

**DEPARTMENT OF INSURANCE AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

**General Description:**

This bill modifies provisions of the Insurance Code.

**Highlighted Provisions:**

This bill:

- ▶ defines terms and modifies defined terms;
- ▶ addresses the requirements for filing a binder for a health benefit plan or dental policy with the commissioner;
- ▶ modifies the date on which the commissioner presents an annual evaluation of the state's health insurance market;
- ▶ classifies certain records related to an examination as protected records;
- ▶ modifies the requirements for an unauthorized insurer to be listed on the commissioner's "reliable" list;
- ▶ provides the circumstances under which the commissioner must hold a hearing on a merger or other acquisition of an insurer;
- ▶ amends the deadline for holding a hearing on a merger or other acquisition of an insurer;
- ▶ allows an insurer to terminate coverage of a spouse of an insured under an accident and health insurance policy in the event of legal separation;



- 28           ▶ prohibits an insured from charging any additional amount for electing to extend
- 29 group coverage;
- 30           ▶ addresses the timing of open enrollment for individuals who extend or are eligible
- 31 to extend group coverage;
- 32           ▶ provides that the commissioner may take action against a licensee if the
- 33 commissioner finds that the licensee is convicted of a misdemeanor involving fraud,
- 34 misrepresentation, theft, or dishonesty;
- 35           ▶ modifies the training and continuing education requirements for certain licensees;
- 36           ▶ amends provisions related to the effect of an insurer's insolvency;
- 37           ▶ clarifies the process by which the state designates the essential health benefits for
- 38 the state;
- 39           ▶ repeals certain sections of the Insurance Code; and
- 40           ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42           None

43 **Other Special Clauses:**

44           None

45 **Utah Code Sections Affected:**

46 AMENDS:

- 47           **31A-1-301**, as last amended by Laws of Utah 2017, Chapter 292
- 48           **31A-2-201.1**, as last amended by Laws of Utah 2008, Chapter 382
- 49           **31A-2-201.2**, as last amended by Laws of Utah 2017, Chapter 292
- 50           **31A-2-204**, as last amended by Laws of Utah 2008, Chapter 382
- 51           **31A-3-303**, as last amended by Laws of Utah 2011, Chapters 62 and 275
- 52           **31A-8a-102**, as last amended by Laws of Utah 2013, Chapters 104 and 135
- 53           **31A-15-103**, as last amended by Laws of Utah 2017, Chapter 363
- 54           **31A-16-103**, as last amended by Laws of Utah 2015, Chapter 244
- 55           **31A-22-612**, as last amended by Laws of Utah 2015, Chapter 244
- 56           **31A-22-618.6**, as last amended by Laws of Utah 2017, Chapter 168 and renumbered
- 57 and amended by Laws of Utah 2017, Chapter 292
- 58           **31A-22-629**, as last amended by Laws of Utah 2012, Chapter 253

- 59            **31A-22-701**, as last amended by Laws of Utah 2017, Chapter 168
- 60            **31A-22-722**, as last amended by Laws of Utah 2013, Chapter 319
- 61            **31A-23a-107**, as last amended by Laws of Utah 2012, Chapter 253
- 62            **31A-23a-109**, as last amended by Laws of Utah 2012, Chapter 253
- 63            **31A-23a-111**, as last amended by Laws of Utah 2017, Chapter 168
- 64            **31A-23a-208**, as enacted by Laws of Utah 2013, Chapter 341
- 65            **31A-23b-102**, as last amended by Laws of Utah 2017, Chapter 168
- 66            **31A-23b-202.5**, as last amended by Laws of Utah 2017, Chapter 168
- 67            **31A-23b-204**, as enacted by Laws of Utah 2013, Chapter 341
- 68            **31A-23b-205**, as last amended by Laws of Utah 2014, Chapters 290, 300, 425 and last
- 69 amended by Coordination Clause, Laws of Utah 2014, Chapters 300, and 425
- 70            **31A-23b-206**, as last amended by Laws of Utah 2015, Chapter 244
- 71            **31A-25-204**, as enacted by Laws of Utah 1985, Chapter 242
- 72            **31A-25-206**, as last amended by Laws of Utah 2001, Chapter 116
- 73            **31A-26-102**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 74            **31A-26-205**, as last amended by Laws of Utah 1986, Chapter 204
- 75            **31A-26-208**, as last amended by Laws of Utah 2011, Chapter 284
- 76            **31A-27a-111**, as enacted by Laws of Utah 2007, Chapter 309
- 77            **31A-27a-608**, as enacted by Laws of Utah 2007, Chapter 309
- 78            **31A-43-303**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 79            **63G-2-305**, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

80 ENACTS:

- 81            **31A-45-403**, Utah Code Annotated 1953

82 REPEALS:

- 83            **31A-22-722.5**, as last amended by Laws of Utah 2011, Chapters 297 and 340
- 84            **31A-30-209**, as last amended by Laws of Utah 2016, Chapter 138



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

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

88            **31A-1-301. Definitions.**

89            As used in this title, unless otherwise specified:

90 (1) (a) "Accident and health insurance" means insurance to provide protection against  
91 economic losses resulting from:

92 (i) a medical condition including:

93 (A) a medical care expense; or

94 (B) the risk of disability;

95 (ii) accident; or

96 (iii) sickness.

97 (b) "Accident and health insurance":

98 (i) includes a contract with disability contingencies including:

99 (A) an income replacement contract;

100 (B) a health care contract;

101 (C) an expense reimbursement contract;

102 (D) a credit accident and health contract;

103 (E) a continuing care contract; and

104 (F) a long-term care contract; and

105 (ii) may provide:

106 (A) hospital coverage;

107 (B) surgical coverage;

108 (C) medical coverage;

109 (D) loss of income coverage;

110 (E) prescription drug coverage;

111 (F) dental coverage; or

112 (G) vision coverage.

113 (c) "Accident and health insurance" does not include workers' compensation insurance.

114 (d) For purposes of a national licensing registry, "accident and health insurance" is the  
115 same as "accident and health or sickness insurance."

116 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title  
117 63G, Chapter 3, Utah Administrative Rulemaking Act.

118 (3) "Administrator" means the same as that term is defined in Subsection [(+70)] (171).

119 (4) "Adult" means an individual who has attained the age of at least 18 years.

120 (5) "Affiliate" means a person who controls, is controlled by, or is under common

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

123 (6) "Agency" means:

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

126 (b) an insurance organization licensed or required to be licensed under Section  
127 [31A-23a-301](#), [31A-25-207](#), or [31A-26-209](#).

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

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

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

134 (10) "Application" means a document:

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

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

139 (A) insure the risk under:

140 (I) the coverage as originally offered; or

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

142 (B) decline to insure the risk; or

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

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

146 (a) the original articles;

147 (b) a special law;

148 (c) a charter;

149 (d) an amendment;

150 (e) restated articles;

151 (f) articles of merger or consolidation;

- 152 (g) a trust instrument;
- 153 (h) another constitutive document for a trust or other entity that is not a corporation;
- 154 and
- 155 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 156 (12) "Bail bond insurance" means a guarantee that a person will attend court when
- 157 required, up to and including surrender of the person in execution of a sentence imposed under
- 158 Subsection [77-20-7\(1\)](#), as a condition to the release of that person from confinement.
- 159 (13) "Binder" means the same as that term is defined in Section [31A-21-102](#).
- 160 (14) "Blanket insurance policy" means a group policy covering a defined class of
- 161 persons:
- 162 (a) without individual underwriting or application; and
- 163 (b) that is determined by definition without designating each person covered.
- 164 (15) "Board," "board of trustees," or "board of directors" means the group of persons
- 165 with responsibility over, or management of, a corporation, however designated.
- 166 (16) "Bona fide office" means a physical office in this state:
- 167 (a) that is open to the public;
- 168 (b) that is staffed during regular business hours on regular business days; and
- 169 (c) at which the public may appear in person to obtain services.
- 170 (17) "Business entity" means:
- 171 (a) a corporation;
- 172 (b) an association;
- 173 (c) a partnership;
- 174 (d) a limited liability company;
- 175 (e) a limited liability partnership; or
- 176 (f) another legal entity.
- 177 (18) "Business of insurance" means the same as that term is defined in Subsection
- 178 [~~(91)~~] [\(92\)](#).
- 179 (19) "Business plan" means the information required to be supplied to the
- 180 commissioner under Subsections [31A-5-204\(2\)\(i\)](#) and (j), including the information required
- 181 when these subsections apply by reference under:
- 182 (a) Section [31A-7-201](#);

- 183 (b) Section 31A-8-205; or  
184 (c) Subsection 31A-9-205(2).
- 185 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a  
186 corporation's affairs, however designated.
- 187 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a  
188 corporation.
- 189 (21) "Captive insurance company" means:
- 190 (a) an insurer:
- 191 (i) owned by another organization; and  
192 (ii) whose exclusive purpose is to insure risks of the parent organization and an  
193 affiliated company; or
- 194 (b) in the case of a group or association, an insurer:
- 195 (i) owned by the insureds; and  
196 (ii) whose exclusive purpose is to insure risks of:
- 197 (A) a member organization;  
198 (B) a group member; or  
199 (C) an affiliate of:
- 200 (I) a member organization; or  
201 (II) a group member.
- 202 (22) "Casualty insurance" means liability insurance.
- 203 (23) "Certificate" means evidence of insurance given to:
- 204 (a) an insured under a group insurance policy; or  
205 (b) a third party.
- 206 (24) "Certificate of authority" is included within the term "license."
- 207 (25) "Claim," unless the context otherwise requires, means a request or demand on an  
208 insurer for payment of a benefit according to the terms of an insurance policy.
- 209 (26) "Claims-made coverage" means an insurance contract or provision limiting  
210 coverage under a policy insuring against legal liability to claims that are first made against the  
211 insured while the policy is in force.
- 212 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance  
213 commissioner.

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

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

217 (i) provides board and lodging;

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

219 (A) a personal service;

220 (B) a nursing service;

221 (C) a medical service; or

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

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

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

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

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

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

232 (i) by contract;

233 (ii) by common management;

234 (iii) through the ownership of voting securities; or

235 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

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

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

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

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

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

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

250 (33) (a) "Corporation" means an insurance corporation, except when referring to:

251 (i) a corporation doing business:

252 (A) as:

253 (I) an insurance producer;

254 (II) a surplus lines producer;

255 (III) a limited line producer;

256 (IV) a consultant;

257 (V) a managing general agent;

258 (VI) a reinsurance intermediary;

259 (VII) a third party administrator; or

260 (VIII) an adjuster; and

261 (B) under:

262 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

263 Reinsurance Intermediaries;

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

265 (III) Chapter 26, Insurance Adjusters; or

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

267 Holding Companies.

268 (b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

269 (c) "Stock corporation" means a stock insurance corporation.

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

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

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

273 such as:

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

275 demonstration waiver obtained subject to Section [26-18-3](#);

276 (ii) the Children's Health Insurance Program under Section 26-40-106; or  
277 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.  
278 No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No.  
279 109-415.

280 (35) "Credit accident and health insurance" means insurance on a debtor to provide  
281 indemnity for payments coming due on a specific loan or other credit transaction while the  
282 debtor has a disability.

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

285 (b) "Credit insurance" includes:

- 286 (i) credit accident and health insurance;
- 287 (ii) credit life insurance;
- 288 (iii) credit property insurance;
- 289 (iv) credit unemployment insurance;
- 290 (v) guaranteed automobile protection insurance;
- 291 (vi) involuntary unemployment insurance;
- 292 (vii) mortgage accident and health insurance;
- 293 (viii) mortgage guaranty insurance; and
- 294 (ix) mortgage life insurance.

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

297 (38) "Creditor" means a person, including an insured, having a claim, whether:

- 298 (a) matured;
- 299 (b) unmatured;
- 300 (c) liquidated;
- 301 (d) unliquidated;
- 302 (e) secured;
- 303 (f) unsecured;
- 304 (g) absolute;
- 305 (h) fixed; or
- 306 (i) contingent.

- 307 (39) "Credit property insurance" means insurance:
- 308 (a) offered in connection with an extension of credit; and
- 309 (b) that protects the property until the debt is paid.
- 310 (40) "Credit unemployment insurance" means insurance:
- 311 (a) offered in connection with an extension of credit; and
- 312 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
- 313 (i) specific loan; or
- 314 (ii) credit transaction.
- 315 (41) (a) "Crop insurance" means insurance providing protection against damage to
- 316 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,
- 317 disease, or other yield-reducing conditions or perils that is:
- 318 (i) provided by the private insurance market; or
- 319 (ii) subsidized by the Federal Crop Insurance Corporation.
- 320 (b) "Crop insurance" includes multiperil crop insurance.
- 321 (42) (a) "Customer service representative" means a person that provides an insurance
- 322 service and insurance product information:
- 323 (i) for the customer service representative's:
- 324 (A) producer;
- 325 (B) surplus lines producer; or
- 326 (C) consultant employer; and
- 327 (ii) to the customer service representative's employer's:
- 328 (A) customer;
- 329 (B) client; or
- 330 (C) organization.
- 331 (b) A customer service representative may only operate within the scope of authority of
- 332 the customer service representative's producer, surplus lines producer, or consultant employer.
- 333 (43) "Deadline" means a final date or time:
- 334 (a) imposed by:
- 335 (i) statute;
- 336 (ii) rule; or
- 337 (iii) order; and

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

339 (44) "Deemer clause" means a provision under this title under which upon the  
340 occurrence of a condition precedent, the commissioner is considered to have taken a specific  
341 action. If the statute so provides, a condition precedent may be the commissioner's failure to  
342 take a specific action.

343 (45) "Degree of relationship" means the number of steps between two persons  
344 determined by counting the generations separating one person from a common ancestor and  
345 then counting the generations to the other person.

346 (46) "Department" means the Insurance Department.

347 (47) "Director" means a member of the board of directors of a corporation.

348 (48) "Disability" means a physiological or psychological condition that partially or  
349 totally limits an individual's ability to:

350 (a) perform the duties of:

351 (i) that individual's occupation; or

352 (ii) an occupation for which the individual is reasonably suited by education, training,  
353 or experience; or

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

355 (i) eating;

356 (ii) toileting;

357 (iii) transferring;

358 (iv) bathing; or

359 (v) dressing.

360 (49) "Disability income insurance" means the same as that term is defined in  
361 Subsection [~~82~~] (83).

362 (50) "Domestic insurer" means an insurer organized under the laws of this state.

363 (51) "Domiciliary state" means the state in which an insurer:

364 (a) is incorporated;

365 (b) is organized; or

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

367 (52) (a) "Eligible employee" means:

368 (i) an employee who:

- 369 (A) works on a full-time basis; and
- 370 (B) has a normal work week of 30 or more hours; or
- 371 (ii) a person described in Subsection (52)(b).
- 372 (b) "Eligible employee" includes:
- 373 (i) an owner who:
- 374 (A) works on a full-time basis; and
- 375 (B) has a normal work week of 30 or more hours; and
- 376 (ii) if the individual is included under a health benefit plan of a small employer:
- 377 (A) a sole proprietor;
- 378 (B) a partner in a partnership; or
- 379 (C) an independent contractor.
- 380 (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
- 381 (i) an individual who works on a temporary or substitute basis for a small employer;
- 382 (ii) an employer's spouse who does not meet the requirements of Subsection (52)(a)(i);
- 383 or
- 384 (iii) a dependent of an employer who does not meet the requirements of Subsection
- 385 (52)(a)(i).
- 386 (53) "Employee" means:
- 387 (a) an individual employed by an employer; and
- 388 (b) an owner who meets the requirements of Subsection (52)(b)(i).
- 389 (54) "Employee benefits" means one or more benefits or services provided to:
- 390 (a) an employee; or
- 391 (b) a dependent of an employee.
- 392 (55) (a) "Employee welfare fund" means a fund:
- 393 (i) established or maintained, whether directly or through a trustee, by:
- 394 (A) one or more employers;
- 395 (B) one or more labor organizations; or
- 396 (C) a combination of employers and labor organizations; and
- 397 (ii) that provides employee benefits paid or contracted to be paid, other than income
- 398 from investments of the fund:
- 399 (A) by or on behalf of an employer doing business in this state; or

- 400 (B) for the benefit of a person employed in this state.
- 401 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
- 402 revenues.
- 403 (56) "Endorsement" means a written agreement attached to a policy or certificate to
- 404 modify the policy or certificate coverage.
- 405 (57) (a) "Enrollee" means:
- 406 (i) a policyholder;
- 407 (ii) a certificate holder;
- 408 (iii) a subscriber; or
- 409 (iv) a covered individual:
- 410 (A) who has entered into a contract with an organization for health care; or
- 411 (B) on whose behalf an arrangement for health care has been made.
- 412 (b) "Enrollee" includes an insured.
- 413 (58) "Enrollment date," with respect to a health benefit plan, means:
- 414 (a) the first day of coverage; or
- 415 (b) if there is a waiting period, the first day of the waiting period.
- 416 (59) "Enterprise risk" means an activity, circumstance, event, or series of events
- 417 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a
- 418 material adverse effect upon the financial condition or liquidity of the insurer or its insurance
- 419 holding company system as a whole, including anything that would cause:
- 420 (a) the insurer's risk-based capital to fall into an action or control level as set forth in
- 421 Sections [31A-17-601](#) through [31A-17-613](#); or
- 422 (b) the insurer to be in hazardous financial condition set forth in Section [31A-27a-101](#).
- 423 (60) (a) "Escrow" means:
- 424 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,
- 425 when a person not a party to the transaction, and neither having nor acquiring an interest in the
- 426 title, performs, in accordance with the written instructions or terms of the written agreement
- 427 between the parties to the transaction, any of the following actions:
- 428 (A) the explanation, holding, or creation of a document; or
- 429 (B) the receipt, deposit, and disbursement of money;
- 430 (ii) a settlement or closing involving:

- 431 (A) a mobile home;
- 432 (B) a grazing right;
- 433 (C) a water right; or
- 434 (D) other personal property authorized by the commissioner.
- 435 (b) "Escrow" does not include:
- 436 (i) the following notarial acts performed by a notary within the state:
- 437 (A) an acknowledgment;
- 438 (B) a copy certification;
- 439 (C) jurat; and
- 440 (D) an oath or affirmation;
- 441 (ii) the receipt or delivery of a document; or
- 442 (iii) the receipt of money for delivery to the escrow agent.
- 443 (61) "Escrow agent" means an agency title insurance producer meeting the
- 444 requirements of Sections [31A-4-107](#), [31A-14-211](#), and [31A-23a-204](#), who is acting through an
- 445 individual title insurance producer licensed with an escrow subline of authority.
- 446 (62) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
- 447 excluded.
- 448 (b) The items listed in a list using the term "excludes" are representative examples for
- 449 use in interpretation of this title.
- 450 (63) "Exclusion" means for the purposes of accident and health insurance that an
- 451 insurer does not provide insurance coverage, for whatever reason, for one of the following:
- 452 (a) a specific physical condition;
- 453 (b) a specific medical procedure;
- 454 (c) a specific disease or disorder; or
- 455 (d) a specific prescription drug or class of prescription drugs.
- 456 (64) "Expense reimbursement insurance" means insurance:
- 457 (a) written to provide a payment for an expense relating to hospital confinement
- 458 resulting from illness or injury; and
- 459 (b) written:
- 460 (i) as a daily limit for a specific number of days in a hospital; and
- 461 (ii) to have a one or two day waiting period following a hospitalization.

462 (65) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding  
463 a position of public or private trust.

464 (66) (a) "Filed" means that a filing is:

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

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

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

470 (A) Section [31A-3-103](#); or

471 (B) rule.

472 (b) "Filed" does not include a filing that is rejected by the department because it is not  
473 submitted in accordance with Subsection (66)(a).

474 (67) "Filing," when used as a noun, means an item required to be filed with the  
475 department including:

476 (a) a policy;

477 (b) a rate;

478 (c) a form;

479 (d) a document;

480 (e) a plan;

481 (f) a manual;

482 (g) an application;

483 (h) a report;

484 (i) a certificate;

485 (j) an endorsement;

486 (k) an actuarial certification;

487 (l) a licensee annual statement;

488 (m) a licensee renewal application;

489 (n) an advertisement;

490 (o) a binder; or

491 (p) an outline of coverage.

492 (68) "First party insurance" means an insurance policy or contract in which the insurer

493 agrees to pay a claim submitted to it by the insured for the insured's losses.

494 (69) "Foreign insurer" means an insurer domiciled outside of this state, including an  
495 alien insurer.

496 (70) (a) "Form" means one of the following prepared for general use:

497 (i) a policy;

498 (ii) a certificate;

499 (iii) an application;

500 (iv) an outline of coverage; or

501 (v) an endorsement.

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

504 (71) "Franchise insurance" means an individual insurance policy provided through a  
505 mass marketing arrangement involving a defined class of persons related in some way other  
506 than through the purchase of insurance.

507 (72) "General lines of authority" include:

508 (a) the general lines of insurance in Subsection (73);

509 (b) title insurance under one of the following sublines of authority:

510 (i) title examination, including authority to act as a title marketing representative;

511 (ii) escrow, including authority to act as a title marketing representative; and

512 (iii) title marketing representative only;

513 (c) surplus lines;

514 (d) workers' compensation; and

515 (e) another line of insurance that the commissioner considers necessary to recognize in  
516 the public interest.

517 (73) "General lines of insurance" include:

518 (a) accident and health;

519 (b) casualty;

520 (c) life;

521 (d) personal lines;

522 (e) property; and

523 (f) variable contracts, including variable life and annuity.

524 (74) "Group health plan" means an employee welfare benefit plan to the extent that the  
525 plan provides medical care:

- 526 (a) (i) to an employee; or
- 527 (ii) to a dependent of an employee; and
- 528 (b) (i) directly;
- 529 (ii) through insurance reimbursement; or
- 530 (iii) through another method.

531 (75) (a) "Group insurance policy" means a policy covering a group of persons that is  
532 issued:

- 533 (i) to a policyholder on behalf of the group; and
- 534 (ii) for the benefit of a member of the group who is selected under a procedure defined  
535 in:
  - 536 (A) the policy; or
  - 537 (B) an agreement that is collateral to the policy.

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

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

543 (77) (a) "Health benefit plan" means, except as provided in Subsection (77)(b), a  
544 policy, contract, certificate, or agreement offered or issued by a health carrier to provide,  
545 deliver, arrange for, pay for, or reimburse any of the costs of health care.

546 (b) "Health benefit plan" does not include:

- 547 (i) coverage only for accident or disability income insurance, or any combination  
548 thereof;
- 549 (ii) coverage issued as a supplement to liability insurance;
- 550 (iii) liability insurance, including general liability insurance and automobile liability  
551 insurance;
- 552 (iv) workers' compensation or similar insurance;
- 553 (v) automobile medical payment insurance;
- 554 (vi) credit-only insurance;

- 555 (vii) coverage for on-site medical clinics;
- 556 (viii) other similar insurance coverage, specified in federal regulations issued pursuant  
557 to Pub. L. No. 104-191, under which benefits for health care services are secondary or  
558 incidental to other insurance benefits;
- 559 (ix) the following benefits if they are provided under a separate policy, certificate, or  
560 contract of insurance or are otherwise not an integral part of the plan:
- 561 (A) limited scope dental or vision benefits;
- 562 (B) benefits for long-term care, nursing home care, home health care,  
563 community-based care, or any combination thereof; or
- 564 (C) other similar limited benefits, specified in federal regulations issued pursuant to  
565 Pub. L. No. 104-191;
- 566 (x) the following benefits if the benefits are provided under a separate policy,  
567 certificate, or contract of insurance, there is no coordination between the provision of benefits  
568 and any exclusion of benefits under any health plan, and the benefits are paid with respect to an  
569 event without regard to whether benefits are provided under any health plan:
- 570 (A) coverage only for specified disease or illness; or
- 571 (B) hospital indemnity or other fixed indemnity insurance; and
- 572 (xi) the following if offered as a separate policy, certificate, or contract of insurance:
- 573 (A) Medicare supplemental health insurance as defined under the Social Security Act,  
574 42 U.S.C. Sec. 1395ss(g)(1);
- 575 (B) coverage supplemental to the coverage provided under United States Code, Title  
576 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services  
577 (CHAMPUS); or
- 578 (C) similar supplemental coverage provided to coverage under a group health insurance  
579 plan.
- 580 (78) "Health care" means any of the following intended for use in the diagnosis,  
581 treatment, mitigation, or prevention of a human ailment or impairment:
- 582 (a) a professional service;
- 583 (b) a personal service;
- 584 (c) a facility;
- 585 (d) equipment;

586 (e) a device;  
587 (f) supplies; or  
588 (g) medicine.  
589 (79) (a) "Health care insurance" or "health insurance" means insurance providing:  
590 (i) a health care benefit; or  
591 (ii) payment of an incurred health care expense.  
592 (b) "Health care insurance" or "health insurance" does not include accident and health  
593 insurance providing a benefit for:  
594 (i) replacement of income;  
595 (ii) short-term accident;  
596 (iii) fixed indemnity;  
597 (iv) credit accident and health;  
598 (v) supplements to liability;  
599 (vi) workers' compensation;  
600 (vii) automobile medical payment;  
601 (viii) no-fault automobile;  
602 (ix) equivalent self-insurance; or  
603 (x) a type of accident and health insurance coverage that is a part of or attached to  
604 another type of policy.  
605 (80) "Health care provider" means the same as that term is defined in Section  
606 [78B-3-403](#).  
607 (81) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec.  
608 155.20.  
609 [~~81~~] (82) "Health Insurance Portability and Accountability Act" means the Health  
610 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as  
611 amended.  
612 [~~82~~] (83) "Income replacement insurance" or "disability income insurance" means  
613 insurance written to provide payments to replace income lost from accident or sickness.  
614 [~~83~~] (84) "Indemnity" means the payment of an amount to offset all or part of an  
615 insured loss.  
616 [~~84~~] (85) "Independent adjuster" means an insurance adjuster required to be licensed

617 under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

618 ~~[(85)]~~ (86) "Independently procured insurance" means insurance procured under  
619 Section 31A-15-104.

620 ~~[(86)]~~ (87) "Individual" means a natural person.

621 ~~[(87)]~~ (88) "Inland marine insurance" includes insurance covering:

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

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

624 (c) bailee liability;

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

627 (e) personal and commercial property floaters.

628 ~~[(88)]~~ (89) "Insolvency" or "insolvent" means that:

629 (a) an insurer is unable to pay ~~[its debts or meet its obligations as the debts and~~  
630 ~~obligations mature]~~ the insurer's obligations as the obligations are due;

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

633 (c) an ~~[insurer is determined to be hazardous under this title]~~ insurer's admitted assets  
634 are less than the insurer's liabilities.

635 ~~[(89)]~~ (90) (a) "Insurance" means:

636 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more  
637 persons to one or more other persons; or

638 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a  
639 group of persons that includes the person seeking to distribute that person's risk.

640 (b) "Insurance" includes:

641 (i) a risk distributing arrangement providing for compensation or replacement for  
642 damages or loss through the provision of a service or a benefit in kind;

643 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a  
644 business and not as merely incidental to a business transaction; and

645 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,  
646 but with a class of persons who have agreed to share the risk.

647 ~~[(90)]~~ (91) "Insurance adjuster" means a person who directs or conducts the

648 investigation, negotiation, or settlement of a claim under an insurance policy other than life  
649 insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance  
650 policy.

651 [~~(91)~~] (92) "Insurance business" or "business of insurance" includes:

652 (a) providing health care insurance by an organization that is or is required to be  
653 licensed under this title;

654 (b) providing a benefit to an employee in the event of a contingency not within the  
655 control of the employee, in which the employee is entitled to the benefit as a right, which  
656 benefit may be provided either:

657 (i) by a single employer or by multiple employer groups; or

658 (ii) through one or more trusts, associations, or other entities;

659 (c) providing an annuity:

660 (i) including an annuity issued in return for a gift; and

661 (ii) except an annuity provided by a person specified in Subsections [31A-22-1305\(2\)](#)

662 and (3);

663 (d) providing the characteristic services of a motor club as outlined in Subsection

664 [~~(120)~~] (121);

665 (e) providing another person with insurance;

666 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,  
667 or surety, a contract or policy of title insurance;

668 (g) transacting or proposing to transact any phase of title insurance, including:

669 (i) solicitation;

670 (ii) negotiation preliminary to execution;

671 (iii) execution of a contract of title insurance;

672 (iv) insuring; and

673 (v) transacting matters subsequent to the execution of the contract and arising out of  
674 the contract, including reinsurance;

675 (h) transacting or proposing a life settlement; and

676 (i) doing, or proposing to do, any business in substance equivalent to Subsections

677 [~~(91)~~] (92)(a) through (h) in a manner designed to evade this title.

678 [~~(92)~~] (93) "Insurance consultant" or "consultant" means a person who:

- 679 (a) advises another person about insurance needs and coverages;
- 680 (b) is compensated by the person advised on a basis not directly related to the insurance  
681 placed; and
- 682 (c) except as provided in Section [31A-23a-501](#), is not compensated directly or  
683 indirectly by an insurer or producer for advice given.
- 684 [~~93~~] [\(94\)](#) "Insurance holding company system" means a group of two or more  
685 affiliated persons, at least one of whom is an insurer.
- 686 [~~94~~] [\(95\)](#) (a) "Insurance producer" or "producer" means a person licensed or required  
687 to be licensed under the laws of this state to sell, solicit, or negotiate insurance.
- 688 (b) (i) "Producer for the insurer" means a producer who is compensated directly or  
689 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that  
690 insurer.
- 691 (ii) "Producer for the insurer" may be referred to as an "agent."
- 692 (c) (i) "Producer for the insured" means a producer who:
- 693 (A) is compensated directly and only by an insurance customer or an insured; and  
694 (B) receives no compensation directly or indirectly from an insurer for selling,  
695 soliciting, or negotiating an insurance product of that insurer to an insurance customer or  
696 insured.
- 697 (ii) "Producer for the insured" may be referred to as a "broker."
- 698 [~~95~~] [\(96\)](#) (a) "Insured" means a person to whom or for whose benefit an insurer  
699 makes a promise in an insurance policy and includes:
- 700 (i) a policyholder;
- 701 (ii) a subscriber;
- 702 (iii) a member; and
- 703 (iv) a beneficiary.
- 704 (b) The definition in Subsection [~~95~~] [\(96\)](#)(a):
- 705 (i) applies only to this title;
- 706 (ii) does not define the meaning of "insured" as used in an insurance policy or  
707 certificate; and
- 708 (iii) includes an enrollee.
- 709 [~~96~~] [\(97\)](#) (a) "Insurer" means a person doing an insurance business as a principal

710 including:

711 (i) a fraternal benefit society;

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

713 [31A-22-1305](#)(2) and (3);

714 (iii) a motor club;

715 (iv) an employee welfare plan;

716 (v) a person purporting or intending to do an insurance business as a principal on that

717 person's own account; and

718 (vi) a health maintenance organization.

719 (b) "Insurer" does not include a governmental entity to the extent the governmental

720 entity is engaged in an activity described in Section [31A-12-107](#).

721 [~~97~~] (98) "Interinsurance exchange" means the same as that term is defined in

722 Subsection [~~152~~] (153).

723 [~~98~~] (99) "Involuntary unemployment insurance" means insurance:

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

725 (b) that provides indemnity if the debtor is involuntarily unemployed for payments

726 coming due on a:

727 (i) specific loan; or

728 (ii) credit transaction.

729 [~~99~~] (100) (a) "Large employer," in connection with a health benefit plan, means an

730 employer who, with respect to a calendar year and to a plan year:

731 (i) employed an average of at least 51 employees on business days during the preceding

732 calendar year; and

733 (ii) employs at least one employee on the first day of the plan year.

734 (b) The number of employees shall be determined using the method set forth in 26

735 U.S.C. Sec. 4980H(c)(2).

736 [~~100~~] (101) "Late enrollee," with respect to an employer health benefit plan, means

737 an individual whose enrollment is a late enrollment.

738 [~~101~~] (102) "Late enrollment," with respect to an employer health benefit plan, means

739 enrollment of an individual other than:

740 (a) on the earliest date on which coverage can become effective for the individual

741 under the terms of the plan; or

742 (b) through special enrollment.

743 [~~(102)~~] (103) (a) Except for a retainer contract or legal assistance described in Section

744 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a

745 specified legal expense.

746 (b) "Legal expense insurance" includes an arrangement that creates a reasonable

747 expectation of an enforceable right.

748 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,

749 legal services incidental to other insurance coverage.

750 [~~(103)~~] (104) (a) "Liability insurance" means insurance against liability:

751 (i) for death, injury, or disability of a human being, or for damage to property,

752 exclusive of the coverages under:

753 (A) medical malpractice insurance;

754 (B) professional liability insurance; and

755 (C) workers' compensation insurance;

756 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the

757 insured who is injured, irrespective of legal liability of the insured, when issued with or

758 supplemental to insurance against legal liability for the death, injury, or disability of a human

759 being, exclusive of the coverages under:

760 (A) medical malpractice insurance;

761 (B) professional liability insurance; and

762 (C) workers' compensation insurance;

763 (iii) for loss or damage to property resulting from an accident to or explosion of a

764 boiler, pipe, pressure container, machinery, or apparatus;

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

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

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

768 (v) for other loss or damage properly the subject of insurance not within another kind

769 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

770 (b) "Liability insurance" includes:

771 (i) vehicle liability insurance;

772 (ii) residential dwelling liability insurance; and  
773 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,  
774 boiler, machinery, or apparatus of any kind when done in connection with insurance on the  
775 elevator, boiler, machinery, or apparatus.  
776 ~~[(104)]~~ (105) (a) "License" means authorization issued by the commissioner to engage  
777 in an activity that is part of or related to the insurance business.  
778 (b) "License" includes a certificate of authority issued to an insurer.  
779 ~~[(105)]~~ (106) (a) "Life insurance" means:  
780 (i) insurance on a human life; and  
781 (ii) insurance pertaining to or connected with human life.  
782 (b) The business of life insurance includes:  
783 (i) granting a death benefit;  
784 (ii) granting an annuity benefit;  
785 (iii) granting an endowment benefit;  
786 (iv) granting an additional benefit in the event of death by accident;  
787 (v) granting an additional benefit to safeguard the policy against lapse; and  
788 (vi) providing an optional method of settlement of proceeds.  
789 ~~[(106)]~~ (107) "Limited license" means a license that:  
790 (a) is issued for a specific product of insurance; and  
791 (b) limits an individual or agency to transact only for that product or insurance.  
792 ~~[(107)]~~ (108) "Limited line credit insurance" includes the following forms of  
793 insurance:  
794 (a) credit life;  
795 (b) credit accident and health;  
796 (c) credit property;  
797 (d) credit unemployment;  
798 (e) involuntary unemployment;  
799 (f) mortgage life;  
800 (g) mortgage guaranty;  
801 (h) mortgage accident and health;  
802 (i) guaranteed automobile protection; and

803 (j) another form of insurance offered in connection with an extension of credit that:  
804 (i) is limited to partially or wholly extinguishing the credit obligation; and  
805 (ii) the commissioner determines by rule should be designated as a form of limited line  
806 credit insurance.

807 [~~(108)~~] (109) "Limited line credit insurance producer" means a person who sells,  
808 solicits, or negotiates one or more forms of limited line credit insurance coverage to an  
809 individual through a master, corporate, group, or individual policy.

810 [~~(109)~~] (110) "Limited line insurance" includes:

- 811 (a) bail bond;
- 812 (b) limited line credit insurance;
- 813 (c) legal expense insurance;
- 814 (d) motor club insurance;
- 815 (e) car rental related insurance;
- 816 (f) travel insurance;
- 817 (g) crop insurance;
- 818 (h) self-service storage insurance;
- 819 (i) guaranteed asset protection waiver;
- 820 (j) portable electronics insurance; and
- 821 (k) another form of limited insurance that the commissioner determines by rule should  
822 be designated a form of limited line insurance.

823 [~~(110)~~] (111) "Limited lines authority" includes the lines of insurance listed in  
824 Subsection [~~(109)~~] (110).

825 [~~(111)~~] (112) "Limited lines producer" means a person who sells, solicits, or negotiates  
826 limited lines insurance.

827 [~~(112)~~] (113) (a) "Long-term care insurance" means an insurance policy or rider  
828 advertised, marketed, offered, or designated to provide coverage:

- 829 (i) in a setting other than an acute care unit of a hospital;
- 830 (ii) for not less than 12 consecutive months for a covered person on the basis of:
  - 831 (A) expenses incurred;
  - 832 (B) indemnity;
  - 833 (C) prepayment; or

- 834 (D) another method;
- 835 (iii) for one or more necessary or medically necessary services that are:
- 836 (A) diagnostic;
- 837 (B) preventative;
- 838 (C) therapeutic;
- 839 (D) rehabilitative;
- 840 (E) maintenance; or
- 841 (F) personal care; and
- 842 (iv) that may be issued by:
- 843 (A) an insurer;
- 844 (B) a fraternal benefit society;
- 845 (C) (I) a nonprofit health hospital; and
- 846 (II) a medical service corporation;
- 847 (D) a prepaid health plan;
- 848 (E) a health maintenance organization; or
- 849 (F) an entity similar to the entities described in Subsections [~~(112)~~] (113)(a)(iv)(A)
- 850 through (E) to the extent that the entity is otherwise authorized to issue life or health care
- 851 insurance.
- 852 (b) "Long-term care insurance" includes:
- 853 (i) any of the following that provide directly or supplement long-term care insurance:
- 854 (A) a group or individual annuity or rider; or
- 855 (B) a life insurance policy or rider;
- 856 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 857 (A) cognitive impairment; or
- 858 (B) functional capacity; or
- 859 (iii) a qualified long-term care insurance contract.
- 860 (c) "Long-term care insurance" does not include:
- 861 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 862 (ii) basic hospital expense coverage;
- 863 (iii) basic medical/surgical expense coverage;
- 864 (iv) hospital confinement indemnity coverage;

- 865 (v) major medical expense coverage;
- 866 (vi) income replacement or related asset-protection coverage;
- 867 (vii) accident only coverage;
- 868 (viii) coverage for a specified:
- 869 (A) disease; or
- 870 (B) accident;
- 871 (ix) limited benefit health coverage; or
- 872 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 873 lump sum payment:
- 874 (A) if the following are not conditioned on the receipt of long-term care:
- 875 (I) benefits; or
- 876 (II) eligibility; and
- 877 (B) the coverage is for one or more the following qualifying events:
- 878 (I) terminal illness;
- 879 (II) medical conditions requiring extraordinary medical intervention; or
- 880 (III) permanent institutional confinement.
- 881 [~~(113)~~] (114) "Managed care organization" means a person:
- 882 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
- 883 Organizations and Limited Health Plans; or
- 884 (b) (i) licensed under:
- 885 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 886 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 887 (C) Chapter 14, Foreign Insurers; and
- 888 (ii) that requires an enrollee to use, or offers incentives, including financial incentives,
- 889 for an enrollee to use, network providers.
- 890 [~~(114)~~] (115) "Medical malpractice insurance" means insurance against legal liability
- 891 incident to the practice and provision of a medical service other than the practice and provision
- 892 of a dental service.
- 893 [~~(115)~~] (116) "Member" means a person having membership rights in an insurance
- 894 corporation.
- 895 [~~(116)~~] (117) "Minimum capital" or "minimum required capital" means the capital that

896 must be constantly maintained by a stock insurance corporation as required by statute.

897 ~~[(117)]~~ (118) "Mortgage accident and health insurance" means insurance offered in  
898 connection with an extension of credit that provides indemnity for payments coming due on a  
899 mortgage while the debtor has a disability.

900 ~~[(118)]~~ (119) "Mortgage guaranty insurance" means surety insurance under which a  
901 mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

902 ~~[(119)]~~ (120) "Mortgage life insurance" means insurance on the life of a debtor in  
903 connection with an extension of credit that pays if the debtor dies.

904 ~~[(120)]~~ (121) "Motor club" means a person:

905 (a) licensed under:

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

907 (ii) Chapter 11, Motor Clubs; or

908 (iii) Chapter 14, Foreign Insurers; and

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

910 one or more:

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

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

913 (iii) (A) trip reimbursement;

914 (B) towing services;

915 (C) emergency road services;

916 (D) stolen automobile services;

917 (E) a combination of the services listed in Subsections ~~[(120)]~~ (121)(b)(iii)(A) through

918 (D); or

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

920 ~~[(121)]~~ (122) "Mutual" means a mutual insurance corporation.

921 ~~[(122)]~~ (123) "Network plan" means health care insurance:

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

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

926 ~~[(123)]~~ (124) "Network provider" means a health care provider who has an agreement

927 with a managed care organization to provide health care services to an enrollee with an  
928 expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly  
929 from the managed care organization.

930 ~~[(124)]~~ (125) "Nonparticipating" means a plan of insurance under which the insured is  
931 not entitled to receive a dividend representing a share of the surplus of the insurer.

932 ~~[(125)]~~ (126) "Ocean marine insurance" means insurance against loss of or damage to:

933 (a) ships or hulls of ships;

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

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

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

942 ~~[(126)]~~ (127) "Order" means an order of the commissioner.

943 ~~[(127)]~~ (128) "Outline of coverage" means a summary that explains an accident and  
944 health insurance policy.

945 ~~[(128)]~~ (129) "Participating" means a plan of insurance under which the insured is  
946 entitled to receive a dividend representing a share of the surplus of the insurer.

947 ~~[(129)]~~ (130) "Participation," as used in a health benefit plan, means a requirement  
948 relating to the minimum percentage of eligible employees that must be enrolled in relation to  
949 the total number of eligible employees of an employer reduced by each eligible employee who  
950 voluntarily declines coverage under the plan because the employee:

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

952 (b) receives:

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

955 (ii) another government health benefit.

956 ~~[(130)]~~ (131) "Person" includes:

957 (a) an individual;

- 958 (b) a partnership;
- 959 (c) a corporation;
- 960 (d) an incorporated or unincorporated association;
- 961 (e) a joint stock company;
- 962 (f) a trust;
- 963 (g) a limited liability company;
- 964 (h) a reciprocal;
- 965 (i) a syndicate; or
- 966 (j) another similar entity or combination of entities acting in concert.
- 967 [~~(131)~~] (132) "Personal lines insurance" means property and casualty insurance
- 968 coverage sold for primarily noncommercial purposes to:
  - 969 (a) an individual; or
  - 970 (b) a family.
- 971 [~~(132)~~] (133) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.
- 972 1002(16)(B).
- 973 [~~(133)~~] (134) "Plan year" means:
  - 974 (a) the year that is designated as the plan year in:
    - 975 (i) the plan document of a group health plan; or
    - 976 (ii) a summary plan description of a group health plan;
  - 977 (b) if the plan document or summary plan description does not designate a plan year or
  - 978 there is no plan document or summary plan description:
    - 979 (i) the year used to determine deductibles or limits;
    - 980 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
  - 981 or
    - 982 (iii) the employer's taxable year if:
      - 983 (A) the plan does not impose deductibles or limits on a yearly basis; and
      - 984 (B) (I) the plan is not insured; or
      - 985 (II) the insurance policy is not renewed on an annual basis; or
    - 986 (c) in a case not described in Subsection [~~(133)~~] (134)(a) or (b), the calendar year.
  - 987 [~~(134)~~] (135) (a) "Policy" means a document, including an attached endorsement or
  - 988 application that:

- 989 (i) purports to be an enforceable contract; and  
990 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 991 (b) "Policy" includes a service contract issued by:  
992 (i) a motor club under Chapter 11, Motor Clubs;  
993 (ii) a service contract provided under Chapter 6a, Service Contracts; and  
994 (iii) a corporation licensed under:  
995 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or  
996 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 997 (c) "Policy" does not include:  
998 (i) a certificate under a group insurance contract; or  
999 (ii) a document that does not purport to have legal effect.
- 1000 ~~[(135)]~~ (136) "Policyholder" means a person who controls a policy, binder, or oral  
1001 contract by ownership, premium payment, or otherwise.
- 1002 ~~[(136)]~~ (137) "Policy illustration" means a presentation or depiction that includes  
1003 nonguaranteed elements of a policy of life insurance over a period of years.
- 1004 ~~[(137)]~~ (138) "Policy summary" means a synopsis describing the elements of a life  
1005 insurance policy.
- 1006 ~~[(138)]~~ (139) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L.  
1007 No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152,  
1008 and related federal regulations and guidance.
- 1009 ~~[(139)]~~ (140) "Preexisting condition," with respect to ~~[a health benefit plan]~~ health care  
1010 insurance:  
1011 (a) means a condition that was present before the effective date of coverage, whether or  
1012 not medical advice, diagnosis, care, or treatment was recommended or received before that day;  
1013 and  
1014 (b) does not include a condition indicated by genetic information unless an actual  
1015 diagnosis of the condition by a physician has been made.
- 1016 ~~[(140)]~~ (141) (a) "Premium" means the monetary consideration for an insurance policy.  
1017 (b) "Premium" includes, however designated:  
1018 (i) an assessment;  
1019 (ii) a membership fee;

1020 (iii) a required contribution; or  
1021 (iv) monetary consideration.  
1022 (c) (i) "Premium" does not include consideration paid to a third party administrator for  
1023 the third party administrator's services.  
1024 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for  
1025 insurance on the risks administered by the third party administrator.  
1026 [~~(141)~~] (142) "Principal officers" for a corporation means the officers designated under  
1027 Subsection 31A-5-203(3).  
1028 [~~(142)~~] (143) "Proceeding" includes an action or special statutory proceeding.  
1029 [~~(143)~~] (144) "Professional liability insurance" means insurance against legal liability  
1030 incident to the practice of a profession and provision of a professional service.  
1031 [~~(144)~~] (145) (a) Except as provided in Subsection [~~(144)~~] (145)(b), "property  
1032 insurance" means insurance against loss or damage to real or personal property of every kind  
1033 and any interest in that property:  
1034 (i) from all hazards or causes; and  
1035 (ii) against loss consequential upon the loss or damage including vehicle  
1036 comprehensive and vehicle physical damage coverages.  
1037 (b) "Property insurance" does not include:  
1038 (i) inland marine insurance; and  
1039 (ii) ocean marine insurance.  
1040 [~~(145)~~] (146) "Qualified long-term care insurance contract" or "federally tax qualified  
1041 long-term care insurance contract" means:  
1042 (a) an individual or group insurance contract that meets the requirements of Section  
1043 7702B(b), Internal Revenue Code; or  
1044 (b) the portion of a life insurance contract that provides long-term care insurance:  
1045 (i) (A) by rider; or  
1046 (B) as a part of the contract; and  
1047 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue  
1048 Code.  
1049 [~~(146)~~] (147) "Qualified United States financial institution" means an institution that:  
1050 (a) is:

- 1051 (i) organized under the laws of the United States or any state; or  
1052 (ii) in the case of a United States office of a foreign banking organization, licensed  
1053 under the laws of the United States or any state;
- 1054 (b) is regulated, supervised, and examined by a United States federal or state authority  
1055 having regulatory authority over a bank or trust company; and
- 1056 (c) meets the standards of financial condition and standing that are considered  
1057 necessary and appropriate to regulate the quality of a financial institution whose letters of credit  
1058 will be acceptable to the commissioner as determined by:
- 1059 (i) the commissioner by rule; or  
1060 (ii) the Securities Valuation Office of the National Association of Insurance  
1061 Commissioners.
- 1062 [~~(147)~~] (148) (a) "Rate" means:
- 1063 (i) the cost of a given unit of insurance; or  
1064 (ii) for property or casualty insurance, that cost of insurance per exposure unit either  
1065 expressed as:
- 1066 (A) a single number; or  
1067 (B) a pure premium rate, adjusted before the application of individual risk variations  
1068 based on loss or expense considerations to account for the treatment of:
- 1069 (I) expenses;  
1070 (II) profit; and  
1071 (III) individual insurer variation in loss experience.
- 1072 (b) "Rate" does not include a minimum premium.
- 1073 [~~(148)~~] (149) (a) Except as provided in Subsection [~~(148)~~] (149)(b), "rate service  
1074 organization" means a person who assists an insurer in rate making or filing by:
- 1075 (i) collecting, compiling, and furnishing loss or expense statistics;  
1076 (ii) recommending, making, or filing rates or supplementary rate information; or  
1077 (iii) advising about rate questions, except as an attorney giving legal advice.
- 1078 (b) "Rate service organization" does not mean:
- 1079 (i) an employee of an insurer;  
1080 (ii) a single insurer or group of insurers under common control;  
1081 (iii) a joint underwriting group; or

- 1082 (iv) an individual serving as an actuarial or legal consultant.
- 1083 [~~(149)~~] (150) "Rating manual" means any of the following used to determine initial and
- 1084 renewal policy premiums:
  - 1085 (a) a manual of rates;
  - 1086 (b) a classification;
  - 1087 (c) a rate-related underwriting rule; and
  - 1088 (d) a rating formula that describes steps, policies, and procedures for determining
  - 1089 initial and renewal policy premiums.
- 1090 [~~(150)~~] (151) (a) "Rebate" means a licensee paying, allowing, giving, or offering to
- 1091 pay, allow, or give, directly or indirectly:
  - 1092 (i) a refund of premium or portion of premium;
  - 1093 (ii) a refund of commission or portion of commission;
  - 1094 (iii) a refund of all or a portion of a consultant fee; or
  - 1095 (iv) providing services or other benefits not specified in an insurance or annuity
  - 1096 contract.
- 1097 (b) "Rebate" does not include:
  - 1098 (i) a refund due to termination or changes in coverage;
  - 1099 (ii) a refund due to overcharges made in error by the licensee; or
  - 1100 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 1101 [~~(151)~~] (152) "Received by the department" means:
  - 1102 (a) the date delivered to and stamped received by the department, if delivered in
  - 1103 person;
  - 1104 (b) the post mark date, if delivered by mail;
  - 1105 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
  - 1106 (d) the received date recorded on an item delivered, if delivered by:
    - 1107 (i) facsimile;
    - 1108 (ii) email; or
    - 1109 (iii) another electronic method; or
    - 1110 (e) a date specified in:
      - 1111 (i) a statute;
      - 1112 (ii) a rule; or

1113 (iii) an order.

1114 [~~(152)~~] (153) "Reciprocal" or "interinsurance exchange" means an unincorporated  
1115 association of persons:

1116 (a) operating through an attorney-in-fact common to all of the persons; and

1117 (b) exchanging insurance contracts with one another that provide insurance coverage  
1118 on each other.

1119 [~~(153)~~] (154) "Reinsurance" means an insurance transaction where an insurer, for  
1120 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to  
1121 reinsurance transactions, this title sometimes refers to:

1122 (a) the insurer transferring the risk as the "ceding insurer"; and

1123 (b) the insurer assuming the risk as the:

1124 (i) "assuming insurer"; or

1125 (ii) "assuming reinsurer."

1126 [~~(154)~~] (155) "Reinsurer" means a person licensed in this state as an insurer with the  
1127 authority to assume reinsurance.

1128 [~~(155)~~] (156) "Residential dwelling liability insurance" means insurance against  
1129 liability resulting from or incident to the ownership, maintenance, or use of a residential  
1130 dwelling that is a detached single family residence or multifamily residence up to four units.

1131 [~~(156)~~] (157) (a) "Retrocession" means reinsurance with another insurer of a liability  
1132 assumed under a reinsurance contract.

1133 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a  
1134 liability assumed under a reinsurance contract.

1135 [~~(157)~~] (158) "Rider" means an endorsement to:

1136 (a) an insurance policy; or

1137 (b) an insurance certificate.

1138 [~~(158)~~] (159) "Secondary medical condition" means a complication related to an  
1139 exclusion from coverage in accident and health insurance.

1140 [~~(159)~~] (160) (a) "Security" means a:

1141 (i) note;

1142 (ii) stock;

1143 (iii) bond;

- 1144 (iv) debenture;
- 1145 (v) evidence of indebtedness;
- 1146 (vi) certificate of interest or participation in a profit-sharing agreement;
- 1147 (vii) collateral-trust certificate;
- 1148 (viii) preorganization certificate or subscription;
- 1149 (ix) transferable share;
- 1150 (x) investment contract;
- 1151 (xi) voting trust certificate;
- 1152 (xii) certificate of deposit for a security;
- 1153 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
- 1154 payments out of production under such a title or lease;
- 1155 (xiv) commodity contract or commodity option;
- 1156 (xv) certificate of interest or participation in, temporary or interim certificate for,
- 1157 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
- 1158 in Subsections [~~(159)~~] (160)(a)(i) through (xiv); or
- 1159 (xvi) another interest or instrument commonly known as a security.
- 1160 (b) "Security" does not include:
- 1161 (i) any of the following under which an insurance company promises to pay money in a
- 1162 specific lump sum or periodically for life or some other specified period:
- 1163 (A) insurance;
- 1164 (B) an endowment policy; or
- 1165 (C) an annuity contract; or
- 1166 (ii) a burial certificate or burial contract.
- 1167 [~~(160)~~] (161) "Securityholder" means a specified person who owns a security of a
- 1168 person, including:
- 1169 (a) common stock;
- 1170 (b) preferred stock;
- 1171 (c) debt obligations; and
- 1172 (d) any other security convertible into or evidencing the right of any of the items listed
- 1173 in this Subsection [~~(160)~~] (161).
- 1174 [~~(161)~~] (162) (a) "Self-insurance" means an arrangement under which a person

1175 provides for spreading its own risks by a systematic plan.

1176 (b) Except as provided in this Subsection [~~(161)~~ (162)], "self-insurance" does not  
1177 include an arrangement under which a number of persons spread their risks among themselves.

1178 (c) "Self-insurance" includes:

1179 (i) an arrangement by which a governmental entity undertakes to indemnify an  
1180 employee for liability arising out of the employee's employment; and

1181 (ii) an arrangement by which a person with a managed program of self-insurance and  
1182 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or  
1183 employees for liability or risk that is related to the relationship or employment.

1184 (d) "Self-insurance" does not include an arrangement with an independent contractor.

1185 [~~(162)~~ (163)] "Sell" means to exchange a contract of insurance:

1186 (a) by any means;

1187 (b) for money or its equivalent; and

1188 (c) on behalf of an insurance company.

1189 [~~(163)~~ (164)] "Short-term care insurance" means an insurance policy or rider  
1190 advertised, marketed, offered, or designed to provide coverage that is similar to long-term care  
1191 insurance, but that provides coverage for less than 12 consecutive months for each covered  
1192 person.

1193 [~~(164)~~ (165)] "Significant break in coverage" means a period of 63 consecutive days  
1194 during each of which an individual does not have creditable coverage.

1195 [~~(165)~~ (166)] (a) "Small employer" means, in connection with a health benefit plan and  
1196 with respect to a calendar year and to a plan year, an employer who:

1197 (i) employed at least one employee but not more than 50 employees on business days  
1198 during the preceding calendar year; and

1199 (ii) employs at least one employee on the first day of the plan year.

1200 (b) The number of employees shall:

1201 (i) be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2); and

1202 (ii) include an owner described in Subsection (52)(b)(i).

1203 (c) "Small employer" does not include a sole proprietor that does not employ at least  
1204 one employee.

1205 [~~(166)~~ (167)] "Special enrollment period," in connection with a health benefit plan, has

1206 the same meaning as provided in federal regulations adopted pursuant to the Health Insurance  
1207 Portability and Accountability Act.

1208 ~~[(167)]~~ (168) (a) "Subsidiary" of a person means an affiliate controlled by that person  
1209 either directly or indirectly through one or more affiliates or intermediaries.

1210 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting  
1211 shares are owned by that person either alone or with its affiliates, except for the minimum  
1212 number of shares the law of the subsidiary's domicile requires to be owned by directors or  
1213 others.

1214 ~~[(168)]~~ (169) Subject to Subsection ~~[(89)]~~ (90)(b), "surety insurance" includes:

1215 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or  
1216 perform the principal's obligations to a creditor or other obligee;

1217 (b) bail bond insurance; and

1218 (c) fidelity insurance.

1219 ~~[(169)]~~ (170) (a) "Surplus" means the excess of assets over the sum of paid-in capital  
1220 and liabilities.

1221 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is  
1222 designated by the insurer or organization as permanent.

1223 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require  
1224 that insurers or organizations doing business in this state maintain specified minimum levels of  
1225 permanent surplus.

1226 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the  
1227 same as the minimum required capital requirement that applies to stock insurers.

1228 (c) "Excess surplus" means:

1229 (i) for a life insurer, accident and health insurer, health organization, or property and  
1230 casualty insurer as defined in Section 31A-17-601, the lesser of:

1231 (A) that amount of an insurer's or health organization's total adjusted capital that  
1232 exceeds the product of:

1233 (I) 2.5; and

1234 (II) the sum of the insurer's or health organization's minimum capital or permanent  
1235 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1236 (B) that amount of an insurer's or health organization's total adjusted capital that

1237 exceeds the product of:

1238 (I) 3.0; and

1239 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1240 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer

1241 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1242 (A) 1.5; and

1243 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1244 [(170)] (171) "Third party administrator" or "administrator" means a person who

1245 collects charges or premiums from, or who, for consideration, adjusts or settles claims of

1246 residents of the state in connection with insurance coverage, annuities, or service insurance

1247 coverage, except:

1248 (a) a union on behalf of its members;

1249 (b) a person administering a:

1250 (i) pension plan subject to the federal Employee Retirement Income Security Act of

1251 1974;

1252 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1253 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1254 (c) an employer on behalf of the employer's employees or the employees of one or

1255 more of the subsidiary or affiliated corporations of the employer;

1256 (d) an insurer licensed under the following, but only for a line of insurance for which

1257 the insurer holds a license in this state:

1258 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1259 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

1260 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1261 (iv) Chapter 9, Insurance Fraternal; or

1262 (v) Chapter 14, Foreign Insurers;

1263 (e) a person:

1264 (i) licensed or exempt from licensing under:

1265 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and

1266 Reinsurance Intermediaries; or

1267 (B) Chapter 26, Insurance Adjusters; and

1268 (ii) whose activities are limited to those authorized under the license the person holds  
1269 or for which the person is exempt; or

1270 (f) an institution, bank, or financial institution:

1271 (i) that is:

1272 (A) an institution whose deposits and accounts are to any extent insured by a federal  
1273 deposit insurance agency, including the Federal Deposit Insurance Corporation or National  
1274 Credit Union Administration; or

1275 (B) a bank or other financial institution that is subject to supervision or examination by  
1276 a federal or state banking authority; and

1277 (ii) that does not adjust claims without a third party administrator license.

1278 ~~[(171)]~~ (172) "Title insurance" means the insuring, guaranteeing, or indemnifying of an  
1279 owner of real or personal property or the holder of liens or encumbrances on that property, or  
1280 others interested in the property against loss or damage suffered by reason of liens or  
1281 encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity  
1282 or unenforceability of any liens or encumbrances on the property.

1283 ~~[(172)]~~ (173) "Total adjusted capital" means the sum of an insurer's or health  
1284 organization's statutory capital and surplus as determined in accordance with:

1285 (a) the statutory accounting applicable to the annual financial statements required to be  
1286 filed under Section 31A-4-113; and

1287 (b) another item provided by the RBC instructions, as RBC instructions is defined in  
1288 Section 31A-17-601.

1289 ~~[(173)]~~ (174) (a) "Trustee" means "director" when referring to the board of directors of  
1290 a corporation.

1291 (b) "Trustee," when used in reference to an employee welfare fund, means an  
1292 individual, firm, association, organization, joint stock company, or corporation, whether acting  
1293 individually or jointly and whether designated by that name or any other, that is charged with  
1294 or has the overall management of an employee welfare fund.

1295 ~~[(174)]~~ (175) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted  
1296 insurer" means an insurer:

1297 (i) not holding a valid certificate of authority to do an insurance business in this state;  
1298 or

- 1299 (ii) transacting business not authorized by a valid certificate.
- 1300 (b) "Admitted insurer" or "authorized insurer" means an insurer:
- 1301 (i) holding a valid certificate of authority to do an insurance business in this state; and
- 1302 (ii) transacting business as authorized by a valid certificate.
- 1303 [~~(175)~~] (176) "Underwrite" means the authority to accept or reject risk on behalf of the
- 1304 insurer.
- 1305 [~~(176)~~] (177) "Vehicle liability insurance" means insurance against liability resulting
- 1306 from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a
- 1307 vehicle comprehensive or vehicle physical damage coverage under Subsection [~~(144)~~] (145).
- 1308 [~~(177)~~] (178) "Voting security" means a security with voting rights, and includes a
- 1309 security convertible into a security with a voting right associated with the security.
- 1310 [~~(178)~~] (179) "Waiting period" for a health benefit plan means the period that must
- 1311 pass before coverage for an individual, who is otherwise eligible to enroll under the terms of
- 1312 the health benefit plan, can become effective.
- 1313 [~~(179)~~] (180) "Workers' compensation insurance" means:
- 1314 (a) insurance for indemnification of an employer against liability for compensation
- 1315 based on:
- 1316 (i) a compensable accidental injury; and
- 1317 (ii) occupational disease disability;
- 1318 (b) employer's liability insurance incidental to workers' compensation insurance and
- 1319 written in connection with workers' compensation insurance; and
- 1320 (c) insurance assuring to a person entitled to workers' compensation benefits the
- 1321 compensation provided by law.
- 1322 Section 2. Section **31A-2-201.1** is amended to read:
- 1323 **31A-2-201.1. General filing requirements.**
- 1324 Except as otherwise provided in this title, the commissioner may set by rule made in
- 1325 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specific
- 1326 requirements for filing any of the following required by this title:
- 1327 (1) a form;
- 1328 (2) a rate; [~~or~~]
- 1329 (3) a report[~~;~~]; or

1330           (4) a binder for a health benefit plan or dental policy.  
1331           Section 3. Section **31A-2-201.2** is amended to read:  
1332           **31A-2-201.2. Evaluation of health insurance market.**  
1333           (1) Each year the commissioner shall:  
1334           (a) conduct an evaluation of the state's health insurance market;  
1335           (b) report the findings of the evaluation to the Health and Human Services Interim  
1336 Committee before [~~October~~] December 1 of each year; and  
1337           (c) publish the findings of the evaluation on the department website.  
1338           (2) The evaluation required by this section shall:  
1339           (a) analyze the effectiveness of the insurance regulations and statutes in promoting a  
1340 healthy, competitive health insurance market that meets the needs of the state, and includes an  
1341 analysis of:  
1342           (i) the availability and marketing of individual and group products;  
1343           (ii) rate changes;  
1344           (iii) coverage and demographic changes;  
1345           (iv) benefit trends;  
1346           (v) market share changes; and  
1347           (vi) accessibility;  
1348           (b) assess complaint ratios and trends within the health insurance market, which  
1349 assessment shall include complaint data from the Office of Consumer Health Assistance within  
1350 the department;  
1351           (c) contain recommendations for action to improve the overall effectiveness of the  
1352 health insurance market, administrative rules, and statutes; and  
1353           (d) include claims loss ratio data for each health insurance company doing business in  
1354 the state.  
1355           (3) When preparing the evaluation and report required by this section, the  
1356 commissioner may seek the input of insurers, employers, insured persons, providers, and others  
1357 with an interest in the health insurance market.  
1358           (4) The commissioner may adopt administrative rules for the purpose of collecting the  
1359 data required by this section, taking into account the business confidentiality of the insurers.  
1360           (5) Records submitted to the commissioner under this section shall be maintained by

1361 the commissioner as protected records under Title 63G, Chapter 2, Government Records  
1362 Access and Management Act.

1363 Section 4. Section **31A-2-204** is amended to read:

1364 **31A-2-204. Conducting examinations.**

1365 (1) As used in this section, "work papers" means a record that is created or relied upon:

1366 (a) during the course of an examination conducted under Section [31A-2-203](#); or

1367 (b) in drafting an examination report.

1368 ~~[(1)]~~ (2) (a) For each examination under Section [31A-2-203](#), the commissioner shall  
1369 issue an order:

1370 (i) stating the scope of the examination; and

1371 (ii) designating the examiner in charge.

1372 (b) The commissioner need not give advance notice of an examination to an examinee.

1373 (c) The examiner in charge shall give the examinee a copy of the order issued under  
1374 this Subsection ~~[(1)]~~ (2).

1375 (d) (i) The commissioner may alter the scope or nature of an examination at any time  
1376 without advance notice to the examinee.

1377 (ii) If the commissioner amends an order described in this Subsection ~~[(1)]~~ (2), the  
1378 commissioner shall provide a copy of any amended order to the examinee.

1379 (e) Statements in the commissioner's examination order concerning examination scope  
1380 are for the examiner's guidance only.

1381 (f) Examining relevant matters not mentioned in an order issued under this Subsection  
1382 ~~[(1)]~~ (2) is not a violation of this title.

1383 ~~[(2)]~~ (3) The commissioner shall, whenever practicable, cooperate with the insurance  
1384 regulators of other states by conducting joint examinations of:

1385 (a) multistate insurers doing business in this state; or

1386 (b) other multistate licensees doing business in this state.

1387 ~~[(3)]~~ (4) An examiner authorized by the commissioner shall, when necessary to the  
1388 purposes of the examination, have access at all reasonable hours to the premises and to any  
1389 books, records, files, securities, documents, or property of:

1390 (a) the examinee; and

1391 (b) any of the following if the premises, books, records, files, securities, documents, or

1392 property relate to the affairs of the examinee:

1393 (i) an officer of the examinee;

1394 (ii) any other person who:

1395 (A) has executive authority over the examinee; or

1396 (B) is in charge of any segment of the examinee's affairs; or

1397 (iii) any affiliate of the examinee under Subsection 31A-2-203(1)(b).

1398 [~~4~~] (5) (a) The officers, employees, and agents of the examinee and of persons under

1399 Subsection 31A-2-203(1)(b) shall comply with every reasonable request of the examiners for

1400 assistance in any matter relating to the examination.

1401 (b) A person may not obstruct or interfere with the examination except by legal

1402 process.

1403 [~~5~~] (6) If the commissioner finds the accounts or records to be inadequate for proper

1404 examination of the condition and affairs of the examinee or improperly kept or posted, the

1405 commissioner may employ experts to rewrite, post, or balance the accounts or records at the

1406 expense of the examinee.

1407 [~~6~~] (7) (a) The examiner in charge of an examination shall make a report of the

1408 examination no later than 60 days after the completion of the examination that shall include:

1409 (i) the information and analysis ordered under Subsection [~~1~~] (2); and

1410 (ii) the examiner's recommendations.

1411 (b) At the option of the examiner in charge, preparation of the report may include

1412 conferences with the examinee or representatives of the examinee.

1413 (c) The report is confidential until the report becomes a public document under

1414 Subsection [~~7~~] (8), except the commissioner may use information from the report as a basis

1415 for action under Chapter 27a, Insurer Receivership Act.

1416 [~~7~~] (8) (a) The commissioner shall serve a copy of the examination report described

1417 in Subsection [~~6~~] (7) upon the examinee.

1418 (b) Within 20 days after service, the examinee shall:

1419 (i) accept the examination report as written; or

1420 (ii) request agency action to modify the examination report.

1421 (c) The report is considered accepted under this Subsection [~~7~~] (8) if the examinee

1422 does not file a request for agency action to modify the report within 20 days after service of the

1423 report.

1424 (d) If the examination report is accepted:

1425 (i) the examination report immediately becomes a public document; and

1426 (ii) the commissioner shall distribute the examination report to all jurisdictions in  
1427 which the examinee is authorized to do business.

1428 (e) (i) Any adjudicative proceeding held as a result of the examinee's request for  
1429 agency action shall, upon the examinee's demand, be closed to the public, except that the  
1430 commissioner need not exclude any participating examiner from this closed hearing.

1431 (ii) Within 20 days after the hearing held under this Subsection [~~(7)~~] (8)(e), the  
1432 commissioner shall:

1433 (A) adopt the examination report with any necessary modifications; and

1434 (B) serve a copy of the adopted report upon the examinee.

1435 (iii) Unless the examinee seeks judicial relief, the adopted examination report:

1436 (A) shall become a public document 10 days after service; and

1437 (B) may be distributed as described in this section.

1438 (f) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, to the extent  
1439 that this section is in conflict with Title 63G, Chapter 4, Administrative Procedures Act, this  
1440 section governs:

1441 (i) a request for agency action under this section; or

1442 (ii) adjudicative proceeding under this section.

1443 [~~(8)~~] (9) The examinee shall promptly furnish copies of the adopted examination report  
1444 described in Subsection [~~(7)~~] (8) to each member of the examinee's board.

1445 [~~(9)~~] (10) After an examination report becomes a public document under Subsection  
1446 [~~(7)~~] (8), the commissioner may furnish, without cost or at a reasonable price set under Section  
1447 [31A-3-103](#), a copy of the examination report to interested persons, including:

1448 (a) a member of the board of the examinee; or

1449 (b) one or more newspapers in this state.

1450 [~~(10)~~] (11) (a) In a proceeding by or against the examinee, or any officer or agent of the  
1451 examinee, the examination report as adopted by the commissioner is admissible as evidence of  
1452 the facts stated in the report.

1453 (b) In any proceeding commenced under Chapter 27a, Insurer Receivership Act, the

1454 examination report, whether adopted by the commissioner or not, is admissible as evidence of  
1455 the facts stated in the examination report.

1456 (12) Work papers are protected records under Title 63G, Chapter 2, Government  
1457 Records Access and Management Act.

1458 Section 5. Section 31A-3-303 is amended to read:

1459 **31A-3-303. Payment of tax.**

1460 (1) (a) An insurer, the producers involved in the transaction, and the policyholder are  
1461 jointly and severally liable for the payment of the taxes required under Section 31A-3-301.

1462 (b) The policyholder's liability for payment of the premium tax under Section  
1463 31A-3-301 ends when the policyholder pays the tax to a producer or an insurer.

1464 (c) The insurer and the producers involved in the transaction are jointly and severally  
1465 liable for the payment of the additional tax required under Section 31A-3-302.

1466 (d) Except for the tax under Section 31A-3-302, the policyholder shall pay a tax under  
1467 this part and shall be billed specifically for the tax when billed for the premium.

1468 (e) Except for the tax imposed under Section 31A-3-302, absorption of the tax by the  
1469 producer or insurer is an unfair method of competition under Sections 31A-23a-402 and  
1470 31A-23a-402.5.

1471 (2) (a) The commissioner shall by rule prescribe accounting and reporting forms and  
1472 procedures for insurers, producers, and policyholders to use in determining the amount of taxes  
1473 owed under this part, and the manner and time of payment.

1474 (b) If a tax is not paid within the time prescribed under the commissioner's rule, a  
1475 penalty shall be imposed of 25% of the tax due, plus 1-1/2% per month from the time of  
1476 default until full payment of the tax.

1477 (3) Upon making a record of its actions, and upon reasonable cause shown, the  
1478 commissioner may waive, reduce, or compromise any of the penalties or interest imposed  
1479 under this part.

1480 ~~[(4) Subject to Section 31A-3-305, if a policy covers risks that are only partially~~  
1481 ~~located in this state, for computation of tax under this part the premium shall be reasonably~~  
1482 ~~allocated among the states on the basis of risk locations. However, the premiums with respect~~  
1483 ~~to surplus lines insurance received in this state by a surplus lines producer or charged on~~  
1484 ~~policies written or negotiated in or from this state are taxable in full under this part, subject to a~~

1485 ~~credit for any tax actually paid in another state to the extent of a reasonable allocation on the~~  
1486 ~~basis of risk locations.]~~

1487 (4) When Utah is the home state, premiums for surplus lines insurance are taxable in  
1488 full.

1489 (5) Subject to Section 31A-3-305, the premium taxes collected under this part by a  
1490 producer or by an insurer are the property of this state.

1491 (6) If the property of a producer is seized under any process in a court in this state, or if  
1492 a producer's business is suspended by the action of creditors or put into the hands of an  
1493 assignee, receiver, or trustee, the taxes and penalties due this state under this part are preferred  
1494 claims and the state is to that extent a preferred creditor.

1495 Section 6. Section 31A-8a-102 is amended to read:

1496 **31A-8a-102. Definitions.**

1497 [~~For purposes of~~] As used in this chapter:

1498 (1) "Fee" means any periodic charge for use of a discount program.

1499 (2) "Health care provider" means a health care provider as defined in Section  
1500 78B-3-403, with the exception of "licensed athletic trainer," who:

1501 (a) is practicing within the scope of the provider's license; and

1502 (b) has agreed either directly or indirectly, by contract or any other arrangement with a  
1503 health discount program operator, to provide a discount to enrollees of a health discount  
1504 program.

1505 (3) (a) "Health discount program" means a business arrangement or contract in which a  
1506 person pays fees, dues, charges, or other consideration in exchange for a program that provides  
1507 access to health care providers who agree to provide a discount for health care services.

1508 (b) "Health discount program" does not include a program that does not charge a  
1509 membership fee or require other consideration from the member to use the program's discounts  
1510 for health services.

1511 (4) "Health discount program marketer" means a person, including a private label  
1512 entity, that markets, promotes, sells, or distributes a health discount program but does not  
1513 operate a health discount program.

1514 (5) "Health discount program operator" means a person that provides a health discount  
1515 program by entering into a contract or agreement, directly or indirectly, with a person or

1516 persons in this state who agree to provide discounts for health care services to enrollees of the  
1517 health discount program and determines the charge to members.

1518 (6) "Marketing" means making or causing to be made any communication that contains  
1519 information that relates to a product or contract regulated under this chapter.

1520 [~~(6)~~] (7) "Value-added benefit" means a discount offering with no additional charge  
1521 made by a health insurer or health maintenance organization that is licensed under this title, in  
1522 connection with existing contracts with the health insurer or health maintenance organization.

1523 Section 7. Section 31A-15-103 is amended to read:

1524 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

1525 (1) Notwithstanding Section 31A-15-102, [~~a foreign~~] an insurer that has not obtained a  
1526 certificate of authority to do business in this state under Section 31A-14-202 may negotiate for  
1527 and make an insurance contract with a person in this state and on a risk located in this state,  
1528 subject to the limitations and requirements of this section.

1529 (2) (a) For a contract made under this section, the insurer may, in this state:

- 1530 (i) inspect the risks to be insured;
- 1531 (ii) collect premiums;
- 1532 (iii) adjust losses; and
- 1533 (iv) do another act reasonably incidental to the contract.

1534 (b) An act described in Subsection (2)(a) may be done through:

- 1535 (i) an employee; or
- 1536 (ii) an independent contractor.

1537 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on  
1538 behalf of an insurer that has no certificate of authority.

1539 (b) Insurance placed with a nonadmitted insurer shall be placed [~~with~~] by a surplus  
1540 lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers,  
1541 Consultants, and Reinsurance Intermediaries.

1542 (c) The commissioner may by rule prescribe how a surplus lines producer may:

1543 (i) pay or permit the payment, commission, or other remuneration on insurance placed  
1544 by the surplus lines producer under authority of the surplus lines producer's license to one  
1545 holding a license to act as an insurance producer; and

1546 (ii) advertise the availability of the surplus lines producer's services in procuring, on

1547 behalf of a person seeking insurance, a contract with a nonadmitted insurer.

1548 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections  
1549 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

1550 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to  
1551 an employer located in this state, except for stop loss coverage issued to an employer securing  
1552 workers' compensation under Subsection 34A-2-201(2).

1553 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)  
1554 for a specified class of insurance if authorized insurers provide an established market for the  
1555 class in this state that is adequate and reasonably competitive.

1556 (b) The commissioner may by rule place a restriction or a limitation on and create  
1557 special procedures for making a contract under Subsection (1) for a specified class of insurance  
1558 if:

1559 (i) there have been abuses of placements in the class; or

1560 (ii) the policyholders in the class, because of limited financial resources, business  
1561 experience, or knowledge, cannot protect their own interests adequately.

1562 (c) The commissioner may prohibit an individual insurer from making a contract under  
1563 Subsection (1) and all insurance producers from dealing with the insurer if:

1564 (i) the insurer willfully violates:

1565 (A) this section;

1566 (B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

1567 (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

1568 (ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

1569 (iii) the commissioner has reason to believe that the insurer is:

1570 (A) in an unsound condition;

1571 (B) operated in a fraudulent, dishonest, or incompetent manner; or

1572 (C) in violation of the law of its domicile.

1573 (d) (i) The commissioner may issue one or more lists of unauthorized foreign insurers

1574 whose:

1575 (A) solidity the commissioner doubts; or

1576 (B) practices the commissioner considers objectionable.

1577 (ii) The commissioner shall issue one or more lists of unauthorized foreign insurers the

1578 commissioner considers to be reliable and solid.

1579 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner  
1580 may issue other relevant evaluations of unauthorized insurers.

1581 (iv) An action may not lie against the commissioner or an employee of the department  
1582 for a written or oral communication made in, or in connection with the issuance of, a list or  
1583 evaluation described in this Subsection (6)(d).

1584 (e) ~~[A foreign]~~ An unauthorized insurer shall be listed on the commissioner's "reliable"  
1585 list only if the unauthorized insurer:

1586 (i) delivers a request to the commissioner to be on the list;

1587 (ii) establishes satisfactory evidence of good reputation and financial integrity;

1588 (iii) (A) delivers to the commissioner a copy of the unauthorized insurer's current  
1589 annual statement certified by the insurer~~[; and]~~ and, each subsequent year, delivers to the  
1590 commissioner a copy of the unauthorized insurer's annual statement within 60 days after the  
1591 day on which the unauthorized insurer files the annual statement with the insurance regulatory  
1592 authority where the insurer is domiciled; or

1593 ~~[(B) continues each subsequent year to file its annual statements with the~~  
1594 ~~commissioner within 60 days of the day on which it is filed with the insurance regulatory~~  
1595 ~~authority where the insurer is domiciled;]~~

1596 (B) files the unauthorized insurer's annual statements with the National Association of  
1597 Insurance Commissioners and the unauthorized insurer's annual statements are available  
1598 electronically from the National Association of Insurance Commissioners;

1599 (iv) (A) ~~[(H)]~~ is in substantial compliance with the solvency standards in Chapter 17,  
1600 Part 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever  
1601 is greater; ~~[and]~~ or

1602 ~~[(H) maintains in the United States an irrevocable trust fund in either a national bank or~~  
1603 ~~a member of the Federal Reserve System, or maintains a deposit meeting the statutory deposit~~  
1604 ~~requirements for insurers in the state where it is made, which trust fund or deposit:]~~

1605 ~~[(Aa) shall be in an amount not less than \$2,500,000 for the protection of all of the~~  
1606 ~~insurer's policyholders in the United States;]~~

1607 ~~[(Bb) may consist of cash, securities, or investments of substantially the same character~~  
1608 ~~and quality as those which are "qualified assets" under Section 31A-17-201; and]~~

1609           ~~[(Cc) may include as part of the trust arrangement a letter of credit that qualifies as~~  
1610 ~~acceptable security under Section 31A-17-404.1; or]~~

1611           (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group  
1612 of alien individual insurers, maintains a trust fund that:

1613           (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all  
1614 policyholders and creditors in the United States of each member of the group;

1615           (II) may consist of cash, securities, or investments of substantially the same character  
1616 and quality as those which are "qualified assets" under Section 31A-17-201; and

1617           (III) may include as part of this trust arrangement a letter of credit that qualifies as  
1618 acceptable security under Section 31A-17-404.1; and

1619           (v) for an alien insurer not domiciled in the United States or a territory of the United  
1620 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National  
1621 Association of Insurance Commissioners International Insurers Department.

1622           (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly  
1623 or without reasonable investigation of the financial condition and general reputation of the  
1624 insurer, place insurance under this section with:

1625           (i) a financially unsound insurer;

1626           (ii) an insurer engaging in unfair practices; or

1627           (iii) an otherwise substandard insurer.

1628           (b) A surplus line producer may place insurance under this section with an insurer  
1629 described in Subsection (7)(a) if the surplus line producer:

1630           (i) gives the applicant notice in writing of the known deficiencies of the insurer or the  
1631 limitations on the surplus line producer's investigation; and

1632           (ii) explains the need to place the business with that insurer.

1633           (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the  
1634 surplus line producer for at least five years.

1635           (d) To be financially sound, an insurer shall satisfy standards that are comparable to  
1636 those applied under the laws of this state to an authorized insurer.

1637           (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an  
1638 insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed  
1639 substandard.

- 1640 (8) (a) A policy issued under this section shall:
- 1641 (i) include a description of the subject of the insurance; and
- 1642 (ii) indicate:
- 1643 (A) the coverage, conditions, and term of the insurance;
- 1644 (B) the premium charged the policyholder;
- 1645 (C) the premium taxes to be collected from the policyholder; and
- 1646 (D) the name and address of the policyholder and insurer.
- 1647 (b) If the direct risk is assumed by more than one insurer, the policy shall state:
- 1648 (i) the names and addresses of all insurers; and
- 1649 (ii) the portion of the entire direct risk each assumes.
- 1650 (c) A policy issued under this section shall have attached or affixed to the policy the
- 1651 following statement: "The insurer issuing this policy does not hold a certificate of authority to
- 1652 do business in this state and thus is not fully subject to regulation by the Utah insurance
- 1653 commissioner. This policy receives no protection from any of the guaranty associations created
- 1654 under Title 31A, Chapter 28, Guaranty Associations."
- 1655 (9) Upon placing a new or renewal coverage under this section, a surplus lines
- 1656 producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the
- 1657 insurance consisting either of:
- 1658 (a) the policy as issued by the insurer; or
- 1659 (b) if the policy is not available upon placing the coverage, a certificate, cover note, or
- 1660 other confirmation of insurance complying with Subsection (8).
- 1661 (10) If the commissioner finds it necessary to protect the interests of insureds and the
- 1662 public in this state, the commissioner may by rule subject a policy issued under this section to
- 1663 as much of the regulation provided by this title as is required for a comparable policy written
- 1664 by an authorized foreign insurer.
- 1665 (11) (a) A surplus lines transaction in this state shall be examined to determine whether
- 1666 it complies with:
- 1667 (i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;
- 1668 (ii) the solicitation limitations of Subsection (3);
- 1669 (iii) the requirement of Subsection (3) that placement be through a surplus lines
- 1670 producer;

- 1671 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and  
1672 (v) the policy form requirements of Subsections (8) and (10).
- 1673 (b) The examination described in Subsection (11)(a) shall take place as soon as  
1674 practicable after the transaction. The surplus lines producer shall submit to the examiner  
1675 information necessary to conduct the examination within a period specified by rule.
- 1676 (c) (i) The examination described in Subsection (11)(a) may be conducted by the  
1677 commissioner or by an advisory organization created under Section 31A-15-111 and authorized  
1678 by the commissioner to conduct these examinations. The commissioner is not required to  
1679 authorize an additional advisory organization to conduct an examination under this Subsection  
1680 (11)(c).
- 1681 (ii) The commissioner's authorization of one or more advisory organizations to act as  
1682 examiners under this Subsection (11)(c) shall be:
- 1683 (A) by rule; and  
1684 (B) evidenced by a contract, on a form provided by the commissioner, between the  
1685 authorized advisory organization and the department.
- 1686 (d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall  
1687 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in  
1688 connection with the transaction.
- 1689 (B) A stamping fee collected by the commissioner shall be deposited in the General  
1690 Fund.
- 1691 (C) The commissioner shall establish a stamping fee by rule.
- 1692 (ii) A stamping fee collected by an advisory organization is the property of the advisory  
1693 organization to be used in paying the expenses of the advisory organization.
- 1694 (iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1)  
1695 for taxes imposed under Section 31A-3-301.
- 1696 (iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If  
1697 a stamping fee is not paid when due, the commissioner or advisory organization may impose a  
1698 penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until  
1699 full payment of the stamping fee.
- 1700 [~~(v) A stamping fee relative to a policy covering a risk located partially in this state~~  
1701 ~~shall be allocated in the same manner as under Subsection 31A-3-303(4).]~~

1702 (e) The commissioner, representatives of the department, advisory organizations,  
1703 representatives and members of advisory organizations, authorized insurers, and surplus lines  
1704 insurers are not liable for damages on account of statements, comments, or recommendations  
1705 made in good faith in connection with their duties under this Subsection (11)(e) or under  
1706 Section 31A-15-111.

1707 (f) An examination conducted under this Subsection (11) and a document or materials  
1708 related to the examination are confidential.

1709 (12) (a) For a surplus lines insurance transaction in the state entered into on or after  
1710 May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines  
1711 insurer:

1712 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether  
1713 additional premium is owed by the insured, by no later than six months after the expiration of  
1714 the term for which premium is paid; and

1715 (ii) may not audit an insured more than three years after the surplus lines insurance  
1716 policy expires.

1717 (b) A surplus lines insurer that does not comply with this Subsection (12) may not  
1718 charge or collect additional premium in excess of the premium agreed to under the surplus  
1719 lines insurance policy.

1720 Section 8. Section 31A-16-103 is amended to read:

1721 **31A-16-103. Acquisition of control of, divestiture of control of, or merger with**  
1722 **domestic insurer.**

1723 (1) (a) A person may not take the actions described in Subsection (1)(b) or (c) unless,  
1724 at the time any offer, request, or invitation is made or any such agreement is entered into, or  
1725 prior to the acquisition of securities if no offer or agreement is involved:

1726 (i) the person files with the commissioner a statement containing the information  
1727 required by this section;

1728 (ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the  
1729 insurer; and

1730 (iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

1731 (b) Unless the person complies with Subsection (1)(a), a person other than the issuer  
1732 may not make a tender offer for, a request or invitation for tenders of, or enter into any

1733 agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise,  
1734 any voting security of a domestic insurer if after the acquisition, the person would directly,  
1735 indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

1736 (c) Unless the person complies with Subsection (1)(a), a person may not enter into an  
1737 agreement to merge with or otherwise to acquire control of:

1738 (i) a domestic insurer; or

1739 (ii) any person controlling a domestic insurer.

1740 (d) For purposes of this section, a controlling person of a domestic insurer seeking to  
1741 divest its controlling interest in the domestic insurer, in any manner, shall file with the  
1742 commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least  
1743 30 days before the cessation of control. The commissioner shall determine those instances in  
1744 which the one or more persons seeking to divest or to acquire a controlling interest in an  
1745 insurer, will be required to file for and obtain approval of the transaction. The information  
1746 shall remain confidential until the conclusion of the transaction unless the commissioner, in the  
1747 commissioner's discretion, determines that confidential treatment will interfere with  
1748 enforcement of this section. If the statement referred to in Subsection (1)(a) is otherwise filed,  
1749 this Subsection (1)(d) does not apply.

1750 (e) With respect to a transaction subject to this section, the acquiring person shall also  
1751 file a pre-acquisition notification with the commissioner, which shall contain the information  
1752 set forth in Section [31A-16-104.5](#). A failure to file the notification may be subject to penalties  
1753 specified in Section [31A-16-104.5](#).

1754 (f) (i) For purposes of this section, a domestic insurer includes any person controlling a  
1755 domestic insurer unless the person as determined by the commissioner is either directly or  
1756 through its affiliates primarily engaged in business other than the business of insurance.

1757 (ii) The controlling person described in Subsection (1)(f)(i) shall file with the  
1758 commissioner a preacquisition notification containing the information required in Subsection  
1759 (2) 30 calendar days before the proposed effective date of the acquisition.

1760 (iii) For the purposes of this section, "person" does not include any securities broker  
1761 that in the usual and customary brokers function holds less than 20% of:

1762 (A) the voting securities of an insurance company; or

1763 (B) any person that controls an insurance company.

1764 (iv) This section applies to all domestic insurers and other entities licensed under:

1765 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1766 (B) Chapter 7, Nonprofit Health Service Insurance Corporations;

1767 (C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1768 (D) Chapter 9, Insurance Fraternal; and

1769 (E) Chapter 11, Motor Clubs.

1770 (g) (i) An agreement for acquisition of control or merger as contemplated by this

1771 Subsection (1) is not valid or enforceable unless the agreement:

1772 (A) is in writing; and

1773 (B) includes a provision that the agreement is subject to the approval of the

1774 commissioner upon the filing of any applicable statement required under this chapter.

1775 (ii) A written agreement for acquisition or control that includes the provision described

1776 in Subsection (1)(g)(i) satisfies the requirements of this Subsection (1).

1777 (2) The statement to be filed with the commissioner under Subsection (1) shall be

1778 made under oath or affirmation and shall contain the following information:

1779 (a) the name and address of the "acquiring party," which means each person by whom

1780 or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to

1781 be effected; and

1782 (i) if the person is an individual:

1783 (A) the person's principal occupation;

1784 (B) a listing of all offices and positions held by the person during the past five years;

1785 and

1786 (C) any conviction of crimes other than minor traffic violations during the past 10

1787 years; and

1788 (ii) if the person is not an individual:

1789 (A) a report of the nature of its business operations during:

1790 (I) the past five years; or

1791 (II) for any lesser period as the person and any of its predecessors has been in

1792 existence;

1793 (B) an informative description of the business intended to be done by the person and

1794 the person's subsidiaries;

1795 (C) a list of all individuals who are or who have been selected to become directors or  
1796 executive officers of the person, or individuals who perform, or who will perform functions  
1797 appropriate to such positions; and

1798 (D) for each individual described in Subsection (2)(a)(ii)(C), the information required  
1799 by Subsection (2)(a)(i) for each individual;

1800 (b) (i) the source, nature, and amount of the consideration used or to be used in  
1801 effecting the merger or acquisition of control;

1802 (ii) a description of any transaction in which funds were or are to be obtained for the  
1803 purpose of effecting the merger or acquisition of control, including any pledge of:

1804 (A) the insurer's stock; or

1805 (B) the stock of any of the insurer's subsidiaries or controlling affiliates; and

1806 (iii) the identity of persons furnishing the consideration;

1807 (c) (i) fully audited financial information, or other financial information considered  
1808 acceptable by the commissioner, of the earnings and financial condition of each acquiring party  
1809 for:

1810 (A) the preceding five fiscal years of each acquiring party; or

1811 (B) any lesser period the acquiring party and any of its predecessors shall have been in  
1812 existence; and

1813 (ii) unaudited information:

1814 (A) similar to the information described in Subsection (2)(c)(i); and

1815 (B) prepared within the 90 days prior to the filing of the statement;

1816 (d) any plans or proposals which each acquiring party may have to:

1817 (i) liquidate the insurer;

1818 (ii) sell its assets;

1819 (iii) merge or consolidate the insurer with any person; or

1820 (iv) make any other material change in the insurer's:

1821 (A) business;

1822 (B) corporate structure; or

1823 (C) management;

1824 (e) (i) the number of shares of any security referred to in Subsection (1) that each  
1825 acquiring party proposes to acquire;

- 1826 (ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in  
1827 Subsection (1); and
- 1828 (iii) a statement as to the method by which the fairness of the proposal was arrived at;
- 1829 (f) the amount of each class of any security referred to in Subsection (1) that:
- 1830 (i) is beneficially owned; or
- 1831 (ii) concerning which there is a right to acquire beneficial ownership by each acquiring  
1832 party;
- 1833 (g) a full description of any contract, arrangement, or understanding with respect to any  
1834 security referred to in Subsection (1) in which any acquiring party is involved, including:
- 1835 (i) the transfer of any of the securities;
- 1836 (ii) joint ventures;
- 1837 (iii) loan or option arrangements;
- 1838 (iv) puts or calls;
- 1839 (v) guarantees of loans;
- 1840 (vi) guarantees against loss or guarantees of profits;
- 1841 (vii) division of losses or profits; or
- 1842 (viii) the giving or withholding of proxies;
- 1843 (h) a description of the purchase by any acquiring party of any security referred to in  
1844 Subsection (1) during the 12 calendar months preceding the filing of the statement including:
- 1845 (i) the dates of purchase;
- 1846 (ii) the names of the purchasers; and
- 1847 (iii) the consideration paid or agreed to be paid for the purchase;
- 1848 (i) a description of:
- 1849 (i) any recommendations to purchase by any acquiring party any security referred to in  
1850 Subsection (1) made during the 12 calendar months preceding the filing of the statement; or
- 1851 (ii) any recommendations made by anyone based upon interviews or at the suggestion  
1852 of the acquiring party;
- 1853 (j) (i) copies of all tender offers for, requests for, or invitations for tenders of, exchange  
1854 offers for, and agreements to acquire or exchange any securities referred to in Subsection (1);  
1855 and
- 1856 (ii) if distributed, copies of additional soliciting material relating to the transactions

1857 described in Subsection (2)(j)(i);

1858 (k) (i) the term of any agreement, contract, or understanding made with, or proposed to  
1859 be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for  
1860 tender; and

1861 (ii) the amount of any fees, commissions, or other compensation to be paid to  
1862 broker-dealers with regard to any agreement, contract, or understanding described in  
1863 Subsection (2)(k)(i);

1864 (l) an agreement by the person required to file the statement referred to in Subsection  
1865 (1) that it will provide the annual report, specified in Section 31A-16-105, for so long as  
1866 control exists;

1867 (m) an acknowledgment by the person required to file the statement referred to in  
1868 Subsection (1) that the person and all subsidiaries within its control in the insurance holding  
1869 company system will provide information to the commissioner upon request as necessary to  
1870 evaluate enterprise risk to the insurer; and

1871 (n) any additional information the commissioner requires by rule, which the  
1872 commissioner determines to be:

1873 (i) necessary or appropriate for the protection of policyholders of the insurer; or

1874 (ii) in the public interest.

1875 (3) The department may request:

1876 (a) (i) criminal background information maintained pursuant to Title 53, Chapter 10,  
1877 Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

1878 (ii) complete Federal Bureau of Investigation criminal background checks through the  
1879 national criminal history system.

1880 (b) Information obtained by the department from the review of criminal history records  
1881 received under Subsection (3)(a) shall be used by the department for the purpose of:

1882 (i) verifying the information in Subsection (2)(a)(i);

1883 (ii) determining the integrity of persons who would control the operation of an insurer;

1884 and

1885 (iii) preventing persons who violate 18 U.S.C. Sec. 1033 from engaging in the business  
1886 of insurance in the state.

1887 (c) If the department requests the criminal background information, the department

1888 shall:

1889 (i) pay to the Department of Public Safety the costs incurred by the Department of  
1890 Public Safety in providing the department criminal background information under Subsection  
1891 (3)(a)(i);

1892 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
1893 of Investigation in providing the department criminal background information under  
1894 Subsection (3)(a)(ii); and

1895 (iii) charge the person required to file the statement referred to in Subsection (1) a fee  
1896 equal to the aggregate of Subsections (3)(c)(i) and (ii).

1897 (4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in  
1898 the lender's ordinary course of business, the identity of the lender shall remain confidential, if  
1899 the person filing the statement so requests.

1900 (b) (i) Under Subsection (2)(e), the commissioner may require a statement of the  
1901 adjusted book value assigned by the acquiring party to each security in arriving at the terms of  
1902 the offer.

1903 (ii) For purposes of this Subsection (4)(b), "adjusted book value" means each security's  
1904 proportional interest in the capital and surplus of the insurer with adjustments that reflect:

1905 (A) market conditions;

1906 (B) business in force; and

1907 (C) other intangible assets or liabilities of the insurer.

1908 (c) The description required by Subsection (2)(g) shall identify the persons with whom  
1909 the contracts, arrangements, or understandings have been entered into.

1910 (5) (a) If the person required to file the statement referred to in Subsection (1) is a  
1911 partnership, limited partnership, syndicate, or other group, the commissioner may require that  
1912 all the information called for by Subsection (2), (3), or (4) shall be given with respect to each:

1913 (i) partner of the partnership or limited partnership;

1914 (ii) member of the syndicate or group; and

1915 (iii) person who controls the partner or member.

1916 (b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation,  
1917 or if the person required to file the statement referred to in Subsection (1) is a corporation, the  
1918 commissioner may require that the information called for by Subsection (2) shall be given with

1919 respect to:

1920 (i) the corporation;

1921 (ii) each officer and director of the corporation; and

1922 (iii) each person who is directly or indirectly the beneficial owner of more than 10% of

1923 the outstanding voting securities of the corporation.

1924 (6) If any material change occurs in the facts set forth in the statement filed with the  
1925 commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth  
1926 the change, together with copies of all documents and other material relevant to the change,  
1927 shall be filed with the commissioner and sent to the insurer within two business days after the  
1928 filing person learns of such change.

1929 (7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection  
1930 (1) is proposed to be made by means of a registration statement under the Securities Act of  
1931 1933, or under circumstances requiring the disclosure of similar information under the  
1932 Securities Exchange Act of 1934, or under a state law requiring similar registration or  
1933 disclosure, a person required to file the statement referred to in Subsection (1) may use copies  
1934 of any registration or disclosure documents in furnishing the information called for by the  
1935 statement.

1936 (8) (a) The commissioner shall approve any merger or other acquisition of control  
1937 referred to in Subsection (1), ~~unless[after a public hearing on the merger or acquisition,]~~ the  
1938 commissioner finds that:

1939 (i) after the change of control, the domestic insurer referred to in Subsection (1) would  
1940 not be able to satisfy the requirements for the issuance of a license to write the line or lines of  
1941 insurance for which it is presently licensed;

1942 (ii) the effect of the merger or other acquisition of control would:

1943 (A) substantially lessen competition in insurance in this state; or

1944 (B) tend to create a monopoly in insurance;

1945 (iii) the financial condition of any acquiring party might:

1946 (A) jeopardize the financial stability of the insurer; or

1947 (B) prejudice the interest of:

1948 (I) its policyholders; or

1949 (II) any remaining securityholders who are unaffiliated with the acquiring party;

1950 (iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in  
1951 Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

1952 (v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its  
1953 assets, or consolidate or merge it with any person, or to make any other material change in its  
1954 business or corporate structure or management, are:

1955 (A) unfair and unreasonable to policyholders of the insurer; and

1956 (B) not in the public interest; or

1957 (vi) the competence, experience, and integrity of those persons who would control the  
1958 operation of the insurer are such that it would not be in the interest of the policyholders of the  
1959 insurer and the public to permit the merger or other acquisition of control.

1960 (b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not  
1961 be considered unfair if the adjusted book values under Subsection (2)(e):

1962 (i) are disclosed to the securityholders; and

1963 (ii) determined by the commissioner to be reasonable.

1964 (9) For a merger or other acquisition of control described in Subsection (1), the  
1965 commissioner:

1966 (a) may hold a public hearing on the merger or other acquisition at the commissioner's  
1967 discretion; and

1968 (b) shall hold a public hearing on the merger or other acquisition upon request by the  
1969 acquiring party, the insurer, or any other interested party.

1970 ~~[(9)]~~ (10) (a) The commissioner shall hold a public hearing [referred to in Subsection  
1971 (8) shall be held within 30] under Subsection (9) no later than 45 days after the day on which  
1972 the statement required by Subsection (1) is filed.

1973 (b) (i) ~~[At]~~ The commissioner shall give at least 20 days notice of the hearing [shall be  
1974 given by the commissioner] to the person filing the statement.

1975 (ii) Affected parties may waive the notice required by this Subsection (9)(b).

1976 (iii) Not less than seven days notice of the public hearing shall be given by the person  
1977 filing the statement to:

1978 (A) the insurer; and

1979 (B) any person designated by the commissioner.

1980 (c) The commissioner shall make a determination within 30 days after the conclusion

1981 of the hearing.

1982 (d) At the hearing, the person filing the statement, the insurer, any person to whom  
1983 notice of hearing was sent, and any other person whose interest may be affected by the hearing  
1984 may:

1985 (i) present evidence;

1986 (ii) examine and cross-examine witnesses; and

1987 (iii) offer oral and written arguments.

1988 (e) (i) A person or insurer described in Subsection ~~[(9)]~~ (10)(d) may conduct discovery  
1989 proceedings in the same manner as is presently allowed in the district courts of this state.

1990 (ii) All discovery proceedings shall be concluded not later than three days before the  
1991 commencement of the public hearing.

1992 ~~[(10)]~~ (11) If the proposed acquisition of control will require the approval of more than  
1993 one commissioner, the public hearing ~~[referred to]~~ described in Subsection (9)~~[(a)]~~ may be held  
1994 on a consolidated basis upon request of the person filing the statement referred to in Subsection  
1995 (1). The person shall file the statement referred to in Subsection (1) with the National  
1996 Association of Insurance Commissioners within five days of making the request for a public  
1997 hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the  
1998 applicant of the opt-out within 10 days of the receipt of the statement referred to in Subsection  
1999 (1). A hearing conducted on a consolidated basis shall be public and shall be held within the  
2000 United States before the commissioners of the states in which the insurers are domiciled. The  
2001 commissioners shall hear and receive evidence. A commissioner may attend a hearing under  
2002 this Subsection ~~[(10)]~~ (11) in person or by telecommunication.

2003 ~~[(11)]~~ (12) In connection with a change of control of a domestic insurer, any  
2004 determination by the commissioner that the person acquiring control of the insurer shall be  
2005 required to maintain or restore the capital of the insurer to the level required by the laws and  
2006 regulations of this state shall be made not later than 60 days after the date of notification of the  
2007 change in control submitted pursuant to Subsection (1).

2008 ~~[(12)]~~ (13) (a) The commissioner may retain technical experts to assist in reviewing all,  
2009 or a portion of, information filed in connection with a proposed merger or other acquisition of  
2010 control referred to in Subsection (1).

2011 (b) In determining whether any of the conditions in Subsection (8) exist, the

2012 commissioner may consider the findings of technical experts employed to review applicable  
2013 filings.

2014 (c) (i) A technical expert employed under Subsection [~~(12)~~] (13)(a) shall present to the  
2015 commissioner a statement of all expenses incurred by the technical expert in conjunction with  
2016 the technical expert's review of a proposed merger or other acquisition of control.

2017 (ii) At the commissioner's direction the acquiring person shall compensate the technical  
2018 expert at customary rates for time and expenses:

2019 (A) necessarily incurred; and

2020 (B) approved by the commissioner.

2021 (iii) The acquiring person shall:

2022 (A) certify the consolidated account of all charges and expenses incurred for the review  
2023 by technical experts;

2024 (B) retain a copy of the consolidated account described in Subsection [~~(12)~~]  
2025 (13)(c)(iii)(A); and

2026 (C) file with the department as a public record a copy of the consolidated account  
2027 described in Subsection [~~(12)~~] (13)(c)(iii)(A).

2028 [~~(13)~~] (14) (a) (i) If a domestic insurer proposes to merge into another insurer, any  
2029 securityholder electing to exercise a right of dissent may file with the insurer a written request  
2030 for payment of the adjusted book value given in the statement required by Subsection (1) and  
2031 approved under Subsection (8), in return for the surrender of the security holder's securities.

2032 (ii) The request described in Subsection [~~(13)~~] (14)(a)(i) shall be filed not later than 10  
2033 days after the day of the securityholders' meeting where the corporate action is approved.

2034 (b) The dissenting securityholder is entitled to and the insurer is required to pay to the  
2035 dissenting securityholder the specified value within 60 days of receipt of the dissenting security  
2036 holder's security.

2037 (c) Persons electing under this Subsection [~~(13)~~] (14) to receive cash for their securities  
2038 waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16,  
2039 Chapter 10a, Part 13, Dissenters' Rights.

2040 (d) (i) This Subsection [~~(13)~~] (14) provides an elective procedure for dissenting  
2041 securityholders to resolve their objections to the plan of merger.

2042 (ii) This section does not restrict the rights of dissenting securityholders under Title 16,

2043 Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this  
2044 Subsection [~~(13)~~] (14).

2045 [~~(14)~~] (15) (a) All statements, amendments, or other material filed under Subsection  
2046 (1), and all notices of public hearings held under Subsection (8), shall be mailed by the insurer  
2047 to its securityholders within five business days after the insurer has received the statements,  
2048 amendments, other material, or notices.

2049 (b) (i) Mailing expenses shall be paid by the person making the filing.

2050 (ii) As security for the payment of mailing expenses, that person shall file with the  
2051 commissioner an acceptable bond or other deposit in an amount determined by the  
2052 commissioner.

2053 [~~(15)~~] (16) This section does not apply to any offer, request, invitation, agreement, or  
2054 acquisition that the commissioner by order exempts from the requirements of this section as:

2055 (a) not having been made or entered into for the purpose of, and not having the effect  
2056 of, changing or influencing the control of a domestic insurer; or

2057 (b) otherwise not comprehended within the purposes of this section.

2058 [~~(16)~~] (17) The following are violations of this section:

2059 (a) the failure to file any statement, amendment, or other material required to be filed  
2060 pursuant to Subsections (1), (2), and (5); or

2061 (b) the effectuation, or any attempt to effectuate, an acquisition of control of,  
2062 divestiture of, or merger with a domestic insurer unless the commissioner has given the  
2063 commissioner's approval to the acquisition or merger.

2064 [~~(17)~~] (18) (a) The courts of this state are vested with jurisdiction over:

2065 (i) a person who:

2066 (A) files a statement with the commissioner under this section; and

2067 (B) is not resident, domiciled, or authorized to do business in this state; and

2068 (ii) overall actions involving persons described in Subsection [~~(17)~~] (18)(a)(i) arising  
2069 out of a violation of this section.

2070 (b) A person described in Subsection [~~(17)~~] (18)(a) is considered to have performed  
2071 acts equivalent to and constituting an appointment of the commissioner by that person, to be  
2072 that person's lawful agent upon whom may be served all lawful process in any action, suit, or  
2073 proceeding arising out of a violation of this section.

2074 (c) A copy of a lawful process described in Subsection [(17)] (18)(b) shall be:  
2075 (i) served on the commissioner; and  
2076 (ii) transmitted by registered or certified mail by the commissioner to the person at that  
2077 person's last-known address.

2078 Section 9. Section 31A-22-612 is amended to read:

2079 **31A-22-612. Conversion privileges for insured former spouse.**

2080 (1) An accident and health insurance policy, which in addition to covering the insured  
2081 also provides coverage to the spouse of the insured, may not contain a provision for  
2082 termination of coverage of a spouse covered under the policy, except by entry of a valid decree  
2083 of divorce, legal separation, or annulment between the parties.

2084 (2) Every policy which contains this type of provision shall provide that upon the entry  
2085 of the divorce decree the spouse is entitled to have issued an individual policy of accident and  
2086 health insurance without evidence of insurability, upon application to the company and  
2087 payment of the appropriate premium. The policy shall provide the coverage being issued  
2088 which is most nearly similar to the terminated coverage. Probationary or waiting periods in the  
2089 policy are considered satisfied to the extent the coverage was in force under the prior policy.

2090 (3) When the insurer receives actual notice that the coverage of a spouse is to be  
2091 terminated because of a divorce, legal separation, or annulment, the insurer shall promptly  
2092 provide the spouse written notification of the right to obtain individual coverage as provided in  
2093 Subsection (2), the premium amounts required, and the manner, place, and time in which  
2094 premiums may be paid. The premium is determined in accordance with the insurer's table of  
2095 premium rates applicable to the age and class of risk of the persons to be covered and to the  
2096 type and amount of coverage provided. If the spouse applies and tenders the first monthly  
2097 premium to the insurer within 30 days after receiving the notice provided by this Subsection  
2098 (3), the spouse shall receive individual coverage that commences immediately upon  
2099 termination of coverage under the insured's policy.

2100 (4) This section does not apply to accident and health insurance policies offered on a  
2101 group blanket basis or a health benefit plan.

2102 Section 10. Section 31A-22-618.6 is amended to read:

2103 **31A-22-618.6. Discontinuance, nonrenewal, or changes to group health benefit**  
2104 **plans.**

2105 (1) Except as otherwise provided in this section, a group health benefit plan for a plan  
2106 sponsor is renewable and continues in force:

2107 (a) with respect to all eligible employees and dependents; and

2108 (b) at the option of the plan sponsor.

2109 (2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

2110 (a) for noncompliance with the insurer's employer contribution requirements;

2111 (b) if there is no longer any enrollee under the group health plan who lives, resides, or  
2112 works in:

2113 (i) the service area of the insurer; or

2114 (ii) the area for which the insurer is authorized to do business;

2115 (c) for coverage made available in the small or large employer market only through an  
2116 association, if:

2117 (i) the employer's membership in the association ceases; and

2118 (ii) the coverage is terminated uniformly without regard to any health status-related  
2119 factor relating to any covered individual; or

2120 (d) for noncompliance with the insurer's minimum employee participation  
2121 requirements, except as provided in Subsection (3).

2122 (3) If a small employer [~~employs fewer than two eligible employees~~] no longer  
2123 employs at least one eligible employee, a carrier may not discontinue or not renew the health  
2124 benefit plan until the first renewal date following the beginning of a new plan year, even if the  
2125 carrier knows at the beginning of the plan year that the employer no longer has at least [~~two~~  
2126 ~~current employees~~] one eligible employee.

2127 (4) (a) A small employer that, after purchasing a health benefit plan in the small group  
2128 market, employs on average more than 50 eligible employees on each business day in a  
2129 calendar year may continue to renew the health benefit plan purchased in the small group  
2130 market.

2131 (b) A large employer that, after purchasing a health benefit plan in the large group  
2132 market, employs on average fewer than 51 eligible employees on each business day in a  
2133 calendar year may continue to renew the health benefit plan purchased in the large group  
2134 market.

2135 (5) A health benefit plan for a plan sponsor may be discontinued if:

- 2136 (a) a condition described in Subsection (2) exists;
- 2137 (b) the plan sponsor fails to pay premiums or contributions in accordance with the
- 2138 terms of the contract;
- 2139 (c) the plan sponsor:
- 2140 (i) performs an act or practice that constitutes fraud; or
- 2141 (ii) makes an intentional misrepresentation of material fact under the terms of the
- 2142 coverage;
- 2143 (d) the insurer:
- 2144 (i) elects to discontinue offering a particular health benefit plan product delivered or
- 2145 issued for delivery in this state; and
- 2146 (ii) (A) provides notice of the discontinuation in writing to each plan sponsor,
- 2147 employee, or dependent of a plan sponsor or an employee, at least 90 days before the date the
- 2148 coverage will be discontinued;
- 2149 (B) provides notice of the discontinuation in writing to the commissioner, and at least
- 2150 three working days before the date the notice is sent to the affected plan sponsors, employees,
- 2151 and dependents of the plan sponsors or employees;
- 2152 (C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all
- 2153 other health benefit plans currently being offered by the insurer in the market or, in the case of
- 2154 a large employer, any other health benefit plans currently being offered in that market; and
- 2155 (D) in exercising the option to discontinue that health benefit plan and in offering the
- 2156 option of coverage in this section, acts uniformly without regard to the claims experience of a
- 2157 plan sponsor, any health status-related factor relating to any covered participant or beneficiary,
- 2158 or any health status-related factor relating to any new participant or beneficiary who may
- 2159 become eligible for the coverage; or
- 2160 (e) the insurer:
- 2161 (i) elects to discontinue all of the insurer's health benefit plans in:
- 2162 (A) the small employer market;
- 2163 (B) the large employer market; or
- 2164 (C) both the small employer and large employer markets; and
- 2165 (ii) (A) provides notice of the discontinuation in writing to each plan sponsor,
- 2166 employee, or dependent of a plan sponsor or an employee at least 180 days before the date the

2167 coverage will be discontinued;

2168 (B) provides notice of the discontinuation in writing to the commissioner in each state  
2169 in which an affected insured individual is known to reside and, at least 30 working days before  
2170 the date the notice is sent to the affected plan sponsors, employees, and the dependents of the  
2171 plan sponsors or employees;

2172 (C) discontinues and nonrenews all plans issued or delivered for issuance in the market  
2173 described in Subsection (5)(e)(i); and

2174 (D) provides a plan of orderly withdrawal as required by Section 31A-4-115.

2175 (6) (a) Except as provided in Subsection (6)(d), an eligible employee may be  
2176 discontinued if after issuance of coverage the eligible employee:

2177 (i) engages in an act or practice in connection with the coverage that constitutes fraud;

2178 or

2179 (ii) makes an intentional misrepresentation of material fact in connection with the  
2180 coverage.

2181 (b) An eligible employee that is discontinued under Subsection (6)(a) may reenroll:

2182 (i) 12 months after the date of discontinuance; and

2183 (ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies  
2184 to reenroll.

2185 (c) At the time the eligible employee's coverage is discontinued under Subsection  
2186 (6)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is  
2187 discontinued.

2188 (d) An eligible employee may not be discontinued under this Subsection (6) because of  
2189 a fraud or misrepresentation that relates to health status.

2190 (7) For purposes of this section, a reference to "plan sponsor" includes a reference to  
2191 the employer:

2192 (a) with respect to coverage provided to an employer member of the association; and

2193 (b) if the health benefit plan is made available by an insurer in the employer market  
2194 only through:

2195 (i) an association;

2196 (ii) a trust; or

2197 (iii) a discretionary group.

- 2198 (8) An insurer may modify a health benefit plan for a plan sponsor only:
- 2199 (a) at the time of coverage renewal; and
- 2200 (b) if the modification is effective uniformly among all plans with that product.

2201 Section 11. Section **31A-22-629** is amended to read:

2202 **31A-22-629. Adverse benefit determination review process.**

2203 (1) As used in this section:

2204 (a) (i) "Adverse benefit determination" means the:

2205 (A) denial of a benefit;

2206 (B) reduction of a benefit;

2207 (C) termination of a benefit; or

2208 (D) failure to provide or make payment, in whole or in part, for a benefit.

2209 (ii) "Adverse benefit determination" includes:

2210 (A) denial, reduction, termination, or failure to provide or make payment that is based  
2211 on a determination of an insured's or a beneficiary's eligibility to participate in a plan;

2212 (B) denial, reduction, or termination of, or a failure to provide or make payment, in  
2213 whole or in part, for, a benefit resulting from the application of a utilization review; or

2214 (C) failure to cover an item or service for which benefits are otherwise provided  
2215 because it is determined to be:

2216 (I) experimental;

2217 (II) investigational; or

2218 (III) not medically necessary or appropriate.

2219 (b) "Independent review" means a process that:

2220 (i) is a voluntary option for the resolution of an adverse benefit determination;

2221 (ii) is conducted at the discretion of the claimant;

2222 (iii) is conducted by an independent review organization designated by the [insurer]  
2223 commissioner;

2224 (iv) renders an independent and impartial decision on an adverse benefit determination  
2225 submitted by an insured; and

2226 (v) may not require the insured to pay a fee for requesting the independent review.

2227 (c) "Independent review organization" means a person, subject to Subsection (6), who  
2228 conducts an independent external review of adverse determinations.

- 2229 (d) "Insured" is as defined in Section 31A-1-301 and includes a person who is  
2230 authorized to act on the insured's behalf.
- 2231 (e) "Insurer" is as defined in Section 31A-1-301 and includes:  
2232 (i) a health maintenance organization; and  
2233 (ii) a third party administrator that offers, sells, manages, or administers a health  
2234 insurance policy or health maintenance organization contract that is subject to this title.
- 2235 (f) "Internal review" means the process an insurer uses to review an insured's adverse  
2236 benefit determination before the adverse benefit determination is submitted for independent  
2237 review.
- 2238 (2) This section applies generally to health insurance policies, health maintenance  
2239 organization contracts, and income replacement or disability income policies.
- 2240 (3) (a) An insured may submit an adverse benefit determination to the insurer.  
2241 (b) The insurer shall conduct an internal review of the insured's adverse benefit  
2242 determination.
- 2243 (c) An insured who disagrees with the results of an internal review may submit the  
2244 adverse benefit determination for an independent review if the adverse benefit determination  
2245 involves:
- 2246 (i) payment of a claim regarding medical necessity; or  
2247 (ii) denial of a claim regarding medical necessity.
- 2248 (4) The commissioner shall adopt rules that establish minimum standards for:  
2249 (a) internal reviews;  
2250 (b) independent reviews to ensure independence and impartiality;  
2251 (c) the types of adverse benefit determinations that may be submitted to an independent  
2252 review; and  
2253 (d) the timing of the review process, including an expedited review when medically  
2254 necessary.
- 2255 (5) Nothing in this section may be construed as:  
2256 (a) expanding, extending, or modifying the terms of a policy or contract with respect to  
2257 benefits or coverage;  
2258 (b) permitting an insurer to charge an insured for the internal review of an adverse  
2259 benefit determination;

2260 (c) restricting the use of arbitration in connection with or subsequent to an independent  
2261 review; or

2262 (d) altering the legal rights of any party to seek court or other redress in connection  
2263 with:

2264 (i) an adverse decision resulting from an independent review, except that if the insurer  
2265 is the party seeking legal redress, the insurer shall pay for the reasonable attorney fees of the  
2266 insured related to the action and court costs; or

2267 (ii) an adverse benefit determination or other claim that is not eligible for submission  
2268 to independent review.

2269 (6) (a) An independent review organization in relation to the insurer may not be:

2270 (i) the insurer;

2271 (ii) the health plan;

2272 (iii) the health plan's fiduciary;

2273 (iv) the employer; or

2274 (v) an employee or agent of any one listed in Subsections (6)(a)(i) through (iv).

2275 (b) An independent review organization may not have a material professional, familial,  
2276 or financial conflict of interest with:

2277 (i) the health plan;

2278 (ii) an officer, director, or management employee of the health plan;

2279 (iii) the enrollee;

2280 (iv) the enrollee's health care provider;

2281 (v) the health care provider's medical group or independent practice association;

2282 (vi) a health care facility where service would be provided; or

2283 (vii) the developer or manufacturer of the service that would be provided.

2284 Section 12. Section **31A-22-701** is amended to read:

2285 **31A-22-701. Groups eligible for group or blanket insurance.**

2286 (1) As used in this section, "association group" means a lawfully formed association of  
2287 individuals or business entities that:

2288 (a) purchases insurance on a group basis on behalf of members; and

2289 (b) is formed and maintained in good faith for purposes other than obtaining insurance.

2290 (2) A group accident and health insurance policy may be issued to:

- 2291 (a) a group:
- 2292 (i) to which a group life insurance policy may be issued under [~~Sections~~] Section
- 2293 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-506, or 31A-22-507 [~~, and 31A-22-509~~]; and
- 2294 (ii) that is formed and maintained in good faith for a purpose other than obtaining
- 2295 insurance;
- 2296 (b) an association group authorized by the commissioner that:
- 2297 (i) has been actively in existence for at least five years;
- 2298 (ii) has a constitution and bylaws;
- 2299 (iii) has a shared or common purpose that is not primarily a business or customer
- 2300 relationship;
- 2301 (iv) is formed and maintained in good faith for purposes other than obtaining
- 2302 insurance;
- 2303 (v) does not condition membership in the association group on any health status-related
- 2304 factor relating to an individual, including an employee of an employer or a dependent of an
- 2305 employee;
- 2306 (vi) makes accident and health insurance coverage offered through the association
- 2307 group available to all members regardless of any health status-related factor relating to the
- 2308 members or individuals eligible for coverage through a member;
- 2309 (vii) does not make accident and health insurance coverage offered through the
- 2310 association group available other than in connection with a member of the association group;
- 2311 and
- 2312 (viii) is actuarially sound; or
- 2313 (c) a group specifically authorized by the commissioner [~~under Section 31A-22-509~~],
- 2314 upon a finding that:
- 2315 (i) authorization is not contrary to the public interest;
- 2316 (ii) the group is actuarially sound;
- 2317 (iii) formation of the proposed group may result in economies of scale in acquisition,
- 2318 administrative, marketing, and brokerage costs;
- 2319 (iv) the insurance policy, insurance certificate, or other indicia of coverage that will be
- 2320 offered to the proposed group is substantially equivalent to insurance policies that are
- 2321 otherwise available to similar groups;

- 2322 (v) the group would not present hazards of adverse selection;
- 2323 (vi) the premiums for the insurance policy and any contributions by or on behalf of the
- 2324 insured persons are reasonable in relation to the benefits provided; and
- 2325 (vii) the group is formed and maintained in good faith for a purpose other than
- 2326 obtaining insurance.
- 2327 (3) A blanket accident and health insurance policy:
- 2328 (a) covers a defined class of persons;
- 2329 (b) may not be offered or underwritten on an individual basis;
- 2330 (c) shall cover only a group that is:
- 2331 (i) actuarially sound; and
- 2332 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
- 2333 and
- 2334 (d) may be issued only to:
- 2335 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 2336 policyholder, covering persons who may become passengers as defined by reference to the
- 2337 person's travel status;
- 2338 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 2339 guests, as defined by reference to specified hazards incident to any activities of the
- 2340 policyholder;
- 2341 (iii) an institution of learning, including a school district, a school jurisdictional unit, or
- 2342 the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering
- 2343 students, teachers, or employees;
- 2344 (iv) a religious, charitable, recreational, educational, or civic organization, or branch of
- 2345 one of those organizations, as policyholder, covering a group of members or participants as
- 2346 defined by reference to specified hazards incident to the activities sponsored or supervised by
- 2347 the policyholder;
- 2348 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering
- 2349 members, campers, employees, officials, or supervisors;
- 2350 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer
- 2351 organization, as policyholder, covering a group of members or participants as defined by
- 2352 reference to specified hazards incident to activities sponsored, supervised, or participated in by

2353 the policyholder;

2354 (vii) a newspaper or other publisher, as policyholder, covering its carriers;

2355 (viii) an association, including a labor union, that has a constitution and bylaws and

2356 that is organized in good faith for purposes other than that of obtaining insurance, as

2357 policyholder, covering a group of members or participants as defined by reference to specified

2358 hazards incident to the activities or operations sponsored or supervised by the policyholder; and

2359 (ix) any other class of risks that, in the judgment of the commissioner, may be properly

2360 eligible for blanket accident and health insurance.

2361 (4) The judgment of the commissioner may be exercised on the basis of:

2362 (a) individual risks;

2363 (b) a class of risks; or

2364 (c) both Subsections (4)(a) and (b).

2365 Section 13. Section **31A-22-722** is amended to read:

2366 **31A-22-722. Utah mini-COBRA benefits for employer group coverage.**

2367 (1) An insured may extend the employee's coverage under the current employer's group

2368 policy for a period of 12 months, except as provided in [~~Subsections (2) and 31A-22-722.5(4)]~~

2369 Subsection (2). The right to extend coverage includes:

2370 (a) voluntary termination;

2371 (b) involuntary termination;

2372 (c) retirement;

2373 (d) death;

2374 (e) divorce or legal separation;

2375 (f) loss of dependent status;

2376 (g) sabbatical;

2377 (h) a disability;

2378 (i) leave of absence; or

2379 (j) reduction of hours.

2380 (2) (a) Notwithstanding Subsection (1), an employee may not extend coverage under

2381 the current employer's group insurance policy if the employee:

2382 (i) fails to pay premiums or contributions in accordance with the terms of the insurance

2383 policy;

2384 (ii) acquires other group coverage covering all preexisting conditions including  
2385 maternity, if the coverage exists;

2386 (iii) performs an act or practice that constitutes fraud in connection with the coverage;

2387 (iv) makes an intentional misrepresentation of material fact under the terms of the  
2388 coverage;

2389 (v) is terminated from employment for gross misconduct;

2390 (vi) is not continuously covered under the current employer's group policy for a period  
2391 of three months immediately before the termination of the insurance policy due to an event set  
2392 forth in Subsection (1);

2393 (vii) is eligible for an extension of coverage required by federal law;

2394 (viii) establishes residence outside of this state;

2395 (ix) moves out of the insurer's service area;

2396 (x) is eligible for similar coverage under another group insurance policy; or

2397 (xi) has the employee's coverage terminated because the employer's coverage is  
2398 terminated, except as provided in Subsection (8).

2399 (b) The right to extend coverage under Subsection (1) applies to spouse or dependent  
2400 coverage, including a surviving spouse or dependents whose coverage under the insurance  
2401 policy terminates by reason of the death of the employee or member.

2402 (3) (a) The employer shall notify the following in writing of the right to extend group  
2403 coverage and the payment amounts required for extension of coverage, including the manner,  
2404 place, and time in which the payments shall be made:

2405 (i) a terminated insured;

2406 (ii) an ex-spouse of an insured; or

2407 (iii) if Subsection (2)(b) applies:

2408 (A) a surviving spouse; and

2409 (B) the guardian of surviving dependents, if different from a surviving spouse.

2410 (b) The notification required in Subsection (3)(a) shall be sent first class mail within 30  
2411 days after the termination date of the group coverage to:

2412 (i) the terminated insured's home address as shown on the records of the employer;

2413 (ii) the address of the surviving spouse, if different from the insured's address and if  
2414 shown on the records of the employer;

2415 (iii) the guardian of any dependents address, if different from the insured's address, and  
2416 if shown on the records of the employer; and

2417 (iv) the address of the ex-spouse, if shown on the records of the employer.

2418 (4) The insurer shall provide the employee, spouse, or any eligible dependent the  
2419 opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

2420 (a) the employer policyholder does not provide the terminated insured the written  
2421 notification required by Subsection (3)(a); and

2422 (b) the employee or other individual eligible for extension contacts the insurer within  
2423 60 days of coverage termination.

2424 (5) (a) A premium amount for extended group coverage may not exceed 102% of the  
2425 group rate in effect for a group member, including an employer's contribution, if any, for a  
2426 group insurance policy.

2427 (b) An insurer may not charge an insured an additional fee, an additional premium,  
2428 interest, or any similar charge for electing extended group coverage.

2429 (6) Except as provided in this Subsection (6), coverage extends without interruption for  
2430 12 months and may not terminate if the terminated insured or, with respect to a minor, the  
2431 parent or guardian of the terminated insured:

2432 (a) elects to extend group coverage within 60 days of losing group coverage; and

2433 (b) tenders the amount required to the employer or insurer.

2434 (7) The insured's coverage may be terminated before 12 months if the terminated  
2435 insured:

2436 (a) establishes residence outside of this state;

2437 (b) moves out of the insurer's service area;

2438 (c) fails to pay premiums or contributions in accordance with the terms of the insurance  
2439 policy, including any timeliness requirements;

2440 (d) performs an act or practice that constitutes fraud in connection with the coverage;

2441 (e) makes an intentional misrepresentation of material fact under the terms of the  
2442 coverage;

2443 (f) becomes eligible for similar coverage under another group insurance policy; or

2444 (g) has the coverage terminated because the employer's coverage is terminated, except  
2445 as provided in Subsection (8).

2446 (8) If the current employer coverage is terminated and the employer replaces coverage  
2447 with similar coverage under another group insurance policy, without interruption, the  
2448 terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection  
2449 (2)(b) applies, may obtain extension of coverage under the replacement group insurance policy:

2450 (a) for the balance of the period the terminated insured would have extended coverage  
2451 under the replaced group insurance policy; and

2452 (b) if the terminated insured is otherwise eligible for extension of coverage.

2453 (9) An insurer shall require an insured employer to offer to the following individuals an  
2454 open enrollment period at the same time as other regular employees:

2455 (a) an individual who extends group coverage and is current on payment; and

2456 (b) during the applicable grace period described in Subsection (3) or (4), an individual  
2457 who is eligible to elect to extend group coverage.

2458 Section 14. Section **31A-23a-107** is amended to read:

2459 **31A-23a-107. Character requirements.**

2460 An applicant for a license under this chapter shall show to the commissioner that:

2461 (1) the applicant has the intent in good faith, to engage in the type of business that the  
2462 license applied for would permit;

2463 (2) (a) if a natural person, the applicant is:

2464 (i) competent; and

2465 (ii) trustworthy; or

2466 (b) if the applicant is an agency:

2467 (i) the partners, directors, or principal officers or persons having comparable powers  
2468 are trustworthy; and

2469 (ii) that it will transact business in such a way that the acts that may only be performed  
2470 by a licensed producer, surplus lines producer, limited line producer, consultant, managing  
2471 general agent, or reinsurance intermediary are performed exclusively by natural persons who  
2472 are licensed under this chapter to transact that type of business and designated on the agency's  
2473 license;

2474 (3) the applicant intends to comply with Section **31A-23a-502**; and

2475 (4) if a natural person, the applicant is at least 18 years of age.

2476 Section 15. Section **31A-23a-109** is amended to read:

2477 **31A-23a-109. Nonresident jurisdictional agreement.**

2478 (1) (a) If a nonresident license applicant has a valid producer, surplus lines producer,  
2479 limited line producer, consultant, managing general agent, or reinsurance intermediary license  
2480 from the nonresident license applicant's home state or designated home state and the conditions  
2481 of Subsection (1)(b) are met, the commissioner shall:

2482 (i) waive the license requirements for a license under this chapter; and

2483 (ii) issue the nonresident license applicant a nonresident license.

2484 (b) Subsection (1)(a) applies if:

2485 (i) the nonresident license applicant:

2486 (A) is licensed [~~as a resident~~] in the nonresident license applicant's home state or  
2487 designated home state at the time the nonresident license applicant applies for a nonresident  
2488 producer, surplus lines producer, limited line producer, consultant, managing general agent, or  
2489 reinsurance intermediary license;

2490 (B) has submitted the proper request for licensure;

2491 (C) has submitted to the commissioner:

2492 (I) the application for licensure that the nonresident license applicant submitted to the  
2493 applicant's home state or designated home state; or

2494 (II) a completed uniform application; and

2495 (D) has paid the applicable fees under Section 31A-3-103; and

2496 (ii) the nonresident license applicant's license in the applicant's home state or  
2497 designated home state is in good standing.

2498 (2) A nonresident applicant applying under Subsection (1) shall in addition to  
2499 complying with all license requirements for a license under this chapter execute, in a form  
2500 acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah  
2501 commissioner and courts on any matter related to the applicant's insurance activities in this  
2502 state, on the basis of:

2503 (a) service of process under Sections 31A-2-309 and 31A-2-310; or

2504 (b) service authorized:

2505 (i) in the Utah Rules of Civil Procedure; or

2506 (ii) under Section 78B-3-206.

2507 (3) The commissioner may verify a producer's licensing status through the producer

2508 database maintained by:

2509 (a) the National Association of Insurance Commissioners; or

2510 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

2511 (4) The commissioner may not assess a greater fee for an insurance license or related  
2512 service to a person not residing in this state solely on the fact that the person does not reside in  
2513 this state.

2514 Section 16. Section **31A-23a-111** is amended to read:

2515 **31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**  
2516 **terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

2517 (1) A license type issued under this chapter remains in force until:

2518 (a) revoked or suspended under Subsection (5);

2519 (b) surrendered to the commissioner and accepted by the commissioner in lieu of  
2520 administrative action;

2521 (c) the licensee dies or is adjudicated incompetent as defined under:

2522 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

2523 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and  
2524 Minors;

2525 (d) lapsed under Section [31A-23a-113](#); or

2526 (e) voluntarily surrendered.

2527 (2) The following may be reinstated within one year after the day on which the license  
2528 is no longer in force:

2529 (a) a lapsed license; or

2530 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may  
2531 not be reinstated after the license period in which the license is voluntarily surrendered.

2532 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a  
2533 license, submission and acceptance of a voluntary surrender of a license does not prevent the  
2534 department from pursuing additional disciplinary or other action authorized under:

2535 (a) this title; or

2536 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah  
2537 Administrative Rulemaking Act.

2538 (4) A line of authority issued under this chapter remains in force until:

2539 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;

2540 or

2541 (b) the supporting license type:

2542 (i) is revoked or suspended under Subsection (5);

2543 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of  
2544 administrative action;

2545 (iii) lapses under Section 31A-23a-113; or

2546 (iv) is voluntarily surrendered; or

2547 (c) the licensee dies or is adjudicated incompetent as defined under:

2548 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

2549 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and  
2550 Minors.

2551 (5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an  
2552 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the  
2553 commissioner may:

2554 (i) revoke:

2555 (A) a license; or

2556 (B) a line of authority;

2557 (ii) suspend for a specified period of 12 months or less:

2558 (A) a license; or

2559 (B) a line of authority;

2560 (iii) limit in whole or in part:

2561 (A) a license; or

2562 (B) a line of authority;

2563 (iv) deny a license application;

2564 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

2565 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and  
2566 Subsection (5)(a)(v).

2567 (b) The commissioner may take an action described in Subsection (5)(a) if the  
2568 commissioner finds that the licensee:

2569 (i) is unqualified for a license or line of authority under Section 31A-23a-104,

- 2570 31A-23a-105, or 31A-23a-107;
- 2571 (ii) violates:
- 2572 (A) an insurance statute;
- 2573 (B) a rule that is valid under Subsection 31A-2-201(3); or
- 2574 (C) an order that is valid under Subsection 31A-2-201(4);
- 2575 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
- 2576 delinquency proceedings in any state;
- 2577 (iv) fails to pay a final judgment rendered against the person in this state within 60
- 2578 days after the day on which the judgment became final;
- 2579 (v) fails to meet the same good faith obligations in claims settlement that is required of
- 2580 admitted insurers;
- 2581 (vi) is affiliated with and under the same general management or interlocking
- 2582 directorate or ownership as another insurance producer that transacts business in this state
- 2583 without a license;
- 2584 (vii) refuses:
- 2585 (A) to be examined; or
- 2586 (B) to produce its accounts, records, and files for examination;
- 2587 (viii) has an officer who refuses to:
- 2588 (A) give information with respect to the insurance producer's affairs; or
- 2589 (B) perform any other legal obligation as to an examination;
- 2590 (ix) provides information in the license application that is:
- 2591 (A) incorrect;
- 2592 (B) misleading;
- 2593 (C) incomplete; or
- 2594 (D) materially untrue;
- 2595 (x) violates an insurance law, valid rule, or valid order of another regulatory agency in
- 2596 any jurisdiction;
- 2597 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;
- 2598 (xii) improperly withholds, misappropriates, or converts money or properties received
- 2599 in the course of doing insurance business;
- 2600 (xiii) intentionally misrepresents the terms of an actual or proposed:

- 2601 (A) insurance contract;
- 2602 (B) application for insurance; or
- 2603 (C) life settlement;
- 2604 (xiv) is convicted of:
- 2605 (A) a felony; or
- 2606 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- 2607 (xv) admits or is found to have committed an insurance unfair trade practice or fraud;
- 2608 (xvi) in the conduct of business in this state or elsewhere:
- 2609 (A) uses fraudulent, coercive, or dishonest practices; or
- 2610 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
- 2611 (xvii) has an insurance license, or its equivalent, denied, suspended, or revoked in
- 2612 another state, province, district, or territory;
- 2613 (xviii) forges another's name to:
- 2614 (A) an application for insurance; or
- 2615 (B) a document related to an insurance transaction;
- 2616 (xix) improperly uses notes or another reference material to complete an examination
- 2617 for an insurance license;
- 2618 (xx) knowingly accepts insurance business from an individual who is not licensed;
- 2619 (xxi) fails to comply with an administrative or court order imposing a child support
- 2620 obligation;
- 2621 (xxii) fails to:
- 2622 (A) pay state income tax; or
- 2623 (B) comply with an administrative or court order directing payment of state income
- 2624 tax;
- 2625 (xxiii) violates or permits others to violate the federal Violent Crime Control and Law
- 2626 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is
- 2627 prohibited from engaging in the business of insurance; or
- 2628 (xxiv) engages in a method or practice in the conduct of business that endangers the
- 2629 legitimate interests of customers and the public.
- 2630 (c) For purposes of this section, if a license is held by an agency, both the agency itself
- 2631 and any individual designated under the license are considered to be the holders of the license.

2632 (d) If an individual designated under the agency license commits an act or fails to  
2633 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,  
2634 the commissioner may suspend, revoke, or limit the license of:

2635 (i) the individual;

2636 (ii) the agency, if the agency:

2637 (A) is reckless or negligent in its supervision of the individual; or

2638 (B) knowingly participates in the act or failure to act that is the ground for suspending,  
2639 revoking, or limiting the license; or

2640 (iii) (A) the individual; and

2641 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

2642 (6) A licensee under this chapter is subject to the penalties for acting as a licensee  
2643 without a license if:

2644 (a) the licensee's license is:

2645 (i) revoked;

2646 (ii) suspended;

2647 (iii) limited;

2648 (iv) surrendered in lieu of administrative action;

2649 (v) lapsed; or

2650 (vi) voluntarily surrendered; and

2651 (b) the licensee:

2652 (i) continues to act as a licensee; or

2653 (ii) violates the terms of the license limitation.

2654 (7) A licensee under this chapter shall immediately report to the commissioner:

2655 (a) a revocation, suspension, or limitation of the person's license in another state, the  
2656 District of Columbia, or a territory of the United States;

2657 (b) the imposition of a disciplinary sanction imposed on that person by another state,  
2658 the District of Columbia, or a territory of the United States; or

2659 (c) a judgment or injunction entered against that person on the basis of conduct  
2660 involving:

2661 (i) fraud;

2662 (ii) deceit;

2663 (iii) misrepresentation; or

2664 (iv) a violation of an insurance law or rule.

2665 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a  
2666 license in lieu of administrative action may specify a time, not to exceed five years, within  
2667 which the former licensee may not apply for a new license.

2668 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the  
2669 former licensee may not apply for a new license for five years from the day on which the order  
2670 or agreement is made without the express approval by the commissioner.

2671 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of  
2672 a license issued under this part if so ordered by a court.

2673 (10) The commissioner shall by rule prescribe the license renewal and reinstatement  
2674 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2675 Section 17. Section **31A-23a-208** is amended to read:

2676 **31A-23a-208. Producer and agency authority in health insurance exchange.**

2677 A producer or agency licensed under this chapter, with a line of authority that permits  
2678 the producer or agency to sell, negotiate, or solicit accident and health insurance, is authorized  
2679 to sell, negotiate, or solicit qualified health plans offered on ~~[an]~~ a health insurance exchange  
2680 ~~[that is:].~~

2681 ~~[(1) operated in the state; or]~~

2682 ~~[(2) operated in the state and certified by the United States Department of Health and  
2683 Human Services as a:]~~

2684 ~~[(a) state-based exchange under PPACA;]~~

2685 ~~[(b) a federally facilitated exchange under PPACA; or]~~

2686 ~~[(c) a partnership exchange under PPACA.]~~

2687 Section 18. Section **31A-23b-102** is amended to read:

2688 **31A-23b-102. Definitions.**

2689 As used in this chapter:

2690 (1) "Enroll" and "enrollment" mean to:

2691 (a) (i) obtain personally identifiable information about an individual; and

2692 (ii) inform an individual about accident and health insurance plans or public programs  
2693 offered on an exchange;

- 2694 (b) solicit insurance; or
- 2695 (c) submit to the exchange:
- 2696 (i) personally identifiable information about an individual; and
- 2697 (ii) an individual's selection of a particular accident and health insurance plan or public
- 2698 program offered on the exchange.

2699 ~~[(2)(a) "Exchange" means an online marketplace that is certified by the United States~~  
 2700 ~~Department of Health and Human Services as either a state-based small employer exchange or~~  
 2701 ~~a federally facilitated individual exchange under PPACA.]~~

2702 ~~[(b) "Exchange" does not include an online marketplace for the purchase of health~~  
 2703 ~~insurance if the online marketplace is not a certified exchange in accordance with Subsection~~  
 2704 ~~(2)(a).]~~

2705 ~~[(3)]~~ (2) "Navigator":

2706 (a) means a person who facilitates enrollment in an exchange by offering to assist, or  
 2707 who advertises any services to assist, with:

2708 (i) the selection of and enrollment in a qualified health plan or a public program  
 2709 offered on an exchange; or

2710 (ii) applying for premium subsidies through an exchange; and

2711 (b) includes a person who is an in-person assister or a certified application counselor as  
 2712 described in federal regulations or guidance issued under PPACA.

2713 ~~[(4)]~~ (3) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

2714 ~~[(5)]~~ (4) "Public programs" means the state Medicaid program in Title 26, Chapter 18,  
 2715 Medical Assistance Act, and Title 26, Chapter 40, Utah Children's Health Insurance Act.

2716 ~~[(6)]~~ (5) "Resident" is as defined by rule made by the commissioner in accordance with  
 2717 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2718 ~~[(7)]~~ (6) "Solicit" ~~[is as]~~ means the same as that term is defined in Section  
 2719 31A-23a-102.

2720 Section 19. Section **31A-23b-202.5** is amended to read:

2721 **31A-23b-202.5. License types.**

2722 (1) A license issued under this chapter shall be issued under the license types described  
 2723 in Subsection (2).

2724 (2) A license type under this chapter shall be a navigator line of authority or a certified

2725 application counselor line of authority. A license type is intended to describe the matters to be  
2726 considered under any education, examination, and training required of an applicant under this  
2727 chapter.

2728 (3) (a) A navigator line of authority includes the enrollment process as described in  
2729 Subsection [31A-23b-102](#)~~(3)~~(2)(a).

2730 (b) (i) A certified application counselor line of authority is limited to providing  
2731 information and assistance to individuals and employees about public programs and premium  
2732 subsidies available through the exchange.

2733 (ii) A certified application counselor line of authority does not allow the certified  
2734 application counselor to assist a person with the selection of or enrollment in a qualified health  
2735 plan offered on an exchange.

2736 Section 20. Section [31A-23b-204](#) is amended to read:

2737 **[31A-23b-204](#). Character requirements.**

2738 An applicant for a license under this chapter shall demonstrate to the commissioner  
2739 that:

2740 (1) the applicant has the intent, in good faith, to engage in the practice of a navigator as  
2741 the license would permit;

2742 (2) (a) if a natural person, the applicant is:

2743 (i) competent; and

2744 (ii) trustworthy; or

2745 (b) if the applicant is an agency:

2746 (i) the partners, directors, or principal officers or persons having comparable powers  
2747 are trustworthy; and

2748 (ii) that it will transact business in a way that the acts that may only be performed by a  
2749 licensed navigator are performed only by a natural person who is licensed under this chapter, or  
2750 Chapter 23a, Insurance Marketing-Licensing Producers, Consultants, and Reinsurance  
2751 Intermediaries;

2752 (3) the applicant intends to comply with the surety bond requirements of Section  
2753 [31A-23b-207](#);

2754 (4) if a natural person, the applicant is at least 18 years of age; and

2755 (5) the applicant does not have a conflict of interest as defined by regulations issued

2756 under PPACA.

2757 Section 21. Section **31A-23b-205** is amended to read:

2758 **31A-23b-205. Examination and training requirements.**

2759 (1) The commissioner may require an applicant for a license to pass an examination  
2760 and complete a training program as a requirement for a license.

2761 (2) The examination described in Subsection (1) shall reasonably relate to:

2762 (a) the duties and functions of a navigator;

2763 (b) requirements for navigators as established by federal regulation under PPACA; and

2764 (c) other requirements that may be established by the commissioner by administrative  
2765 rule.

2766 (3) The examination may be administered by the commissioner or as otherwise  
2767 specified by administrative rule.

2768 (4) The training required by Subsection (1) shall be approved by the commissioner and  
2769 shall include:

2770 (a) accident and health insurance plans;

2771 (b) qualifications for and enrollment in public programs;

2772 (c) qualifications for and enrollment in premium subsidies;

2773 (d) cultural and linguistic competence;

2774 (e) conflict of interest standards;

2775 (f) exchange functions; and

2776 (g) other requirements that may be adopted by the commissioner by administrative  
2777 rule.

2778 (5) (a) For the navigator line of authority, the training required by Subsection (1) shall  
2779 consist of at least 21 credit hours of training before obtaining the license, which shall  
2780 include~~[(i) at least two hours of training on defined contribution arrangements and the small~~  
2781 ~~employer health insurance exchange; and (ii)]~~ the navigator training and certification program  
2782 developed by the Centers for Medicare and Medicaid Services.

2783 (b) For the certified application counselor line of authority, the training required by  
2784 Subsection (1) shall consist of at least six hours of training before obtaining a license, which  
2785 shall include~~[(i) at least one hour of training on defined contribution arrangements and the~~  
2786 ~~small employer health insurance exchange; and(ii)]~~ the certified application counselor training

2787 and certification program developed by the Centers for Medicare and Medicaid Services.

2788 (6) This section applies only to an applicant who is a natural person.

2789 Section 22. Section **31A-23b-206** is amended to read:

2790 **31A-23b-206. Continuing education requirements.**

2791 (1) The commissioner shall, by rule, prescribe continuing education requirements for a  
2792 navigator.

2793 (2) (a) The commissioner may not require a degree from an institution of higher  
2794 education as part of continuing education.

2795 (b) The commissioner may state a continuing education requirement in terms of hours  
2796 of instruction received in:

2797 (i) accident and health insurance;

2798 (ii) qualification for and enrollment in public programs;

2799 (iii) qualification for and enrollment in premium subsidies;

2800 (iv) cultural competency;

2801 (v) conflict of interest standards; and

2802 (vi) other exchange functions.

2803 (3) (a) For a navigator line of authority, continuing education requirements shall  
2804 require:

2805 (i) that a licensee complete 12 credit hours of continuing education for every one-year  
2806 licensing period;

2807 (ii) that at least two of the 12 credit hours described in Subsection (3)(a)(i) be ethics  
2808 courses; and

2809 [~~(iii) that at least one of the 12 credit hours described in Subsection (3)(a)(i) be training  
2810 on defined contribution arrangements and the use of the small employer health insurance  
2811 exchange; and]~~

2812 [(iv)] (iii) that a licensee complete the annual navigator training and certification  
2813 program developed by the Centers for Medicare and Medicaid Services.

2814 (b) For a certified application counselor, the continuing education requirements shall  
2815 require:

2816 (i) that a licensee complete six credit hours of continuing education for every one-year  
2817 licensing period;

2818 (ii) that at least two of the six credit hours described in Subsection (3)(b)(i) be on  
2819 ethics courses; and

2820 ~~[(iii) that at least one of the six credit hours described in Subsection (3)(b)(i) be~~  
2821 ~~training on defined contribution arrangements and the use of the small employer health~~  
2822 ~~insurance exchange; and]~~

2823 [(iv)] (iii) that a licensee complete the annual certified application counselor training  
2824 and certification program developed by the Centers for Medicare and Medicaid Services.

2825 (c) An hour of continuing education in accordance with Subsections (3)(a)(i) and (b)(i)  
2826 may be obtained through:

- 2827 (i) classroom attendance;
- 2828 (ii) home study;
- 2829 (iii) watching a video recording; or
- 2830 (iv) another method approved by rule.

2831 (d) A licensee may obtain continuing education hours at any time during the one-year  
2832 license period.

2833 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2834 commissioner shall, by rule, authorize one or more continuing education providers, including a  
2835 state or national professional producer or consultant associations, to:

- 2836 (i) offer a qualified program on a geographically accessible basis; and
- 2837 (ii) collect a reasonable fee for funding and administration of a continuing education  
2838 program, subject to the review and approval of the commissioner.

2839 (4) The commissioner shall approve a continuing education provider or a continuing  
2840 education course that satisfies the requirements of this section.

2841 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2842 commissioner shall by rule establish the procedures for continuing education provider  
2843 registration and course approval.

2844 (6) This section applies only to a navigator who is a natural person.

2845 (7) A navigator shall keep documentation of completing the continuing education  
2846 requirements of this section for one year after the end of the one-year licensing period to which  
2847 the continuing education applies.

2848 Section 23. Section **31A-25-204** is amended to read:

2849 **31A-25-204. Character requirements.**

2850 Each applicant for a license under this chapter shall show to the commissioner all of the  
2851 following:

2852 (1) [~~he or it~~] that the applicant has the good faith intent to engage in the type of  
2853 business the license applied for would permit;

2854 (2) (a) if a natural person, [~~he is~~] that the applicant is:

2855 (i) competent; and

2856 (ii) trustworthy[~~;~~]; or[~~;~~]

2857 (b) if a partnership or corporation, that all the partners, directors, principal officers, or  
2858 persons having comparable powers are trustworthy; and

2859 (3) if a natural person, [~~he~~] that the applicant is at least 18 years of age.

2860 Section 24. Section **31A-25-206** is amended to read:

2861 **31A-25-206. Nonresident jurisdictional agreement.**

2862 (1) (a) If a nonresident license applicant has a valid license from the nonresident license  
2863 applicant's home state or designated home state and the conditions of Subsection (1)(b) are  
2864 met, the commissioner shall:

2865 (i) waive any license requirement for a license under this chapter; and

2866 (ii) issue the nonresident license applicant a nonresident third party administrator  
2867 license.

2868 (b) Subsection (1)(a) applies if:

2869 (i) the nonresident license applicant:

2870 (A) is licensed [~~as a resident~~] in the nonresident license applicant's home state or  
2871 designated home state at the time the nonresident license applicant applies for a nonresident  
2872 third party administrator license;

2873 (B) has submitted the proper request for licensure;

2874 (C) has submitted to the commissioner:

2875 (I) the application for licensure that the nonresident license applicant submitted to the  
2876 applicant's home state or designated home state; or

2877 (II) a completed uniform application; and

2878 (D) has paid the applicable fees under Section [31A-3-103](#);

2879 (ii) the nonresident license applicant's license in the applicant's home state or

2880 designated home state is in good standing; and

2881 (iii) the nonresident license applicant's home state or designated home state awards  
2882 nonresident third party administrator licenses to residents of this state on the same basis as this  
2883 state awards licenses to residents of that home state or designated home state.

2884 (2) A nonresident applicant shall execute in a form acceptable to the commissioner an  
2885 agreement to be subject to the jurisdiction of the Utah commissioner and courts on any matter  
2886 related to the applicant's insurance activities in Utah, on the basis of:

2887 (a) service of process under Sections 31A-2-309 and 31A-2-310; or

2888 (b) other service authorized in the Utah Rules of Civil Procedure.

2889 (3) The commissioner may verify the third party administrator's licensing status  
2890 through the database maintained by:

2891 (a) the National Association of Insurance Commissioners; or

2892 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

2893 (4) The commissioner may not assess a greater fee for an insurance license or related  
2894 service to a person not residing in this state based solely on the fact that the person does not  
2895 reside in this state.

2896 Section 25. Section 31A-26-102 is amended to read:

2897 **31A-26-102. Definitions.**

2898 As used in this chapter, unless expressly provided otherwise:

2899 (1) "Company adjuster" means a person employed by an insurer [~~whose regular duties~~  
2900 ~~include insurance adjusting~~], or an entity under common control or ownership with the insurer,  
2901 who negotiates or settles claims on behalf of the employer.

2902 (2) "Designated home state" means the state or territory of the United States or the  
2903 District of Columbia:

2904 (a) in which an insurance adjuster does not maintain the adjuster's principal:

2905 (i) place of residence; or

2906 (ii) place of business;

2907 (b) if the resident state, territory, or District of Columbia of the adjuster does not  
2908 license adjusters for the line of authority sought, the adjuster has qualified for the license as if  
2909 the person were a resident in the state, territory, or District of Columbia described in  
2910 Subsection (2)(a), including an applicable:

- 2911 (i) examination requirement;
- 2912 (ii) fingerprint background check requirement; and
- 2913 (iii) continuing education requirement; and
- 2914 (c) the adjuster has designated the state, territory, or District of Columbia as the
- 2915 designated home state.
- 2916 (3) "Home state" means:
- 2917 (a) a state or territory of the United States or the District of Columbia in which an
- 2918 insurance adjuster:
- 2919 (i) maintains the adjuster's principal:
- 2920 (A) place of residence; or
- 2921 (B) place of business; and
- 2922 (ii) is licensed to act as a resident adjuster; or
- 2923 (b) if the resident state, territory, or the District of Columbia described in Subsection
- 2924 (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District
- 2925 of Columbia:
- 2926 (i) in which the adjuster is licensed;
- 2927 (ii) in which the adjuster is in good standing; and
- 2928 (iii) that the adjuster has designated as the adjuster's designated home state.
- 2929 (4) "Independent adjuster" means an insurance adjuster required to be licensed under
- 2930 Section [31A-26-201](#), who engages in insurance adjusting as a representative of one or more
- 2931 insurers.
- 2932 (5) "Insurance adjusting" or "adjusting" means directing or conducting the
- 2933 investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an
- 2934 insurer, policyholder, or a claimant under an insurance policy.
- 2935 (6) "Organization" means a person other than a natural person, and includes a sole
- 2936 proprietorship by which a natural person does business under an assumed name.
- 2937 (7) "Portable electronics insurance" is as defined in Section [31A-22-1802](#).
- 2938 (8) "Public adjuster" means a person required to be licensed under Section
- 2939 [31A-26-201](#), who engages in insurance adjusting as a representative of insureds and claimants
- 2940 under insurance policies.
- 2941 Section 26. Section [31A-26-205](#) is amended to read:

2942 **31A-26-205. Character requirements.**

2943 Each applicant for a license under this chapter shall show to the commissioner that:

2944 (1) ~~he~~ the applicant has the good faith intent to engage in the type of business the  
2945 license or licenses applied for would permit;2946 (2) (a) if a natural person, ~~he is~~ the applicant is:

2947 (i) competent; and

2948 (ii) trustworthy~~;~~; or ~~that;~~

2949 (b) if an organization, all the partners, directors, principal officers, or persons in fact

2950 having comparable powers are trustworthy, and that ~~it~~ the applicant will transact business in

2951 such a way that all acts that may only be performed by a licensed adjuster are performed

2952 exclusively by natural persons who are licensed under this chapter to transact that business and

2953 listed on the organization's license under Section 31A-26-209; and

2954 (3) if a natural person, ~~he~~ the applicant is at least 18 years of age.

2955 Section 27. Section 31A-26-208 is amended to read:

2956 **31A-26-208. Nonresident jurisdictional agreement.**

2957 (1) (a) If a nonresident license applicant has a valid license from the nonresident

2958 license applicant's home state or designated home state and the conditions of Subsection (1)(b)

2959 are met, the commissioner shall:

2960 (i) waive any license requirement for a license under this chapter; and

2961 (ii) issue the nonresident license applicant a nonresident adjuster's license.

2962 (b) Subsection (1)(a) applies if:

2963 (i) the nonresident license applicant:

2964 (A) is licensed ~~as a resident~~ in the nonresident license applicant's home state or2965 designated home state at the time the nonresident license applicant applies for a nonresident

2966 adjuster license;

2967 (B) has submitted the proper request for licensure;

2968 (C) has submitted to the commissioner:

2969 (I) the application for licensure that the nonresident license applicant submitted to the

2970 applicant's home state or designated home state; or

2971 (II) a completed uniform application; and

2972 (D) has paid the applicable fees under Section 31A-3-103;

2973 (ii) the nonresident license applicant's license in the applicant's home state or  
2974 designated home state is in good standing; and

2975 (iii) the nonresident license applicant's home state or designated home state awards  
2976 nonresident adjuster licenses to residents of this state on the same basis as this state awards  
2977 licenses to residents of that home state or designated home state.

2978 (2) A nonresident applicant shall execute in a form acceptable to the commissioner an  
2979 agreement to be subject to the jurisdiction of the commissioner and courts of this state on any  
2980 matter related to the adjuster's insurance activities in this state, on the basis of:

2981 (a) service of process under Sections 31A-2-309 and 31A-2-310; or

2982 (b) other service authorized under the Utah Rules of Civil Procedure or Section  
2983 78B-3-206.

2984 (3) The commissioner may verify an adjuster's licensing status through the database  
2985 maintained by:

2986 (a) the National Association of Insurance Commissioners; or

2987 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.

2988 (4) The commissioner may not assess a greater fee for an insurance license or related  
2989 service to a person not residing in this state based solely on the fact that the person does not  
2990 reside in this state.

2991 Section 28. Section 31A-27a-111 is amended to read:

2992 **31A-27a-111. Actions by and against the receiver.**

2993 (1) (a) An allegation by the receiver of improper or fraudulent conduct against a person  
2994 may not be the basis of a defense to the enforcement of a contractual obligation owed to the  
2995 insurer by a third party.

2996 (b) Notwithstanding Subsection (1)(a), a third party described in this Subsection (1) is  
2997 not barred by this section from seeking to establish independently as a defense that the conduct  
2998 is materially and substantially related to the contractual obligation for which enforcement is  
2999 sought.

3000 (2) (a) Subject to Subsection (2)(b), a prior wrongful or negligent action of any present  
3001 or former officer, manager, director, trustee, owner, employee, or agent of the insurer may not  
3002 be asserted as a defense to a claim by the receiver:

3003 (i) under a theory of:

- 3004 (A) estoppel;
- 3005 (B) comparative fault;
- 3006 (C) intervening cause;
- 3007 (D) proximate cause;
- 3008 (E) reliance; or
- 3009 (F) mitigation of damages; or
- 3010 (ii) otherwise.
- 3011 (b) Notwithstanding Subsection (2)(a):
- 3012 (i) the affirmative defense of fraud in the inducement may be asserted against the
- 3013 receiver in a claim based on a contract; and
- 3014 (ii) a principal under a surety bond or a surety undertaking is entitled to credit against
- 3015 any reimbursement obligation to the receiver for the value of any property pledged to secure the
- 3016 reimbursement obligation to the extent that:
- 3017 (A) the receiver has possession or control of the property; or
- 3018 (B) the insurer or its agents misappropriated, including commingling, the property.
- 3019 (c) Evidence of fraud in the inducement is admissible only if it is contained in the
- 3020 records of the insurer.
- 3021 (3) Action or inaction by an insurance regulatory authority may not be asserted as a
- 3022 defense to a claim by the receiver.
- 3023 (4) (a) Subject to Subsection (4)(b), a judgment or order entered against an insured or
- 3024 the insurer in contravention of a stay or injunction under this chapter, or at any time by default
- 3025 or collusion, may not be considered as evidence of liability or of the quantum of damages in
- 3026 adjudicating claims filed in the estate arising out of the subject matter of the judgment or order.
- 3027 (b) Subsection (4)(a) does not apply to an affected guaranty association's claim for
- 3028 amounts paid on a settlement or judgment in pursuit of the affected guaranty association's
- 3029 statutory obligations.
- 3030 (5) (a) Subject to Subsection (5)(b), the following do not affect the amount that a
- 3031 receiver may recover from a third party, regardless of any provision in an agreement to the
- 3032 contrary:
- 3033 (i) the insurer's insolvency; or
- 3034 (ii) the insurer's or receiver's failure to pay all or a portion of an amount or a claim to

3035 the third party.

3036 (b) If an agreement between the insurer and a third party requires a payment by the  
3037 insurer before the insurer may recover from the third party, the amount the receiver may  
3038 recover from the third party under Subsection (5)(a) is limited to an amount equal to the greater  
3039 of:

3040 (i) the amount paid by the insurer or by another person on behalf of the insurer to the  
3041 third party; or

3042 (ii) the amount allowed as a claim for payment under:

3043 (A) an approved report described in Section [31A-27a-608](#);

3044 (B) an order of the receivership court; or

3045 (C) a plan of rehabilitation.

3046 ~~[(5)]~~ (6) The receiver may not be considered a governmental entity for the purposes of  
3047 any state law awarding fees to a litigant who prevails against a governmental entity.

3048 Section 29. Section **31A-27a-608** is amended to read:

3049 **31A-27a-608. Liquidator's recommendations to the receivership court.**

3050 (1) The liquidator shall, from time to time as determined by the liquidator, present to  
3051 the receivership court for approval, reports of claims settled or determined by the liquidator  
3052 under Section [31A-27a-603](#).

3053 (2) A report required by this section shall include information identifying:

3054 (a) the claim;

3055 (b) the amount of the claim; and

3056 (c) the priority class of the claim.

3057 (3) (a) A claim included in a report described in this section and approved by the  
3058 receivership court is a liability of the estate.

3059 (b) An insurer's insolvency does not affect the amount of a liability described in  
3060 Subsection (3)(a), regardless of any provision in an agreement to the contrary.

3061 Section 30. Section **31A-43-303** is amended to read:

3062 **31A-43-303. Stop-loss insurance disclosure.**

3063 A stop-loss insurance contract delivered, issued for delivery, or entered into shall  
3064 include the disclosure exhibit required by the commissioner through administrative rule, which  
3065 shall include at least the following information:

- 3066 (1) the complete costs for the stop-loss contract;
- 3067 (2) the date on which the insurance takes effect and terminates, including renewability
- 3068 provisions;
- 3069 (3) the aggregate attachment point and the specific attachment point;
- 3070 (4) limitations on coverage;
- 3071 (5) an explanation of monthly accommodation and disclosure about any monthly
- 3072 accommodation features included in the stop-loss contract;
- 3073 (6) a description of terminal liability funding, including the cost of processing claims
- 3074 before and after the termination of the contract; [~~and~~]
- 3075 (7) maximum claims liability to the employer[-]; and
- 3076 (8) a summary of the policy.

3077 Section 31. Section ~~31A-45-403~~ is enacted to read:

3078 **31A-45-403. Essential health benefits.**

3079 (1) The state designates the state's own essential health benefits and does not accept a  
3080 federal determination of the essential health benefits under the PPACA.

3081 (2) Subject to Subsections (3) and (4), the commissioner shall make rules in  
3082 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that designate the  
3083 essential health benefits for the state.

3084 (3) Before the commissioner makes rules in accordance with Subsection (2):

3085 (a) the commissioner shall present a summary of the commissioner's planned rules to  
3086 the Health Reform Task Force; and

3087 (b) the Health Reform Task Force shall recommend whether the commissioner makes  
3088 rules in accordance with the presented summary.

3089 (4) The essential health benefits plan:

3090 (a) may not include a state mandate if the inclusion of the state mandate would require  
3091 the state to contribute to premium subsidies under the PPACA; and

3092 (b) may add benefits in addition to the benefits included in a benchmark plan adopted  
3093 in accordance with this section if the additional benefits are mandated under the PPACA.

3094 Section 32. Section ~~63G-2-305~~ is amended to read:

3095 **63G-2-305. Protected records.**

3096 The following records are protected if properly classified by a governmental entity:

3097 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
3098 has provided the governmental entity with the information specified in Section 63G-2-309;

3099 (2) commercial information or nonindividual financial information obtained from a  
3100 person if:

3101 (a) disclosure of the information could reasonably be expected to result in unfair  
3102 competitive injury to the person submitting the information or would impair the ability of the  
3103 governmental entity to obtain necessary information in the future;

3104 (b) the person submitting the information has a greater interest in prohibiting access  
3105 than the public in obtaining access; and

3106 (c) the person submitting the information has provided the governmental entity with  
3107 the information specified in Section 63G-2-309;

3108 (3) commercial or financial information acquired or prepared by a governmental entity  
3109 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
3110 commodities that will interfere with a planned transaction by the governmental entity or cause  
3111 substantial financial injury to the governmental entity or state economy;

3112 (4) records, the disclosure of which could cause commercial injury to, or confer a  
3113 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
3114 defined in Subsection 11-13-103(4);

3115 (5) test questions and answers to be used in future license, certification, registration,  
3116 employment, or academic examinations;

3117 (6) records, the disclosure of which would impair governmental procurement  
3118 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
3119 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
3120 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
3121 grant has been awarded and signed by all parties, a bid, proposal, application, or other  
3122 information submitted to or by a governmental entity in response to:

3123 (a) an invitation for bids;

3124 (b) a request for proposals;

3125 (c) a request for quotes;

3126 (d) a grant; or

3127 (e) other similar document;

3128 (7) information submitted to or by a governmental entity in response to a request for  
3129 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
3130 the right of a person to have access to the information, after:

3131 (a) a contract directly relating to the subject of the request for information has been  
3132 awarded and signed by all parties; or

3133 (b) (i) a final determination is made not to enter into a contract that relates to the  
3134 subject of the request for information; and

3135 (ii) at least two years have passed after the day on which the request for information is  
3136 issued;

3137 (8) records that would identify real property or the appraisal or estimated value of real  
3138 or personal property, including intellectual property, under consideration for public acquisition  
3139 before any rights to the property are acquired unless:

3140 (a) public interest in obtaining access to the information is greater than or equal to the  
3141 governmental entity's need to acquire the property on the best terms possible;

3142 (b) the information has already been disclosed to persons not employed by or under a  
3143 duty of confidentiality to the entity;

3144 (c) in the case of records that would identify property, potential sellers of the described  
3145 property have already learned of the governmental entity's plans to acquire the property;

3146 (d) in the case of records that would identify the appraisal or estimated value of  
3147 property, the potential sellers have already learned of the governmental entity's estimated value  
3148 of the property; or

3149 (e) the property under consideration for public acquisition is a single family residence  
3150 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
3151 the property as required under Section [78B-6-505](#);

3152 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
3153 compensated transaction of real or personal property including intellectual property, which, if  
3154 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
3155 of the subject property, unless:

3156 (a) the public interest in access is greater than or equal to the interests in restricting  
3157 access, including the governmental entity's interest in maximizing the financial benefit of the  
3158 transaction; or

3159 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
3160 the value of the subject property have already been disclosed to persons not employed by or  
3161 under a duty of confidentiality to the entity;

3162 (10) records created or maintained for civil, criminal, or administrative enforcement  
3163 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
3164 release of the records:

3165 (a) reasonably could be expected to interfere with investigations undertaken for  
3166 enforcement, discipline, licensing, certification, or registration purposes;

3167 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
3168 proceedings;

3169 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
3170 hearing;

3171 (d) reasonably could be expected to disclose the identity of a source who is not  
3172 generally known outside of government and, in the case of a record compiled in the course of  
3173 an investigation, disclose information furnished by a source not generally known outside of  
3174 government if disclosure would compromise the source; or

3175 (e) reasonably could be expected to disclose investigative or audit techniques,  
3176 procedures, policies, or orders not generally known outside of government if disclosure would  
3177 interfere with enforcement or audit efforts;

3178 (11) records the disclosure of which would jeopardize the life or safety of an  
3179 individual;

3180 (12) records the disclosure of which would jeopardize the security of governmental  
3181 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
3182 or other appropriation or use contrary to law or public policy;

3183 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
3184 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
3185 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

3186 (14) records that, if disclosed, would reveal recommendations made to the Board of  
3187 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
3188 Board of Pardons and Parole, or the Department of Human Services that are based on the  
3189 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's

3190 jurisdiction;

3191 (15) records and audit workpapers that identify audit, collection, and operational  
3192 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
3193 audits or collections;

3194 (16) records of a governmental audit agency relating to an ongoing or planned audit  
3195 until the final audit is released;

3196 (17) records that are subject to the attorney client privilege;

3197 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
3198 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
3199 quasi-judicial, or administrative proceeding;

3200 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
3201 from a member of the Legislature; and

3202 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
3203 legislative action or policy may not be classified as protected under this section; and

3204 (b) (i) an internal communication that is part of the deliberative process in connection  
3205 with the preparation of legislation between:

3206 (A) members of a legislative body;

3207 (B) a member of a legislative body and a member of the legislative body's staff; or

3208 (C) members of a legislative body's staff; and

3209 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
3210 legislative action or policy may not be classified as protected under this section;

3211 (20) (a) records in the custody or control of the Office of Legislative Research and  
3212 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
3213 legislation or contemplated course of action before the legislator has elected to support the  
3214 legislation or course of action, or made the legislation or course of action public; and

3215 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
3216 Office of Legislative Research and General Counsel is a public document unless a legislator  
3217 asks that the records requesting the legislation be maintained as protected records until such  
3218 time as the legislator elects to make the legislation or course of action public;

3219 (21) research requests from legislators to the Office of Legislative Research and  
3220 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

3221 in response to these requests;

3222 (22) drafts, unless otherwise classified as public;

3223 (23) records concerning a governmental entity's strategy about:

3224 (a) collective bargaining; or

3225 (b) imminent or pending litigation;

3226 (24) records of investigations of loss occurrences and analyses of loss occurrences that

3227 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the

3228 Uninsured Employers' Fund, or similar divisions in other governmental entities;

3229 (25) records, other than personnel evaluations, that contain a personal recommendation

3230 concerning an individual if disclosure would constitute a clearly unwarranted invasion of

3231 personal privacy, or disclosure is not in the public interest;

3232 (26) records that reveal the location of historic, prehistoric, paleontological, or

3233 biological resources that if known would jeopardize the security of those resources or of

3234 valuable historic, scientific, educational, or cultural information;

3235 (27) records of independent state agencies if the disclosure of the records would

3236 conflict with the fiduciary obligations of the agency;

3237 (28) records of an institution within the state system of higher education defined in

3238 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,

3239 retention decisions, and promotions, which could be properly discussed in a meeting closed in

3240 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of

3241 the final decisions about tenure, appointments, retention, promotions, or those students

3242 admitted, may not be classified as protected under this section;

3243 (29) records of the governor's office, including budget recommendations, legislative

3244 proposals, and policy statements, that if disclosed would reveal the governor's contemplated

3245 policies or contemplated courses of action before the governor has implemented or rejected

3246 those policies or courses of action or made them public;

3247 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

3248 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

3249 recommendations in these areas;

3250 (31) records provided by the United States or by a government entity outside the state

3251 that are given to the governmental entity with a requirement that they be managed as protected

3252 records if the providing entity certifies that the record would not be subject to public disclosure  
3253 if retained by it;

3254 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
3255 except as provided in Section [52-4-206](#);

3256 (33) records that would reveal the contents of settlement negotiations but not including  
3257 final settlements or empirical data to the extent that they are not otherwise exempt from  
3258 disclosure;

3259 (34) memoranda prepared by staff and used in the decision-making process by an  
3260 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
3261 other body charged by law with performing a quasi-judicial function;

3262 (35) records that would reveal negotiations regarding assistance or incentives offered  
3263 by or requested from a governmental entity for the purpose of encouraging a person to expand  
3264 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
3265 person or place the governmental entity at a competitive disadvantage, but this section may not  
3266 be used to restrict access to a record evidencing a final contract;

3267 (36) materials to which access must be limited for purposes of securing or maintaining  
3268 the governmental entity's proprietary protection of intellectual property rights including patents,  
3269 copyrights, and trade secrets;

3270 (37) the name of a donor or a prospective donor to a governmental entity, including an  
3271 institution within the state system of higher education defined in Section [53B-1-102](#), and other  
3272 information concerning the donation that could reasonably be expected to reveal the identity of  
3273 the donor, provided that:

3274 (a) the donor requests anonymity in writing;

3275 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
3276 classified protected by the governmental entity under this Subsection (37); and

3277 (c) except for an institution within the state system of higher education defined in  
3278 Section [53B-1-102](#), the governmental unit to which the donation is made is primarily engaged  
3279 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
3280 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
3281 by the donor or the donor's immediate family;

3282 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and

- 3283 73-18-13;
- 3284 (39) a notification of workers' compensation insurance coverage described in Section
- 3285 34A-2-205;
- 3286 (40) (a) the following records of an institution within the state system of higher
- 3287 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
- 3288 or received by or on behalf of faculty, staff, employees, or students of the institution:
- 3289 (i) unpublished lecture notes;
- 3290 (ii) unpublished notes, data, and information:
- 3291 (A) relating to research; and
- 3292 (B) of:
- 3293 (I) the institution within the state system of higher education defined in Section
- 3294 53B-1-102; or
- 3295 (II) a sponsor of sponsored research;
- 3296 (iii) unpublished manuscripts;
- 3297 (iv) creative works in process;
- 3298 (v) scholarly correspondence; and
- 3299 (vi) confidential information contained in research proposals;
- 3300 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
- 3301 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 3302 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 3303 (41) (a) records in the custody or control of the Office of Legislative Auditor General
- 3304 that would reveal the name of a particular legislator who requests a legislative audit prior to the
- 3305 date that audit is completed and made public; and
- 3306 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 3307 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 3308 the records in the custody or control of the Office of Legislative Auditor General that would
- 3309 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 3310 protected records until the audit is completed and made public;
- 3311 (42) records that provide detail as to the location of an explosive, including a map or
- 3312 other document that indicates the location of:
- 3313 (a) a production facility; or

- 3314 (b) a magazine;
- 3315 (43) information:
- 3316 (a) contained in the statewide database of the Division of Aging and Adult Services
- 3317 created by Section [62A-3-311.1](#); or
- 3318 (b) received or maintained in relation to the Identity Theft Reporting Information
- 3319 System (IRIS) established under Section [67-5-22](#);
- 3320 (44) information contained in the Management Information System and Licensing
- 3321 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 3322 (45) information regarding National Guard operations or activities in support of the
- 3323 National Guard's federal mission;
- 3324 (46) records provided by any pawn or secondhand business to a law enforcement
- 3325 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
- 3326 Secondhand Merchandise Transaction Information Act;
- 3327 (47) information regarding food security, risk, and vulnerability assessments performed
- 3328 by the Department of Agriculture and Food;
- 3329 (48) except to the extent that the record is exempt from this chapter pursuant to Section
- 3330 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
- 3331 prepared or maintained by the Division of Emergency Management, and the disclosure of
- 3332 which would jeopardize:
- 3333 (a) the safety of the general public; or
- 3334 (b) the security of:
- 3335 (i) governmental property;
- 3336 (ii) governmental programs; or
- 3337 (iii) the property of a private person who provides the Division of Emergency
- 3338 Management information;
- 3339 (49) records of the Department of Agriculture and Food that provides for the
- 3340 identification, tracing, or control of livestock diseases, including any program established under
- 3341 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 3342 of Animal Disease;
- 3343 (50) as provided in Section [26-39-501](#):
- 3344 (a) information or records held by the Department of Health related to a complaint

3345 regarding a child care program or residential child care which the department is unable to  
3346 substantiate; and

3347 (b) information or records related to a complaint received by the Department of Health  
3348 from an anonymous complainant regarding a child care program or residential child care;

3349 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
3350 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
3351 personal mobile phone number, if:

3352 (a) the individual is required to provide the information in order to comply with a law,  
3353 ordinance, rule, or order of a government entity; and

3354 (b) the subject of the record has a reasonable expectation that this information will be  
3355 kept confidential due to:

3356 (i) the nature of the law, ordinance, rule, or order; and

3357 (ii) the individual complying with the law, ordinance, rule, or order;

3358 (52) the name, home address, work addresses, and telephone numbers of an individual  
3359 that is engaged in, or that provides goods or services for, medical or scientific research that is:

3360 (a) conducted within the state system of higher education, as defined in Section  
3361 53B-1-102; and

3362 (b) conducted using animals;

3363 (53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement  
3364 Private Proposal Program, to the extent not made public by rules made under that chapter;

3365 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance  
3366 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
3367 recommend that the voters retain a judge including information disclosed under Subsection  
3368 78A-12-203(5)(e);

3369 (55) information collected and a report prepared by the Judicial Performance  
3370 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
3371 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
3372 the information or report;

3373 (56) records contained in the Management Information System created in Section  
3374 62A-4a-1003;

3375 (57) records provided or received by the Public Lands Policy Coordinating Office in

3376 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;  
3377 (58) information requested by and provided to the 911 Division under Section  
3378 63H-7a-302;  
3379 (59) in accordance with Section 73-10-33:  
3380 (a) a management plan for a water conveyance facility in the possession of the Division  
3381 of Water Resources or the Board of Water Resources; or  
3382 (b) an outline of an emergency response plan in possession of the state or a county or  
3383 municipality;  
3384 (60) the following records in the custody or control of the Office of Inspector General  
3385 of Medicaid Services, created in Section 63A-13-201:  
3386 (a) records that would disclose information relating to allegations of personal  
3387 misconduct, gross mismanagement, or illegal activity of a person if the information or  
3388 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
3389 through other documents or evidence, and the records relating to the allegation are not relied  
3390 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
3391 report or final audit report;  
3392 (b) records and audit workpapers to the extent they would disclose the identity of a  
3393 person who, during the course of an investigation or audit, communicated the existence of any  
3394 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
3395 regulation adopted under the laws of this state, a political subdivision of the state, or any  
3396 recognized entity of the United States, if the information was disclosed on the condition that  
3397 the identity of the person be protected;  
3398 (c) before the time that an investigation or audit is completed and the final  
3399 investigation or final audit report is released, records or drafts circulated to a person who is not  
3400 an employee or head of a governmental entity for the person's response or information;  
3401 (d) records that would disclose an outline or part of any investigation, audit survey  
3402 plan, or audit program; or  
3403 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
3404 investigation or audit;  
3405 (61) records that reveal methods used by the Office of Inspector General of Medicaid  
3406 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or

- 3407 abuse;
- 3408 (62) information provided to the Department of Health or the Division of Occupational  
3409 and Professional Licensing under Subsection 58-68-304(3) or (4);
- 3410 (63) a record described in Section 63G-12-210;
- 3411 (64) captured plate data that is obtained through an automatic license plate reader  
3412 system used by a governmental entity as authorized in Section 41-6a-2003;
- 3413 (65) any record in the custody of the Utah Office for Victims of Crime relating to a  
3414 victim, including:
- 3415 (a) a victim's application or request for benefits;
- 3416 (b) a victim's receipt or denial of benefits; and
- 3417 (c) any administrative notes or records made or created for the purpose of, or used to,  
3418 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
3419 Reparations Fund;
- 3420 (66) an audio or video recording created by a body-worn camera, as that term is  
3421 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
3422 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
3423 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
3424 that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:
- 3425 (a) depict the commission of an alleged crime;
- 3426 (b) record any encounter between a law enforcement officer and a person that results in  
3427 death or bodily injury, or includes an instance when an officer fires a weapon;
- 3428 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
3429 a law enforcement officer or law enforcement agency;
- 3430 (d) contain an officer involved critical incident as defined in Subsection  
3431 76-2-408(1)(d); or
- 3432 (e) have been requested for reclassification as a public record by a subject or  
3433 authorized agent of a subject featured in the recording; ~~and~~
- 3434 (67) a record pertaining to the search process for a president of an institution of higher  
3435 education described in Section 53B-2-102, except for application materials for a publicly  
3436 announced finalist[-]; and
- 3437 (68) work papers as defined in Section 31A-2-204.

3438 Section 33. **Repealer.**

3439 This bill repeals:

3440 Section **31A-22-722.5**, Mini-COBRA election -- American Recovery and

3441 **Reinvestment Act.**

3442 Section **31A-30-209**, Insurance producers and the Health Insurance Exchange.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**