

- 26 • providing for a summary report and its contents;
- 27 • providing for exemptions;
- 28 • addressing confidentiality;
- 29 • establishing sanctions; and
- 30 • providing a severability clause;
- 31 ▶ addresses risk based capital provisions;
- 32 ▶ addresses association groups;
- 33 ▶ modifies accident and health insurance standards provisions;
- 34 ▶ moves provision for when a child of a group member may be denied eligibility;
- 35 ▶ clarifies preferred provider contract provisions;
- 36 ▶ addresses when a person is required to provide information concerning an employer
- 37 self-insured employee welfare benefit plan;
- 38 ▶ moves provisions related to alcohol and drug dependency treatment;
- 39 ▶ addresses groups eligible for group or blanket insurance;
- 40 ▶ modifies provisions related to requirements for notice of termination;
- 41 ▶ addresses scope of part of credit life and accident and health insurance;
- 42 ▶ amends definitions under the Unclaimed Life Insurance and Annuity Benefits Act;
- 43 ▶ provides for the assessment of forfeitures;
- 44 ▶ provides for notice to a producer of the termination of appointment;
- 45 ▶ addresses when an insurer ~~§~~ → [contracts] has a contract ← ~~§~~ with a licensee;
- 46 ▶ imposes requirements related to flood insurance;
- 47 ▶ addresses licensed compensation;
- 48 ▶ provides for notice to a designee when an agency terminates the designation,
- 49 including navigator agencies;
- 50 ▶ addresses contracts with agencies;
- 51 ▶ addresses contracts with individual title insurance producer or an agency title
- 52 insurance producer;
- 53 ▶ requires certain record keeping requirements;
- 54 ▶ addresses reports from organizations licensed as adjusters;
- 55 ▶ enacts provisions related to adjusters;
- 56 ▶ modifies provisions related to captive insurers, including:

- 57 • amending definitions;
  - 58 • addressing permissive areas of insurance;
  - 59 • addressing capital issues;
  - 60 • modifying provisions required for formation;
  - 61 • providing that captive insurance companies may cede risks to certain insurers;
  - 62 • addressing contributions to guaranty of insolvency funds; and
  - 63 • repealing provisions related to an association captive or industrial insured
- 64 group;
- 65 ▶ amends board of directors provisions under the Defined Contribution Risk Adjuster
  - 66 Act;
  - 67 ▶ imposes record retention requirements under the Continuing Care Provider Act;
- 67a **H→ [-and]**
- 67b ▶ **repeals the Voluntary Health Insurance Purchasing Alliance Act; and ←H**
  - 68 ▶ makes technical and conforming amendments.

69 **Money Appropriated in this Bill:**

70 None

71 **Other Special Clauses:**

72 This bill provides retrospective operation.

73 **Utah Code Sections Affected:**

74 AMENDS:

74a **H→ 16-6a-207, as last amended by Laws of Utah 2016, Chapter 234**

74b **16-6a-301, as last enacted by Laws of Utah 2016, Chapter 234 ←H**

75 **31A-2-308**, as last amended by Laws of Utah 2012, Chapter 253

76 **31A-3-102**, as last amended by Laws of Utah 2014, Chapter 435

77 **31A-3-205**, as enacted by Laws of Utah 2005, Chapter 123

78 **31A-3-304**, as last amended by Laws of Utah 2015, Chapter 244

79 **31A-8-402.3**, as last amended by Laws of Utah 2014, Chapters 290, 300, and 425

80 **31A-8-402.5**, as last amended by Laws of Utah 2003, Chapter 252

81 **31A-16-105**, as last amended by Laws of Utah 2015, Chapter 244

82 **31A-17-404**, as last amended by Laws of Utah 2016, Chapter 138

83 **31A-17-603**, as last amended by Laws of Utah 2013, Chapter 319

84 **31A-22-505**, as enacted by Laws of Utah 1985, Chapter 242

85 **31A-22-605**, as last amended by Laws of Utah 2005, Chapter 78

86 **31A-22-610.5**, as last amended by Laws of Utah 2011, Chapter 297

87 **31A-22-614.5**, as last amended by Laws of Utah 2011, Chapter 284

- 88            **31A-22-617**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 89            **31A-22-701**, as last amended by Laws of Utah 2011, Chapter 284
- 90            **31A-22-716**, as last amended by Laws of Utah 2011, Chapters 284 and 297
- 91            **31A-22-721**, as last amended by Laws of Utah 2014, Chapters 290, 300, and 425
- 92            **31A-22-801**, as last amended by Laws of Utah 2001, Chapter 116
- 93            **31A-22-1902**, as enacted by Laws of Utah 2015, Chapter 259
- 94            **31A-23a-111**, as last amended by Laws of Utah 2016, Chapter 138
- 95            **31A-23a-115**, as last amended by Laws of Utah 2009, Chapter 349
- 96            **31A-23a-203**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 97            **31A-23a-302**, as last amended by Laws of Utah 2012, Chapter 253
- 98            **31A-23a-407**, as last amended by Laws of Utah 2016, Chapter 314
- 99            **31A-23a-412**, as last amended by Laws of Utah 2012, Chapter 253
- 100           **31A-23a-501**, as last amended by Laws of Utah 2016, Chapter 138
- 101           **31A-23b-102**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 102           **31A-23b-202.5**, as enacted by Laws of Utah 2014, Chapter 425
- 103           **31A-23b-209**, as enacted by Laws of Utah 2013, Chapter 341
- 104           **31A-23b-210**, as enacted by Laws of Utah 2013, Chapter 341
- 105           **31A-23b-401**, as last amended by Laws of Utah 2016, Chapter 138
- 106           **31A-26-209**, as last amended by Laws of Utah 2004, Chapter 173
- 107           **31A-26-210**, as last amended by Laws of Utah 2009, Chapter 349
- 108           **31A-26-213**, as last amended by Laws of Utah 2016, Chapter 138
- 109           **31A-30-106**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 110           **31A-30-106.1**, as last amended by Laws of Utah 2012, Chapter 279
- 111           **31A-30-107**, as last amended by Laws of Utah 2014, Chapters 290, 300, and 425
- 112           **31A-30-107.1**, as last amended by Laws of Utah 2003, Chapter 252
- 112a        **Ĥ→ 31A-35-103, as last amended by Laws of Utah 2016, Chapter 234 ←Ĥ**
- 113           **31A-37-102**, as last amended by Laws of Utah 2016, Chapter 138
- 114           **31A-37-106**, as last amended by Laws of Utah 2015, Chapter 244
- 115           **31A-37-202**, as last amended by Laws of Utah 2015, Chapter 244
- 116           **31A-37-204**, as last amended by Laws of Utah 2016, Chapter 138
- 117           **31A-37-301**, as last amended by Laws of Utah 2016, Chapter 348
- 118           **31A-37-303**, as last amended by Laws of Utah 2016, Chapter 138

- 119 [31A-37-305](#), as enacted by Laws of Utah 2003, Chapter 251
- 120 [31A-42-201](#), as last amended by Laws of Utah 2010, Chapters 10 and 68
- 121 [31A-44-603](#), as enacted by Laws of Utah 2016, Chapter 270
- 122 [53-2a-1102](#), as last amended by Laws of Utah 2015, Chapter 408
- 123 [59-7-102](#), as last amended by Laws of Utah 2014, Chapters 376 and 435
- 124 [59-9-101](#), as last amended by Laws of Utah 2016, Chapter 135
- 125 [63G-2-302](#), as last amended by Laws of Utah 2016, Chapter 410

126 ENACTS:

- 127 [31A-14-205.5](#), Utah Code Annotated 1953
- 128 [31A-16a-101](#), Utah Code Annotated 1953
- 129 [31A-16a-102](#), Utah Code Annotated 1953
- 130 [31A-16a-103](#), Utah Code Annotated 1953
- 131 [31A-16a-104](#), Utah Code Annotated 1953
- 132 [31A-16a-105](#), Utah Code Annotated 1953
- 133 [31A-16a-106](#), Utah Code Annotated 1953
- 134 [31A-16a-107](#), Utah Code Annotated 1953
- 135 [31A-16a-108](#), Utah Code Annotated 1953
- 136 [31A-16a-109](#), Utah Code Annotated 1953
- 137 [31A-16a-110](#), Utah Code Annotated 1953
- 138 [31A-22-645](#), Utah Code Annotated 1953
- 139 [31A-26-312](#), Utah Code Annotated 1953
- 140 [31A-26-401](#), Utah Code Annotated 1953
- 141 [31A-26-402](#), Utah Code Annotated 1953
- 142 [31A-26-403](#), Utah Code Annotated 1953

143 REPEALS:

- 144 [31A-22-715](#), as last amended by Laws of Utah 2016, Chapter 138
- 145 [31A-22-718](#), as enacted by Laws of Utah 1995, Chapter 344
- 145a **H→** [31A-34-101](#), as last enacted by Laws of Utah 1996, Chapter 143
- 145b [31A-34-102](#), as last enacted by Laws of Utah 1996, Chapter 143
- 145c [31A-34-103](#), as last enacted by Laws of Utah 1996, Chapter 143
- 145d [31A-34-104](#), as last amended by Laws of Utah 2011, Chapter 297
- 145e [31A-34-105](#), as last amended by Laws of Utah 2000, Chapter 300
- 145f [31A-34-106](#), as last enacted by Laws of Utah 1996, Chapter 143
- 145g [31A-34-107](#), as last amended by Laws of Utah 2011, Chapter 297 ☼

- 145h 31A-34-108, as last amended by Laws of Utah 2000, Chapter 300  
 145i 31A-34-109, as last enacted by Laws of Utah 1996, Chapter 143  
 145j 31A-34-110, as last amended by Laws of Utah 2001, Chapter 108  
 145k 31A-34-111, as last enacted by Laws of Utah 1996, Chapter 143 ←  
 146 31A-37-306, as last amended by Laws of Utah 2015, Chapter 244

147

148 *Be it enacted by the Legislature of the state of Utah:*148a **→ Section 1. Section 16-6a-207 is amended to read:**148b **16-6a-207. Incorporation of cooperative association.**148c **(1) (a) If a cooperative association meets the requirements of Subsection (1)(b), it may:**148d **(i) be incorporated under this chapter; and**148e **(ii) use the word "cooperative" as part of its corporate or business name.**148f **(b) A cooperative association described in Subsection (1)(a):**148g **(i) may not be ~~[-(A)]~~ an association subject to the insurance or credit union laws of this**148h **state; and**148i **~~[(B) a health insurance purchasing association as defined in Section 31A-34-103; or~~**148j **~~—(C) a health insurance purchasing alliance licensed under Title 31A, Chapter 34, Voluntary~~**148k **~~Health Insurance Purchasing Alliance Act; and]~~**148l **(ii) shall state in its articles of incorporation that:**148m **(A) a member may not have more than one vote regardless of the number or amount of stock**148n **or membership capital owned by the member unless voting is based in whole or in part on the volume**148o **of patronage of the member with the cooperative association; and**148p **(B) savings in excess of dividends and additions to reserves and surplus shall be distributed or**148q **allocated to members or patrons on the basis of patronage.**148r **(2) (a) Any cooperative association incorporated in accordance with Subsection (1):**148s **(i) has all the rights and is subject to the limitations provided in Section 3-1-11; and**148t **(ii) may pay dividends on its stock, if it has stock, subject to the limitations of Section 3-1-11.**148u **(b) The articles of incorporation or the bylaws of a cooperative association incorporated in**148v **accordance with Subsection (1) may provide for:**148w **(i) the establishment and alteration of voting districts;**148x **(ii) the election of delegates to represent:**148y **(A) the districts described in Subsection (2)(b)(i); and**148z **(B) the members of the districts described in Subsection (2)(b)(i);**148aa **(iii) the establishment and alteration of director districts; and**148ab **(iv) the election of directors to represent the districts described in Subsection (2)(b)(ii) by:**148ac **(A) the members of the districts; or ☺**

148ad (B) delegates elected by the members.

148ae (3) (a) A corporation organized under Title 3, Uniform Agricultural Cooperative Association  
148af Act, or Title 16, Chapter 16, Uniform Limited Cooperative Association Act, may convert itself into a  
148ag cooperative association subject to this chapter by adopting appropriate amendments to its articles of  
148ah incorporation by which:

148ai (i) it elects to become subject to this chapter; and

148aj (ii) makes changes in its articles of incorporation that are:

148ak (A) required by this chapter; and

148al (B) any other changes permitted by this chapter.

148am (b) The amendments described in Subsection (3)(a) shall be adopted and filed in the manner  
148an provided by the law then applicable to the cooperative nonprofit corporation.

148ao [~~(4) Notwithstanding Subsection (1), a health insurance purchasing association may not use the~~  
148ap ~~word "cooperative" or "alliance" but may use the word "association."~~]

148aq [~~(5)~~ (4) Except as otherwise provided in this section, a cooperative nonprofit corporation is  
148ar subject to this chapter.

148as [~~(6)~~ (5) A corporation that is a cooperative under this chapter may convert to a limited  
148at cooperative association under Title 16, Chapter 16, Uniform Limited Cooperative Association Act, by  
148au complying with that chapter.

148av Section 2. Section 16-6a-301 is amended to read:

148aw **16-6a-301. Purposes.**

148ax (1) Every nonprofit corporation incorporated under this chapter that in its articles of  
148ay incorporation has a statement meeting the requirements of Subsection 16-6a-202(3)(a) may engage in  
148az any lawful activity except for express limitations set forth in the articles of incorporation.

148ba (2) (a) A nonprofit corporation engaging in an activity that is subject to regulation under  
148bb another statute of this state may incorporate under this chapter only if permitted by, and subject to all  
148bc limitations of, the other statute.

148bd (b) Without limiting Subsection (2)(a) and subject to Subsection (2)(c), an organization may  
148be not be organized under this chapter if the organization is subject to the:

148bf (i) insurance laws of this state; or

148bg (ii) laws governing depository institutions as defined in Section 7-1-103.

148bh [~~(c) Notwithstanding Subsection (2)(b), the following may be organized under this chapter:~~

148bi ~~— (i) a health insurance purchasing association as defined in Section 31A-34-103; and~~

148bj ~~— (ii) a health insurance purchasing alliance licensed under Title 31A, Chapter 34, Voluntary~~

148bk ~~Health Insurance Purchasing Alliance Act.] ← Ĥ~~

149 Section Ĥ → [†] 3 ← Ĥ . Section 31A-2-308 is amended to read:

646 Section 31A-16a-106.

647 Section 10. Section **31A-16a-102** is enacted to read:

648 **31A-16a-102. Definitions.**

649 As used in this chapter:

650 (1) "Insurance group," for the purpose of conducting an own risk and solvency  
651 assessment, means those insurers and affiliates included within an insurance holding company  
652 system as defined in Section 31A-1-301.

653 (2) "Insurer" means the same as that term is defined in Section 31A-1-301, except that  
654 it does not include agency, authority, or instrumentality of the United States, its possessions  
655 and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or  
656 political subdivision of a state.

657 (3) "ORSA guidance manual" means the ~~§~~→ **current** ←~~§~~ version of the Own Risk and  
657a Solvency  
658 Assessment Guidance Manual developed and adopted by the National Association of Insurance  
659 Commissioners and as amended from time to time.

660 (4) "ORSA summary report" means a confidential high-level summary of an insurer or  
661 insurance group's own risk and solvency assessment.

662 (5) "Own risk and solvency assessment" means a confidential internal assessment,  
663 appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by  
664 that insurer or insurance group, of the material and relevant risks associated with the insurer or  
665 insurance group's current business plan and the sufficiency of capital resources to support those  
666 risks.

667 Section 11. Section **31A-16a-103** is enacted to read:

668 **31A-16a-103. Risk management framework.**

669 An insurer shall maintain a risk management framework to assist the insurer with  
670 identifying, assessing, monitoring, managing, and reporting on its material and relevant risks.  
671 This requirement may be satisfied if the insurance group of which the insurer is a member  
672 maintains a risk management framework applicable to the operations of the insurer.

673 Section 12. Section **31A-16a-104** is enacted to read:

674 **31A-16a-104. Own risk and solvency assessment requirement.**

675 Subject to Section 31A-16a-106, an insurer, or the insurance group of which the insurer  
676 is a member, shall regularly conduct an own risk and solvency assessment consistent with a

2227            [~~(2)~~] (3) (a) (i) An insurer shall report to the commissioner the cause of termination of  
 2228 an appointment if:

2229            (A) the reason for termination is a reason described in Subsection 31A-23a-111(5)(b);

2230 or

2231            (B) the insurer has knowledge that the individual or agency licensee is found to have  
 2232 engaged in an activity described in Subsection 31A-23a-111(5)(b) by:

2233            (I) a court;

2234            (II) a government body; or

2235            (III) a self-regulatory organization, which the commissioner may define by rule made  
 2236 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2237            (ii) The information provided to the commissioner under this Subsection [~~(2)~~] (3) is a  
 2238 private record under Title 63G, Chapter 2, Government Records Access and Management Act.

2239            (b) An insurer is immune from civil action, civil penalty, or damages if the insurer  
 2240 complies in good faith with this Subsection [~~(2)~~] (3) in reporting to the commissioner the cause  
 2241 of termination of an appointment.

2242            (c) Notwithstanding any other provision in this section, an insurer is not immune from  
 2243 any action or resulting penalty imposed on the reporting insurer as a result of proceedings  
 2244 brought by or on behalf of the department if the action is based on evidence other than the  
 2245 report submitted in compliance with this Subsection [~~(2)~~] (3).

2246            [~~(3)~~] (4) If an insurer appoints an agency, the insurer need not appoint, report, or pay  
 2247 appointment reporting fees for an individual designated on the agency's license under Section  
 2248 31A-23a-302.

2249            [~~(4)~~] (5) If an insurer ~~§~~→ **[contracts]** **has a contract** ←~~§~~ with or lists a licensee in a report  
 2249a submitted under

2250 Subsection [~~(2)~~] (3), there is a rebuttable presumption that in placing a risk with the insurer the  
 2251 contracted or appointed licensee or any of the licensee's licensed employees act on behalf of the  
 2252 insurer.

2253            Section 34. Section 31A-23a-203 is amended to read:

2254            **31A-23a-203. Training period requirements.**

2255            (1) A producer is eligible to become a surplus lines producer only if the producer:

2256            (a) has passed the applicable surplus lines producer examination;

2257            (b) has been a producer with property or casualty or both lines of authority for at least



2320 of termination of a designation.

2321 (d) Notwithstanding any other provision in this section, an agency is not immune from  
2322 an action or resulting penalty imposed on the reporting agency as a result of proceedings  
2323 brought by or on behalf of the department if the action is based on evidence other than the  
2324 report submitted in compliance with this Subsection [~~(3)~~] (4).

2325 [~~(4)~~] (5) An agency licensed under this chapter may act in a capacity for which it is  
2326 licensed only through an individual who is licensed under this chapter to act in the same  
2327 capacity.

2328 [~~(5)~~] (6) An agency licensed under this chapter shall designate and report to the  
2329 commissioner in accordance with any rule made by the commissioner in accordance with Title  
2330 63G, Chapter 3, Utah Administrative Rulemaking Act, the name of the designated responsible  
2331 licensed individual who has authority to act on behalf of the agency in the matters pertaining to  
2332 compliance with this title and orders of the commissioner.

2333 [~~(6)~~] (7) If an agency ~~§~~→ contracts has a contract ←~~§~~ with or designates a licensee in  
2333a reports submitted under  
2334 Subsection (2) or [~~(5)~~] (6), there is a rebuttable presumption that the contracted or designated  
2335 licensee acts on behalf of the agency.

2336 [~~(7)~~] (8) (a) When a license is held by an agency, both the agency itself and any  
2337 individual contracted or designated under the agency license shall be considered to be the  
2338 holder of the agency license for purposes of this section.

2339 (b) If an individual contracted or designated under the agency license commits an act or  
2340 fails to perform a duty that is a ground for suspending, revoking, or limiting the agency license,  
2341 or assessing a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i), the commissioner  
2342 may assess a forfeiture, suspend, revoke, or limit the license of, or take a combination of these  
2343 actions against:

2344 (i) the individual;

2345 (ii) the agency, if the agency:

2346 (A) is reckless or negligent in its supervision of the individual; or

2347 (B) knowingly participates in the act or failure to act that is the ground for assessing a  
2348 forfeiture, or suspending, revoking, or limiting the license; or

2349 (iii) (A) the individual; and

2350 (B) the agency if the agency meets the requirements of Subsection [~~(7)~~] (8)(b)(ii).

2351 Section 36. Section **31A-23a-407** is amended to read:

2352 **31A-23a-407. Liability for acts of title insurance producers.**

2353 (1) Subject to the other provisions in this section, a title insurer that ~~§~~ **→ [contracts]** has a  
 2353a contract ~~←§~~ with or  
 2354 appoints an individual title insurance producer or an agency title insurance producer is liable to  
 2355 a buyer, seller, borrower, lender, or third party that deposits money with the individual title  
 2356 insurance producer or agency title insurance producer for the receipt and disbursement of  
 2357 money deposited with the individual title insurance producer or agency title insurance producer  
 2358 for a transaction when a commitment for a policy of title insurance of that title insurer is  
 2359 ordered, issued, or distributed or a title insurance policy of that title insurer is issued, except  
 2360 that once a title insurer is named in an issued commitment only that title insurer is liable as a  
 2361 title insurer under this section.

2362 (2) The liability of a title insurer under Subsection (1) and the liability of an individual  
 2363 title insurance producer or agency title insurance producer for the receipt and disbursement of  
 2364 money deposited with the individual title insurance producer or agency title insurance producer  
 2365 is limited to the amount of money received and disbursed, not to exceed the amount of  
 2366 proposed insurance set forth in the commitment or title insurance policy described in  
 2367 Subsection (1) plus 10% of the amount of the proposed insurance.

2368 (3) The liability described in Subsection (1) does not modify, mitigate, impair, or affect  
 2369 the contractual obligations between an individual title insurance producer or agency title  
 2370 insurance producer and the title insurer.

2371 (4) The liability of a title insurer with respect to the condition of title to the real  
 2372 property that is the subject of a title insurance policy or a title insurance commitment for a title  
 2373 insurance policy is limited to the terms, conditions, and stipulations contained in the title  
 2374 insurance policy or title commitment.

2375 Section 37. Section **31A-23a-412** is amended to read:

2376 **31A-23a-412. Place of business and residence address -- Records.**

2377 (1) (a) A licensee under this chapter shall register and maintain with the commissioner:

2378 (i) the address and the one or more telephone numbers of the licensee's principal place  
 2379 of business; and

2380 (ii) a valid business email address at which the commissioner may contact the licensee.

2381 (b) If a licensee is an individual, in addition to complying with Subsection (1)(a) the

- 2661 (A) a court;
- 2662 (B) a government body; or
- 2663 (C) a self-regulatory organization, which the commissioner may define by rule made in  
2664 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2665 (b) The information provided to the commissioner under Subsection [~~(4)~~] (5)(a) is a  
2666 private record under Title 63G, Chapter 2, Government Records Access and Management Act.
- 2667 (c) A navigator agency is immune from civil action, civil penalty, or damages if the  
2668 agency complies in good faith with this Subsection [~~(4)~~] (5) by reporting to the commissioner  
2669 the cause of termination of a designation.
- 2670 (d) A navigator agency is not immune from an action or resulting penalty imposed on  
2671 the reporting agency as a result of proceedings brought by or on behalf of the department if the  
2672 action is based on evidence other than the report submitted in compliance with this Subsection  
2673 [~~(4)~~] (5).
- 2674 [~~(5)~~] (6) A navigator agency licensed under this chapter may act in a capacity for which  
2675 it is licensed only through an individual who is licensed under this chapter to act in the same  
2676 capacity.
- 2677 [~~(6)~~] (7) A navigator agency licensed under this chapter shall designate and report to  
2678 the commissioner, in accordance with any rule made by the commissioner pursuant to Title  
2679 63G, Chapter 3, Utah Administrative Rulemaking Act, the name of the designated responsible  
2680 licensed individual who has authority to act on behalf of the navigator agency in the matters  
2681 pertaining to compliance with this title and orders of the commissioner.
- 2682 [~~(7)~~] (8) If a navigator agency ~~§~~→ **[contracts]** has a contract ←~~§~~ with or designates a  
2682a licensee in reports  
2683 submitted under Subsection (3) or [~~(6)~~] (7), there is a rebuttable presumption that the  
2684 contracted or designated licensee acts on behalf of the navigator agency.
- 2685 [~~(8)~~] (9) (a) When a license is held by a navigator agency, both the navigator agency  
2686 itself and any individual contracted or designated under the navigator agency license are  
2687 considered the holders of the navigator agency license for purposes of this section.
- 2688 (b) If an individual contracted or designated under the navigator agency license  
2689 commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting  
2690 the navigator agency license, or assessing a forfeiture under Subsection 31A-2-308(1)(b)(i) or  
2691 (1)(c)(i), the commissioner may assess a forfeiture, suspend, revoke, or limit the license of, or

2909 commissioner the cause of termination of a designation.

2910 (d) Notwithstanding any other provision in this section, an organization is not immune  
 2911 from an action or resulting penalty imposed on the reporting organization as a result of a  
 2912 proceeding brought by or on behalf of the department if the action is based on evidence other  
 2913 than the report submitted in compliance with this Subsection [(3)] (4).

2914 [(4)] (5) An organization licensed under this chapter may act in a capacity for which it  
 2915 is licensed only through an individual who is licensed under this chapter to act in the same  
 2916 capacity.

2917 [(5)] (6) An organization licensed under this chapter shall designate and report  
 2918 promptly to the commissioner the name of the designated responsible licensed individual who  
 2919 has authority to act on behalf of the organization in all matters pertaining to compliance with  
 2920 this title and orders of the commissioner.

2921 [(6)] (7) If an agency ~~§~~ → **[contracts]** has a contract ← ~~§~~ with or designates a licensee in a  
 2921a report submitted under  
 2922 Subsection (2) or [(5)] (6), there is a rebuttable presumption that the contracted or designated  
 2923 licensee acts on behalf of the agency.

2924 [(7)] (8) (a) When a license is held by an organization, both the organization itself and  
 2925 an individual contracted or designated under the license shall, for purposes of this section, be  
 2926 considered to be the holders of the organization license.

2927 (b) If an individual designated under the organization license commits an act or fails to  
 2928 perform a duty that is a ground for suspending, revoking, or limiting the organization license,  
 2929 the commissioner may assess a forfeiture against, suspend, revoke, or limit the license of, or  
 2930 take a combination of these actions against:

2931 (i) that individual;

2932 (ii) the organization, if the organization:

2933 (A) is reckless or negligent in its supervision of the individual; or

2934 (B) knowingly participates in the act or failure to act that is the ground for assessing a  
 2935 forfeiture or suspending, revoking, or limiting the license; or

2936 (iii) (A) the individual; and

2937 (B) the organization, if the organization meets the requirements of Subsection [(7)]

2938 (8)(b)(ii).

2939 Section 46. Section **31A-26-213** is amended to read:

3126 (2) A contract described in Subsection (1) is subject to rescission in accordance with  
 3127 Section 31A-26-311.

3128 (3) (a) A contract described in Subsection (1) shall include a prominently displayed  
 3129 notice in 12-point boldface type that states "WE REPRESENT THE INSURED ONLY."

3130 (b) The commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah  
 3131 Administrative Rulemaking Act, may require additional prominently displayed notice  
 3132 requirements in the contract as the commissioner considers necessary.

3133 (4) A public adjuster shall keep at the public adjuster's principal place of business ~~§~~→ [in  
 3134 this state] ←~~§~~ a copy of each contract entered into in this state for ~~§~~→ [this] the ←~~§~~ current year  
 3134a plus three years,

3135 and each contract shall be available at all times for inspection, without notice, by the  
 3136 commissioner or the commissioner's authorized representative.

3137 (5) A public adjuster may not enter into a contract with an insured and collect  
 3138 compensation as provided in the contract without actually performing the services customarily  
 3139 provided by a licensed public adjuster for the insured.

3140 Section 49. Section 31A-26-402 is enacted to read:

3141 **31A-26-402. Compensation.**

3142 (1) Except as provided by Subsection (2), a public adjuster may receive compensation  
 3143 for service provided under this chapter consisting of an hourly fee, a flat rate, a percentage of  
 3144 the total amount paid by an insurer to resolve a claim, or another method of compensation. ~~§~~→ [~~The~~  
 3145 total compensation received may not exceed 10% of the amount of the insurance settlement on  
 3146 the claim.] ←~~§~~

3147 (2) (a) A public adjuster may not receive a compensation consisting of a percentage of  
 3148 the total amount paid by an insurer to resolve a claim on a claim on which the insurer, not later  
 3149 than 72 hours after the date on which the loss is reported to the insurer, either pays or commits  
 3150 in writing to pay to the insured the policy limit of the insurance policy.

3151 (b) A public adjuster is entitled to reasonable compensation from the insured for  
 3152 services provided by the public adjuster on behalf of the insured, based on the time spent on a  
 3153 claim that is subject to this Subsection (2) and expenses incurred by the public adjuster, until  
 3154 the claim is paid or the insured receives a written commitment to pay from the insurer.

3155 (3) Except for the payment of compensation by the insured, a person paying proceeds  
 3156 of a policy of insurance or making a payment affecting an insured's rights under a policy of

- 3560 (D) acts uniformly without regard to any health status-related factor of a covered  
 3561 individual or dependent of a covered individual who may become eligible for coverage; or  
 3562 (e) the covered carrier:  
 3563 (i) elects to discontinue all of the covered carrier's health benefit plans in the individual  
 3564 market; and  
 3565 (ii) (A) provides notice of the discontinuation in writing:  
 3566 (I) to each covered individual; and  
 3567 (II) at least 180 days before the date the coverage will be discontinued;  
 3568 (B) provides notice of the discontinuation in writing:  
 3569 (I) to the commissioner in each state in which an affected insured individual is known  
 3570 to reside; and  
 3571 (II) at least 30 working days prior to the date the notice is sent to the affected  
 3572 individuals;  
 3573 (C) discontinues and nonrenews all health benefit plans the covered carrier issues or  
 3574 delivers for issuance in the individual market; and  
 3575 (D) acts uniformly without regard to any health status-related factor of a covered  
 3576 individual or a dependent of a covered individual who may become eligible for coverage.

3576a **H→ Section 57. Section 31A-35-103 is amended to read:**

- 3576b **31A-35-103. Exemption from other provisions of this title.**  
 3576c **Bail bond agencies are exempted from:**  
 3576d **(1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;**  
 3576e **(2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and**  
 3576f **31A-4-107;**  
 3576g **(3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section 31A-5-103;**  
 3576h **(4) Chapter 6a, Service Contracts;**  
 3576i **(5) Chapter 6b, Guaranteed Asset Protection Waiver Act;**  
 3576j **(6) Chapter 7, Nonprofit Health Service Insurance Corporations;**  
 3576k **(7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;**  
 3576l **(8) Chapter 8a, Health Discount Program Consumer Protection Act;**  
 3576m **(9) Chapter 9, Insurance Fraternal;**  
 3576n **(10) Chapter 10, Annuities;**  
 3576o **(11) Chapter 11, Motor Clubs;**  
 3576p **(12) Chapter 12, State Risk Management Fund;**  
 3576q **(13) Chapter 13, Employee Welfare Funds and Plans;**  
 3576r **(14) Chapter 14, Foreign Insurers;**  
 3576s **(15) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;**  
 3576t **(16) Chapter 16, Insurance Holding Companies;**  
 3576u **(17) Chapter 17, Determination of Financial Condition; ☆**

- 3576v (18) Chapter 18, Investments;
- 3576w (19) Chapter 19a, Utah Rate Regulation Act;
- 3576x (20) Chapter 20, Underwriting Restrictions;
- 3576y (21) Chapter 23b, Navigator License Act;
- 3576z (22) Chapter 25, Third Party Administrators;
- 3576aa (23) Chapter 26, Insurance Adjusters;
- 3576ab (24) Chapter 27, Delinquency Administrative Action Provisions;
- 3576ac (25) Chapter 27a, Insurer Receivership Act;
- 3576ad (26) Chapter 28, Guaranty Associations;
- 3576ae (27) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
- 3576af (28) Chapter 31, Insurance Fraud Act;
- 3576ag (29) Chapter 32a, Medical Care Savings Account Act;
- 3576ah (30) Chapter 33, Workers' Compensation Fund;
- 3576ai ~~[(31) Chapter 34, Voluntary Health Insurance Purchasing Alliance Act;]~~
- 3576aj ~~[(32)]~~ (31) Chapter 36, Life Settlements Act;
- 3576ak ~~[(33)]~~ (32) Chapter 37, Captive Insurance Companies Act;
- 3576al ~~[(34)]~~ (33) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;
- 3576am ~~[(35)]~~ (34) Chapter 38, Federal Health Care Tax Credit Program Act;
- 3576an ~~[(36)]~~ (35) Chapter 39, Interstate Insurance Product Regulation Compact;
- 3576ao ~~[(37)]~~ (36) Chapter 40, Professional Employer Organization Licensing Act;
- 3576ap ~~[(38)]~~ (37) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act;
- 3576aq ~~[(39)]~~ (38) Chapter 42, Defined Contribution Risk Adjuster Act; and
- 3576ar ~~[(40)]~~ (39) Chapter 43, Small Employer Stop-Loss Insurance Act. ←Ĥ

3577 Section Ĥ → [55] 58 ←Ĥ . Section 31A-37-102 is amended to read:

3578 **31A-37-102. Definitions.**

3579 As used in this chapter:

3580 (1) (a) "Affiliated company" means a business entity that because of common  
3581 ownership, control, operation, or management is in the same corporate or limited liability  
3582 company system as:

3583 ~~[(a)]~~ (i) a parent;

3584 ~~[(b)]~~ (ii) an industrial insured; or

3585 ~~[(c)]~~ (iii) a member organization.

3586 (b) Notwithstanding Subsection (1)(a), the commissioner may issue an order finding  
3587 that a business entity is not an affiliated company.

3588 (2) "Alien captive insurance company" means an insurer:

3589 (a) formed to write insurance business for a parent or affiliate of the insurer; and

3590 (b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes

4738 records were in the possession of a nongovernmental medical care provider.

4739 Section 68. **Repealer.**

4740 This bill repeals:

4741 Section **31A-22-715**, Alcohol and drug dependency treatment.

4742 Section **31A-22-718**, Dependent coverage.

4742a **H→ Section 31A-34-101, Title.**

4742b **Section 31A-34-102, Purpose and intent -- Legislative findings.**

4742c **Section 31A-34-103, Definitions.**

4742d **Section 31A-34-104, Alliance -- Required license.**

4742e **Section 31A-34-105, Association requirements.**

4742f **Section 31A-34-106, Jurisdiction of the commissioner.**

4742g **Section 31A-34-107, Directors, trustees, and officers.**

4742h **Section 31A-34-108, Powers of and restrictions on alliances.**

4742i **Section 31A-34-109, Operation of alliances.**

4742j **Section 31A-34-110, Contracts with member employers and contracted insurers.**

4742k **Section 31A-34-111, Alliance evaluation.** ←**H**

4743 Section **31A-37-306**, Conversion or merger.

4744 Section 69. **Retrospective operation.**

4745 (1) The amendments in this bill to Section **31A-3-102** and Section **59-7-102** have  
 4746 retrospective operation for a taxable year beginning on or after January 1, 2017. **S→** [~~except that the~~  
 4747 ~~amendments to Subsections **31A-3-102(2)(b)** and **59-7-102(1)(g)** have retrospective operation~~  
 4748 ~~for a taxable year beginning on or after January 1, 2011]~~ ←**S** .

4749 (2) The amendments in this bill to Section **59-9-101** have retrospective operation to  
 4750 January 1, 2017.