

- 26 ▶ addresses substitute coverage provided by the guaranty association for an indexed
27 policy or contract;
- 28 ▶ removes the \$300 limit on Class A assessments;
- 29 ▶ provides that assessments for a long-term care insurer insolvency be shared with a
30 split of:
- 31 • 25% to accident and health member insurers; and
- 32 • 75% to the life insurance and annuity member insurers;
- 33 ▶ exempts a health maintenance organization from liability or assessment for a
34 long-term care insurer that becomes impaired or insolvent before ~~§→ [July 1, 2020]~~ January 1,
34a 2021 ←§ ;
- 35 ▶ provides for the recoupment of assessments; and
- 36 ▶ makes technical and conforming changes.

37 Money Appropriated in this Bill:

38 None

39 Other Special Clauses:

40 ~~§→ [None]~~ This bill provides a special effective date. ←§

41 Utah Code Sections Affected:

42 AMENDS:

- 43 **31A-8-103**, as last amended by Laws of Utah 2017, Chapter 292
- 44 **31A-27a-403**, as enacted by Laws of Utah 2007, Chapter 309
- 45 **31A-27a-701**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 46 **31A-27a-702**, as enacted by Laws of Utah 2007, Chapter 309
- 47 **31A-28-102**, as last amended by Laws of Utah 2001, Chapters 116 and 161
- 48 **31A-28-103**, as last amended by Laws of Utah 2010, Chapter 292
- 49 **31A-28-105**, as last amended by Laws of Utah 2010, Chapter 292
- 50 **31A-28-106**, as last amended by Laws of Utah 2006, Chapter 320
- 51 **31A-28-107**, as last amended by Laws of Utah 2011, Chapter 284
- 52 **31A-28-108**, as last amended by Laws of Utah 2010, Chapter 292
- 53 **31A-28-109**, as last amended by Laws of Utah 2010, Chapter 292
- 54 **31A-28-111**, as last amended by Laws of Utah 2010, Chapter 292
- 55 **31A-28-112**, as last amended by Laws of Utah 2010, Chapter 292
- 56 **31A-28-113**, as last amended by Laws of Utah 2011, Chapter 342

1452 class; and

1453 (B) among the subclasses of the life insurance and annuity class.

1454 (ii) An allocation of a Class B assessment under Subsection (3)(b)(i) shall be made
 1455 pursuant to an allocation formula that may be based on:

1456 [(†)] (A) the premiums or reserves of the impaired or insolvent insurer; or

1457 [(††)] (B) any other standard determined by the board of directors in the board of
 1458 directors' sole discretion as being fair and reasonable under the circumstances.

1459 (c) (i) For a Class B assessment for the long-term care insurance written by an impaired
 1460 or insolvent insurer, the association:

1461 (A) shall, except as prohibited in Subsection (3)(c)(i)(B), allocate the amount of the
 1462 Class B assessment according to a methodology that provides for 25% of the assessment to be
 1463 allocated to accident and health member insurers and 75% of the assessment to be allocated to
 1464 life insurance and annuity member insurers;

1465 (B) may not impose liability on a member insurer that is a health maintenance
 1466 organization for an assessment with a coverage date before ~~§~~ → [July 1, 2020] January 1,
 1466a 2021 ← ~~§~~ ;

1467 (C) may not consider the premiums from a health maintenance organization contract
 1468 when calculating the share of an assessment with a coverage date before ~~§~~ → [July 1, 2020]
 1468a January 1, 2021 ← ~~§~~ , allocated
 1469 to accident and health member insurers; and

1470 (D) shall include the methodology described in Subsection (3)(c)(i)(A) in the plan of
 1471 operation established and approved under Section 31A-28-110.

1472 [(e)†] (ii) A Class B assessment against a member insurer for the life insurance
 1473 subclass, the annuity subclass, and the unallocated annuity subclass shall be in the proportion
 1474 that the premiums received on business in [this] the state by the member insurer on policies or
 1475 contracts included in the class or subclass for the three most recent calendar years for which
 1476 information is available preceding the year which includes the coverage date bears to the
 1477 premiums received on business in [this state for] the state during the same three-calendar-year
 1478 period by [the] all assessed member insurers on policies or contracts included in the class or
 1479 subclass.

1480 [(††) (iii) A Class B assessment against a member insurer for an accident and health
 1481 insurance [subclass] class shall be in the proportion that the premiums received on business in
 1482 [this] the state by each assessed member insurer on policies or contracts included in the

1824 (b) The commissioner shall by rule specify the form and content of the notice required
1825 by Subsection (4)(a).

1826 (5) A member insurer shall retain evidence of compliance with Subsection (2) for the
1827 later of:

1828 (a) three years; or

1829 (b) until the conclusion of the next market conduct examination by the department of
1830 insurance where the member insurer is domiciled.

1831 Section 17. Section **31A-28-120** is amended to read:

1832 **31A-28-120. Prospective application.**

1833 Notwithstanding any prior or subsequent law, the provisions of this part that are in
1834 effect on the date on which the association first becomes obligated for the policies or contracts
1835 of an insolvent or impaired [~~member~~] insurer govern the association's rights and obligations to
1836 the [~~policyowners~~] policy owners, contract owners, certificate holders, and enrollees of the
1837 insolvent or impaired [~~member~~] insurer.

1838 Section 18. Section **59-7-623** is enacted to read:

1839 **59-7-623. Nonrefundable guaranty association assessment tax credit.**

1840 (1) As used in this section:

1841 (a) "Guaranty association assessment" means the amount of any assessments paid by a
1842 qualified insurer under the guaranty association established under Title 31A, Chapter 28, Part
1843 1, Utah Life and Health Insurance Guaranty Association Act, in the manner provided by
1844 Section [31A-28-113](#).

1845 (b) "Qualified insurer" means an insurer, as defined in Section [31A-1-301](#), that is not
1846 subject to the premium tax on health care insurance under Section [59-9-101](#).

1847 (2) For a taxable year beginning on or after January 1, 2019, a qualified insurer may
1848 claim a nonrefundable tax credit equal to 20% of the assessment for each of the five years
1849 following the year the qualified insurer pays a guaranty association assessment, in accordance
1850 with Section [31A-28-113](#).

1851 (3) (a) A qualified insurer may carry forward the portion of the tax credit that exceeds
1852 the qualified insurer's tax liability for the taxable year in accordance with Section [31A-28-113](#).

1853 (b) A qualified insurer may not carry back the portion of the tax credit that exceeds the
1854 qualified insurer's tax liability for the taxable year.

1854a **§→ Section 19. Effective date.**

1854b **This bill takes effect on January 1, 2019. ←§**