 2586ac to use the Valuation Manual adopted by the National Association of Insurance Commissioners under
 2586ad Section 11B(1) of the National Association of Insurance Commissioners Standard Valuation Law,
 2586ae including all amendments adopted by the National Association of Insurance Commissioners and in
 2586af effect on the date as of which the calculation is made, to the extent applicable.

2586ag (5) A rule adopted pursuant to Subsection (1)(e) or (1)(f) may not apply to cessions to an
 2586ah assuming insurer that:
 2586ai (a) is certified in this state or, if this state has not adopted provisions substantially equivalent to
 2586aj Section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five other states; or
 2586ak (b) maintains at least \$250,000,000 in capital and surplus when determined in accordance with
 2586al the National Association of Insurance Commissioners Accounting Practices and Procedures Manual,
 2586am including all amendments thereto adopted by the National Association of Insurance Commissioners,
 2586an excluding the impact of any permitted or prescribed practices and is:

2586ao (i) licensed in at least 26 states; or
 2586ap (ii) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.
 2586aq (6) The authority to adopt rules pursuant to Subsection (1)(e) or (1)(f) does not otherwise limit
 2586ar the commissioner's general authority to make rules pursuant to Subsection (1). ←H

2587 Section 18. Section 31A-22-202 is amended to read:

2588 **31A-22-202. Protection of third-party claimants.**

2589 (1) ~~[No]~~ An insurance contract insuring against loss or damage through legal liability
 2590 for the bodily injury or death by accident of any person, or for damage to the property of any
 2591 person, may not be retroactively abrogated to the detriment of any third-party claimant by any
 2592 agreement between the insurer and insured after the occurrence of any injury, death, or damage
 2593 for which the insured may be liable. This attempted abrogation is void.

2594 ~~H→ [(2) The liability of an insurer under a motor vehicle liability policy becomes absolute~~
 2595 ~~when injury or damage covered by the motor vehicle liability policy occurs. The policy may~~
 2596 ~~not be rescinded or canceled as to that liability to the detriment of a third party.]~~

2596a **(2) A motor vehicle liability policy may be rescinded or cancelled as to an insured for**
2596b **fraud, material misrepresentation, or any reason allowable under the law.**

2596c **(3) A motor vehicle liability policy may not be rescinded for fraud or material**
2596d **misrepresentation, as to minimum liability coverage limits under Section 31A-22-304, to the**
2596e **detriment of a third-party for a loss otherwise covered by the policy.** ←H

2597 Section 19. Section 31A-22-603 is amended to read:

2598 **31A-22-603. Persons insured under an individual accident and health policy.**

2599 A policy of individual accident and health insurance may insure only one person, except
2600 that originally or by subsequent amendment, upon the application of an adult policyholder, a

3376 a license issued under this part if so ordered by a court.

3377 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
3378 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3378a **Ĥ→ Section 31. Section 31A-27A-601 is amended to read: ←Ĥ**

3378b **31A-27a-601. Filing of claims.**

3378c (1) (a) Subject to the other provisions of this Subsection (1), proof of a claim shall be filed with the
3378d liquidator in the form required by Section 31A-27a-602 on or before the last day for filing specified in the
3378e notice required under Section 31A-27a-406.

3378f (b) The last day for filing specified in the notice may not be later than 18 months after the day on
3378g which the order of liquidation is entered unless the receivership court, for good cause shown, extends the
3378h time.

3378i (c) Proof of a claim for the following does not need to be filed unless the liquidator expressly
3378j requires filing of proof:

3378k (i) cash surrender value in life insurance and annuities;

3378l (ii) investment value in life insurance and annuities other than cash surrender value; and

3378m (iii) any other policy insuring the life of a person.

3378n (d) Only upon application of the liquidator, the receivership court may allow alternative procedures
3378o and requirements for the filing of proof of a claim or for allowing or proving a claim.

3378p (e) Upon application, if the receivership court dispenses with the requirements of filing a proof of
3378q claim by a person, class, or group of persons, a proof of claim for that person, class, or group is considered as
3378r being filed for all purposes, except that the receivership court's waiver of proof of claim requirements may
3378s not impact guaranty association proof of claim filing requirements or coverage determinations to the extent
3378t that the guaranty association statute or filing requirements are inconsistent with the receivership court's
3378u waiver of proof.

3378v (2) The liquidator may permit a claimant that makes a late filing to share ratably in distributions,
3378w whether past or future, as if the claim were not filed late, to the extent that the payment will not prejudice the
3378x orderly administration of the liquidation, under the following circumstances:

3378y (a) the eligibility to file a proof of claim was not known to the claimant, and the claimant files a
3378z proof of claim within 90 days after the day on which the claimant first learns of the eligibility;

3378aa (b) (i) a transfer to a creditor is:

3378ab (A) avoided under Section 31A-27a-503, 31A-27a-504, 31A-27a-506, or 31A-27a-507; or

3378ac (B) voluntarily surrendered under Section 31A-27a-509; and

3378ad (ii) the filing satisfies the conditions of Section 31A-27a-509; or

3378ae (c) the valuation of security held by a secured creditor under Section 31A-27a-610 shows a
3378af deficiency and the claim for the deficiency is filed within 30 days after the valuation.

3378ag (3) If a reinsurer's reinsurance contract terminates pursuant to Section 31A-27a-513:

3378ah (a) a claim filed by the receiver which arises from the termination may not be considered late if

3378ai the claim is filed within 90 days of the day on which the reinsurance contract terminates; and

3378aj (b) the reinsurer shall receive a ratable share of distributions, whether past or future, as if the claim
3378ak described in Subsection (3)(a) is not late.

3378al (4) Notwithstanding any other provision of this chapter, the liquidator may petition the receivership
3378am court, subject to Section 31A-27a-107, to set a date certain after which no further claims may be filed.

3378an **Ĥ→ (5) A Class 1 claim pursuant to Subsection 31A-27a-701(2)(a) is not subject to the claim filing**
3378ao **provisions of this section. ←Ĥ**

3379 Section 29. Section **31A-27a-605** is amended to read:

3380 **31A-27a-605. Allowance of contingent and unliquidated claims.**

3381 (1) As used in this section, "claim" means a demand for payment pursuant to Section
3382 31A-27a-601 under the terms and conditions of a contract issued by the insurer as a result of a
3383 known accident, casualty, disaster, loss, event, or occurrence.

3384 (2) (a) A claim of an insured or third party may be allowed under Section
3385 31A-27a-603, regardless of the fact that it is contingent or unliquidated if:

3386 (i) any contingency is removed in accordance with Subsection (3); and

3387 (ii) the value of the claim is determined in accordance with Subsection (4).

3388 (b) A claim is contingent if:

3389 (i) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or
3390 bonded against occurs on or before the date fixed under Section [~~31A-27a-601~~] 31A-27a-401;
3391 and

3392 (ii) the act or event triggering the insurer's obligation to pay has not occurred as of [~~the~~]
3393 that date [~~fixed under Section 31A-27a-401~~].

3394 (c) A claim is unliquidated if the insurer's obligation to pay is established, but the
3395 amount of the claim has not been determined.

3396 (3) (a) Unless the receivership court directs otherwise, a contingent claim may be
3397 allowed if:

3398 (i) the claimant presents proof of the insurer's obligation to pay reasonably satisfactory
3399 to the liquidator; or

3400 (ii) subject to Subsection (3)(b), the claim is based on a cause of action against an
3401 insured of the insurer, and:

3402 (A) it may be reasonably inferred from proof presented upon the claim that the
3403 claimant would be able to obtain a judgment; and

3404 (B) the person furnishes suitable proof.

3405 (b) A contingent claim may not be allowed under Subsection (3)(a)(ii)(B) if the
3406 receivership court for good cause shown shall otherwise direct that no further valid claims can

3779 (b) limits the losses of the participant to the assets of a protected cell.

3780 (22) "Protected cell" means a separate account established and maintained by a
3781 sponsored captive insurance company for one participant.

3782 (23) "Pure captive insurance company" means a business entity that insures risks of a
3783 parent or affiliate of the business entity.

3784 (24) "Special purpose financial captive insurance company" is as defined in Section
3785 31A-37a-102.

3786 (25) "Sponsor" means an entity that:

3787 (a) meets the requirements of Section 31A-37-402; and

3788 (b) is approved by the commissioner to:

3789 (i) provide all or part of the capital and surplus required by applicable law in an amount
3790 of not less than ~~Ĥ~~→ [f] \$350,000 [j] \$250,000 ←Ĥ , which amount the commissioner may
3790a increase by order if
3791 the commissioner considers it necessary; and

3792 (ii) organize and operate a sponsored captive insurance company.

3793 (26) "Sponsored captive insurance company" means a captive insurance company:

3794 (a) in which the minimum capital and surplus required by applicable law is provided by
3795 one or more sponsors;

3796 (b) that is formed or holding a certificate of authority under this chapter;

3797 (c) that insures the risks of a separate participant through the contract; and

3798 (d) that segregates each participant's liability through one or more protected cells.

3799 (27) "Treasury rates" means the United States Treasury strip asked yield as published
3800 in the Wall Street Journal as of a balance sheet date.

3801 Section 36. Section **31A-37-103** is amended to read:

3802 **31A-37-103. Chapter exclusivity.**

3803 (1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter,
3804 a provision of this title other than this chapter does not apply to a captive insurance company.

3805 (2) To the extent that a provision of the following does not contradict this chapter, the
3806 provision applies to a captive insurance company that receives a certificate of authority under
3807 this chapter:

3808 (a) Chapter 2, Administration of the Insurance Laws;

3809 (b) Chapter 4, Insurers in General;

- 3810 (c) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 3811 (d) Chapter 14, Foreign Insurers;
- 3812 (e) Chapter 16, Insurance Holding Companies;
- 3813 (f) Chapter 17, Determination of Financial Condition;
- 3814 (g) Chapter 18, Investments;
- 3815 (h) Chapter 19a, Utah Rate Regulation Act;
- 3816 (i) Chapter 27, Delinquency Administrative Action Provisions; and
- 3817 (j) Chapter 27a, Insurer Receivership Act.
- 3818 (3) In addition to this chapter, and subject to Section 31A-37a-103:
- 3819 (a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to
- 3820 a special purpose financial captive insurance company; and
- 3821 (b) for purposes of a special purpose financial captive insurance company, a reference
- 3822 in this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose Financial
- 3823 Captive Insurance Company Act.
- 3824 (4) In addition to this chapter, an industrial group captive insurance company formed
- 3825 as a risk retention group captive is subject to Chapter 15, Part 2, Risk Retention Groups Act, to
- 3826 the extent that this chapter is silent regarding regulation of risk retention groups conducting
- 3827 business in the state.
- 3828 Section 37. Section **31A-37-204** is amended to read:
- 3829 **31A-37-204. Paid-in capital -- Other capital.**
- 3830 (1) (a) The commissioner may not issue a certificate of authority to a company
- 3831 described in Subsection (1)(c) unless the company possesses and thereafter maintains
- 3832 unimpaired paid-in capital and unimpaired paid-in surplus of:
- 3833 (i) in the case of a pure captive insurance company, not less than \$250,000;
- 3834 (ii) in the case of an association captive insurance company incorporated as a stock
- 3835 insurer, not less than \$750,000;
- 3836 (iii) in the case of an industrial insured captive insurance company incorporated as a
- 3837 stock insurer, not less than \$700,000;
- 3838 (iv) in the case of a sponsored captive insurance company, not less than \$1,000,000, of
- 3839 which a minimum of ~~H~~→ [f] **\$350,000** [3] ~~[\$250,000]~~ ←~~H~~ is provided by the sponsor; or
- 3840 (v) in the case of a special purpose captive insurance company, an amount determined

4182 **63I-2-231. Repeal dates, Title 31A.**

4183 (1) Section 31A-22-315.5 is repealed July 1, [2016] ~~H~~→ [2021] 2019 ←~~H~~ .

4184 (2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed ~~H~~→ [July 1,
4185 2016] December 31, 2018 ←~~H~~ .

4186 Section 47. **Repealer.**

4187 This bill repeals:

4188 Section **31A-13-101, Scope.**

4189 Section **31A-13-102, Regulation in general.**

4190 Section **31A-13-103, Registration.**

4191 Section **31A-13-104, Commissioner to file information.**

4192 Section **31A-13-105, Reports to employers and employees.**

4193 Section **31A-13-106, Annual accounting by insurance companies, service plans,
4194 and corporate trustees and agents.**

4195 Section **31A-13-107, Commissioner's remedies.**

4196 Section **31A-13-108, Investments.**

4197 Section **31A-13-109, Political activities.**

4198 Section **31A-17-404.2, Credit allowed a foreign ceding insurer.**

Legislative Review Note
Office of Legislative Research and General Counsel