

Representative James A. Dunnigan proposes the following substitute bill:

INSURANCE LAW AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ amends the definition provisions;
- ▶ clarifies the provision related to coordination with other states;
- ▶ addresses rules related to title and escrow examinations;
- ▶ modifies the provision related to the Title and Escrow Commission and its members;
- ▶ modifies the cap on appropriations from the Captive Insurance Restricted Account effective July 1, 2015;
- ▶ enacts provision related to closing or settlement protections;
- ▶ modifies language regarding restrictions on foreign title insurers;
- ▶ amends provisions related to company action level events;
- ▶ prohibits discretionary clauses;
- ▶ enacts a provision regarding producer's duties related to replacement of life insurance;
- ▶ addresses death pending conversion of group life insurance policy;



- 26 ▶ modifies preferred provider contract provisions;
- 27 ▶ amends provisions related to health benefit plan offerings;
- 28 ▶ addresses car rental related insurance;
- 29 ▶ amends provisions related to inducements;
- 30 ▶ creates the concept of a "qualifying licensee" for purposes of title and escrow
- 31 licenses;
- 32 ▶ clarifies terminology of individual and agency title insurance producers;
- 33 ▶ modifies the requirement that a title insurance producer conduct a minimum
- 34 mandatory search to be a requirement of a reasonable search;
- 35 ▶ establishes who shall conduct an escrow as provided in statute;
- 36 ▶ clarifies reference to a title insurance agency's reserve account;
- 37 ▶ addresses Utah mini-COBRA benefits for employer group coverage;
- 38 ▶ addresses sharing of commissions;
- 39 ▶ addresses powers of the board related to the Utah Comprehensive Health Insurance
- 40 Pool Act;
- 41 ▶ addresses money deposited into the Insurance Fraud Investigation Restricted
- 42 Account and the Insurance Fraud Victim Restitution Account;
- 43 ▶ amends lifetime maximum for covered benefits from the Comprehensive Health
- 44 Insurance Pool;
- 45 ▶ creates the Insurance Fraud Victim Restitution Account; and
- 46 ▶ repeals provisions related to alternative coverage and Utah NetCare Plan;
- 47 ▶ makes technical and conforming amendments.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill has an effective date.

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **31A-1-301**, as last amended by Laws of Utah 2012, Chapters 151 and 253

55 **31A-2-201.2**, as enacted by Laws of Utah 2010, Chapter 68

56 **31A-2-217**, as last amended by Laws of Utah 2008, Chapter 382

- 57 **31A-2-402**, as last amended by Laws of Utah 2011, Chapter 289
- 58 **31A-2-403**, as last amended by Laws of Utah 2010, Chapters 10 and 286
- 59 **31A-2-404**, as last amended by Laws of Utah 2012, Chapter 253
- 60 **31A-3-304 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 284
- 61 **31A-8-301**, as last amended by Laws of Utah 2005, Chapter 123
- 62 **31A-14-211**, as last amended by Laws of Utah 2011, Chapter 284
- 63 **31A-17-603**, as last amended by Laws of Utah 2001, Chapter 116
- 64 **31A-19a-209**, as last amended by Laws of Utah 2007, Chapter 325
- 65 **31A-20-110**, as last amended by Laws of Utah 2003, Chapter 298
- 66 **31A-21-314**, as last amended by Laws of Utah 1987, Chapter 95
- 67 **31A-21-503**, as last amended by Laws of Utah 2007, Chapter 307
- 68 **31A-22-519**, as enacted by Laws of Utah 1985, Chapter 242
- 69 **31A-22-612**, as last amended by Laws of Utah 2004, Chapter 108
- 70 **31A-22-617**, as last amended by Laws of Utah 2009, Chapter 12
- 71 **31A-22-618.5**, as last amended by Laws of Utah 2011, Chapters 284 and 297
- 72 **31A-22-722**, as last amended by Laws of Utah 2010, Chapter 10
- 73 **31A-23a-102**, as last amended by Laws of Utah 2012, Chapter 253
- 74 **31A-23a-105**, as last amended by Laws of Utah 2012, Chapter 253
- 75 **31A-23a-106**, as last amended by Laws of Utah 2012, Chapters 151 and 253
- 76 **31A-23a-202**, as last amended by Laws of Utah 2011, Chapter 284
- 77 **31A-23a-203.5**, as enacted by Laws of Utah 2011, Chapter 337
- 78 **31A-23a-204**, as last amended by Laws of Utah 2011, Chapters 284 and 342
- 79 **31A-23a-402**, as last amended by Laws of Utah 2011, Second Special Session, Chapter
- 80 5
- 81 **31A-23a-402.5**, as last amended by Laws of Utah 2012, Chapters 253 and 279
- 82 **31A-23a-406**, as last amended by Laws of Utah 2012, Chapter 253
- 83 **31A-23a-407**, as renumbered and amended by Laws of Utah 2003, Chapter 298
- 84 **31A-23a-413**, as renumbered and amended by Laws of Utah 2003, Chapter 298
- 85 **31A-23a-415**, as last amended by Laws of Utah 2011, Chapter 284
- 86 **31A-23a-503**, as last amended by Laws of Utah 2005, Chapter 185
- 87 **31A-23a-504**, as last amended by Laws of Utah 2012, Chapter 253

88 31A-27a-104, as last amended by Laws of Utah 2012, Chapter 253

89 31A-29-106, as last amended by Laws of Utah 2011, Chapter 284

90 31A-29-113, as last amended by Laws of Utah 2007, Chapter 40

91 31A-30-115, as last amended by Laws of Utah 2011, Second Special Session, Chapter 5

92 31A-30-208, as last amended by Laws of Utah 2011, Chapter 400

93 31A-31-108, as last amended by Laws of Utah 2012, Chapter 253

94 31A-41-102, as enacted by Laws of Utah 2008, Chapter 220

95 31A-41-201, as enacted by Laws of Utah 2008, Chapter 220

96 31A-41-202, as enacted by Laws of Utah 2008, Chapter 220

97 49-20-410, as last amended by Laws of Utah 2012, Chapter 406

98 ENACTS:

99 31A-4-117, Utah Code Annotated 1953

100 31A-22-429, Utah Code Annotated 1953

101 31A-23a-118, Utah Code Annotated 1953

102 31A-23a-406.5, Utah Code Annotated 1953

103 31A-31-108.5, Utah Code Annotated 1953

104 REPEALS:

105 31A-22-723, as last amended by Laws of Utah 2011, Chapters 284 and 297

106 31A-22-724, as last amended by Laws of Utah 2011, Chapter 400

107 31A-30-109, as last amended by Laws of Utah 2012, Chapter 253

108 31A-30-202.5, as last amended by Laws of Utah 2011, Second Special Session, Chapter

109 5

110 31A-30-205, as last amended by Laws of Utah 2011, Chapter 400

111

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

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

114 **31A-1-301. Definitions.**

115 As used in this title, unless otherwise specified:

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

117 economic losses resulting from:

118 (i) a medical condition including:

- 119 (A) a medical care expense; or
120 (B) the risk of disability;
121 (ii) accident; or
122 (iii) sickness.
123 (b) "Accident and health insurance":
124 (i) includes a contract with disability contingencies including:
125 (A) an income replacement contract;
126 (B) a health care contract;
127 (C) an expense reimbursement contract;
128 (D) a credit accident and health contract;
129 (E) a continuing care contract; and
130 (F) a long-term care contract; and
131 (ii) may provide:
132 (A) hospital coverage;
133 (B) surgical coverage;
134 (C) medical coverage;
135 (D) loss of income coverage;
136 (E) prescription drug coverage;
137 (F) dental coverage; or
138 (G) vision coverage.
139 (c) "Accident and health insurance" does not include workers' compensation insurance.
140 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
141 63G, Chapter 3, Utah Administrative Rulemaking Act.
142 (3) "Administrator" is defined in Subsection [~~(162)~~] (163).
143 (4) "Adult" means an individual who has attained the age of at least 18 years.
144 (5) "Affiliate" means a person who controls, is controlled by, or is under common
145 control with, another person. A corporation is an affiliate of another corporation, regardless of
146 ownership, if substantially the same group of individuals manage the corporations.
147 (6) "Agency" means:
148 (a) a person other than an individual, including a sole proprietorship by which an
149 individual does business under an assumed name; and

- 150 (b) an insurance organization licensed or required to be licensed under Section
151 31A-23a-301, 31A-25-207, or 31A-26-209.
- 152 (7) "Alien insurer" means an insurer domiciled outside the United States.
- 153 (8) "Amendment" means an endorsement to an insurance policy or certificate.
- 154 (9) "Annuity" means an agreement to make periodical payments for a period certain or
155 over the lifetime of one or more individuals if the making or continuance of all or some of the
156 series of the payments, or the amount of the payment, is dependent upon the continuance of
157 human life.
- 158 (10) "Application" means a document:
- 159 (a) (i) completed by an applicant to provide information about the risk to be insured;
160 and
- 161 (ii) that contains information that is used by the insurer to evaluate risk and decide
162 whether to:
- 163 (A) insure the risk under:
- 164 (I) the coverage as originally offered; or
165 (II) a modification of the coverage as originally offered; or
166 (B) decline to insure the risk; or
- 167 (b) used by the insurer to gather information from the applicant before issuance of an
168 annuity contract.
- 169 (11) "Articles" or "articles of incorporation" means:
- 170 (a) the original articles;
171 (b) a special law;
172 (c) a charter;
173 (d) an amendment;
174 (e) restated articles;
175 (f) articles of merger or consolidation;
176 (g) a trust instrument;
177 (h) another constitutive document for a trust or other entity that is not a corporation;
178 and
- 179 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 180 (12) "Bail bond insurance" means a guarantee that a person will attend court when

181 required, up to and including surrender of the person in execution of a sentence imposed under
182 Subsection 77-20-7(1), as a condition to the release of that person from confinement.

183 (13) "Binder" is defined in Section 31A-21-102.

184 (14) "Blanket insurance policy" means a group policy covering a defined class of
185 persons:

186 (a) without individual underwriting or application; and

187 (b) that is determined by definition without designating each person covered.

188 (15) "Board," "board of trustees," or "board of directors" means the group of persons
189 with responsibility over, or management of, a corporation, however designated.

190 (16) "Bona fide office" means a physical office in this state:

191 (a) that is open to the public;

192 (b) that is staffed during regular business hours on regular business days; and

193 (c) at which the public may appear in person to obtain services.

194 (17) "Business entity" means:

195 (a) a corporation;

196 (b) an association;

197 (c) a partnership;

198 (d) a limited liability company;

199 (e) a limited liability partnership; or

200 (f) another legal entity.

201 (18) "Business of insurance" is defined in Subsection (88).

202 (19) "Business plan" means the information required to be supplied to the
203 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
204 when these subsections apply by reference under:

205 (a) Section 31A-7-201;

206 (b) Section 31A-8-205; or

207 (c) Subsection 31A-9-205(2).

208 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
209 corporation's affairs, however designated.

210 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
211 corporation.

- 212 (21) "Captive insurance company" means:
- 213 (a) an insurer:
- 214 (i) owned by another organization; and
- 215 (ii) whose exclusive purpose is to insure risks of the parent organization and an
- 216 affiliated company; or
- 217 (b) in the case of a group or association, an insurer:
- 218 (i) owned by the insureds; and
- 219 (ii) whose exclusive purpose is to insure risks of:
- 220 (A) a member organization;
- 221 (B) a group member; or
- 222 (C) an affiliate of:
- 223 (I) a member organization; or
- 224 (II) a group member.
- 225 (22) "Casualty insurance" means liability insurance.
- 226 (23) "Certificate" means evidence of insurance given to:
- 227 (a) an insured under a group insurance policy; or
- 228 (b) a third party.
- 229 (24) "Certificate of authority" is included within the term "license."
- 230 (25) "Claim," unless the context otherwise requires, means a request or demand on an
- 231 insurer for payment of a benefit according to the terms of an insurance policy.
- 232 (26) "Claims-made coverage" means an insurance contract or provision limiting
- 233 coverage under a policy insuring against legal liability to claims that are first made against the
- 234 insured while the policy is in force.
- 235 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
- 236 commissioner.
- 237 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
- 238 supervisory official of another jurisdiction.
- 239 (28) (a) "Continuing care insurance" means insurance that:
- 240 (i) provides board and lodging;
- 241 (ii) provides one or more of the following:
- 242 (A) a personal service;

243 (B) a nursing service;
244 (C) a medical service; or
245 (D) any other health-related service; and
246 (iii) provides the coverage described in this Subsection (28)(a) under an agreement
247 effective:

248 (A) for the life of the insured; or
249 (B) for a period in excess of one year.

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

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

255 (i) by contract;
256 (ii) by common management;
257 (iii) through the ownership of voting securities; or
258 (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

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

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

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

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

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

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

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

- 274 (i) a corporation doing business:
275 (A) as:
276 (I) an insurance producer;
277 (II) a surplus lines producer;
278 (III) a limited line producer;
279 (IV) a consultant;
280 (V) a managing general agent;
281 (VI) a reinsurance intermediary;
282 (VII) a third party administrator; or
283 (VIII) an adjuster; and
284 (B) under:
285 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
286 Reinsurance Intermediaries;
287 (II) Chapter 25, Third Party Administrators; or
288 (III) Chapter 26, Insurance Adjusters; or
289 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
290 Holding Companies.
291 (b) "Stock corporation" means a stock insurance corporation.
292 (c) "Mutual" or "mutual corporation" means a mutual insurance corporation.
293 (34) (a) "Creditable coverage" has the same meaning as provided in federal regulations
294 adopted pursuant to the Health Insurance Portability and Accountability Act.
295 (b) "Creditable coverage" includes coverage that is offered through a public health plan
296 such as:
297 (i) the Primary Care Network Program under a Medicaid primary care network
298 demonstration waiver obtained subject to Section 26-18-3;
299 (ii) the Children's Health Insurance Program under Section 26-40-106; or
300 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.
301 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.
302 (35) "Credit accident and health insurance" means insurance on a debtor to provide
303 indemnity for payments coming due on a specific loan or other credit transaction while the
304 debtor has a disability.

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

307 (b) "Credit insurance" includes:

- 308 (i) credit accident and health insurance;
- 309 (ii) credit life insurance;
- 310 (iii) credit property insurance;
- 311 (iv) credit unemployment insurance;
- 312 (v) guaranteed automobile protection insurance;
- 313 (vi) involuntary unemployment insurance;
- 314 (vii) mortgage accident and health insurance;
- 315 (viii) mortgage guaranty insurance; and
- 316 (ix) mortgage life insurance.

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

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

- 320 (a) offered in connection with an extension of credit; and
- 321 (b) that protects the property until the debt is paid.

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

- 323 (a) offered in connection with an extension of credit; and
- 324 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
 - 325 (i) specific loan; or
 - 326 (ii) credit transaction.

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

- 328 (a) matured;
- 329 (b) unmatured;
- 330 (c) liquidated;
- 331 (d) unliquidated;
- 332 (e) secured;
- 333 (f) unsecured;
- 334 (g) absolute;
- 335 (h) fixed; or

336 (i) contingent.

337 (41) (a) "Crop insurance" means insurance providing protection against damage to
338 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,
339 disease, or other yield-reducing conditions or perils that is:

340 (i) provided by the private insurance market; or

341 (ii) subsidized by the Federal Crop Insurance Corporation.

342 (b) "Crop insurance" includes multiperil crop insurance.

343 (42) (a) "Customer service representative" means a person that provides an insurance
344 service and insurance product information:

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

346 (A) producer;

347 (B) surplus lines producer; or

348 (C) consultant employer; and

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

350 (A) customer;

351 (B) client; or

352 (C) organization.

353 (b) A customer service representative may only operate within the scope of authority of
354 the customer service representative's producer, surplus lines producer, or consultant employer.

355 (43) "Deadline" means a final date or time:

356 (a) imposed by:

357 (i) statute;

358 (ii) rule; or

359 (iii) order; and

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

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

365 (45) "Degree of relationship" means the number of steps between two persons
366 determined by counting the generations separating one person from a common ancestor and

367 then counting the generations to the other person.

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

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

370 (48) "Disability" means a physiological or psychological condition that partially or

371 totally limits an individual's ability to:

372 (a) perform the duties of:

373 (i) that individual's occupation; or

374 (ii) any occupation for which the individual is reasonably suited by education, training,

375 or experience; or

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

377 (i) eating;

378 (ii) toileting;

379 (iii) transferring;

380 (iv) bathing; or

381 (v) dressing.

382 (49) "Disability income insurance" is defined in Subsection (79).

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

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

385 (a) is incorporated;

386 (b) is organized; or

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

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

389 (i) an employee who:

390 (A) works on a full-time basis; and

391 (B) has a normal work week of 30 or more hours; or

392 (ii) a person described in Subsection (52)(b).

393 (b) "Eligible employee" includes, if the individual is included under a health benefit

394 plan of a small employer:

395 (i) a sole proprietor;

396 (ii) a partner in a partnership; or

397 (iii) an independent contractor.

398 (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
399 (i) an individual who works on a temporary or substitute basis for a small employer;
400 (ii) an employer's spouse; or
401 (iii) a dependent of an employer.

402 (53) "Employee" means an individual employed by an employer.

403 (54) "Employee benefits" means one or more benefits or services provided to:

404 (a) an employee; or

405 (b) a dependent of an employee.

406 (55) (a) "Employee welfare fund" means a fund:

407 (i) established or maintained, whether directly or through a trustee, by:

408 (A) one or more employers;

409 (B) one or more labor organizations; or

410 (C) a combination of employers and labor organizations; and

411 (ii) that provides employee benefits paid or contracted to be paid, other than income
412 from investments of the fund:

413 (A) by or on behalf of an employer doing business in this state; or

414 (B) for the benefit of a person employed in this state.

415 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax
416 revenues.

417 (56) "Endorsement" means a written agreement attached to a policy or certificate to
418 modify the policy or certificate coverage.

419 (57) "Enrollment date," with respect to a health benefit plan, means:

420 (a) the first day of coverage; or

421 (b) if there is a waiting period, the first day of the waiting period.

422 (58) (a) "Escrow" means:

423 ~~[(i) a real estate settlement or real estate closing conducted by a third party pursuant to~~
424 ~~the requirements of a written agreement between the parties in a real estate transaction; or]~~

425 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,
426 when a person not a party to the transaction, and neither having nor acquiring an interest in the
427 title, performs, in accordance with the written instructions or terms of the written agreement
428 between the parties to the transaction, any of the following actions:

- 429 (A) the explanation, holding, or creation of a document; or
 430 (B) the receipt, deposit, and disbursement of money;
 431 (ii) a settlement or closing involving:
 432 (A) a mobile home;
 433 (B) a grazing right;
 434 (C) a water right; or
 435 (D) other personal property authorized by the commissioner.
 436 ~~[(b) "Escrow" includes the act of conducting a:]~~
 437 ~~[(i) real estate settlement; or]~~
 438 ~~[(ii) real estate closing.]~~
 439 (b) "Escrow" does not include:
 440 (i) the following notarial acts performed by a notary within the state:
 441 (A) an acknowledgment;
 442 (B) a copy certification;
 443 (C) jurat; and
 444 (D) an oath or affirmation;
 445 (ii) the receipt or delivery of a document; or
 446 (iii) the receipt of money for delivery to the escrow agent.
 447 (59) "Escrow agent" means~~[-(a)]~~ an agency title insurance producer [with:] meeting
 448 the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through
 449 an individual title insurance producer licensed with an escrow subline of authority.
 450 ~~[(i) a title insurance line of authority; and]~~
 451 ~~[(ii) an escrow subline of authority; or]~~
 452 ~~[(b) a person defined as an escrow agent in Section 7-22-101.]~~
 453 (60) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
 454 excluded.
 455 (b) The items listed in a list using the term "excludes" are representative examples for
 456 use in interpretation of this title.
 457 (61) "Exclusion" means for the purposes of accident and health insurance that an
 458 insurer does not provide insurance coverage, for whatever reason, for one of the following:
 459 (a) a specific physical condition;

- 460 (b) a specific medical procedure;
- 461 (c) a specific disease or disorder; or
- 462 (d) a specific prescription drug or class of prescription drugs.
- 463 (62) "Expense reimbursement insurance" means insurance:
- 464 (a) written to provide a payment for an expense relating to hospital confinement
- 465 resulting from illness or injury; and
- 466 (b) written:
- 467 (i) as a daily limit for a specific number of days in a hospital; and
- 468 (ii) to have a one or two day waiting period following a hospitalization.
- 469 (63) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
- 470 a position of public or private trust.
- 471 (64) (a) "Filed" means that a filing is:
- 472 (i) submitted to the department as required by and in accordance with applicable
- 473 statute, rule, or filing order;
- 474 (ii) received by the department within the time period provided in applicable statute,
- 475 rule, or filing order; and
- 476 (iii) accompanied by the appropriate fee in accordance with:
- 477 (A) Section 31A-3-103; or
- 478 (B) rule.
- 479 (b) "Filed" does not include a filing that is rejected by the department because it is not
- 480 submitted in accordance with Subsection (64)(a).
- 481 (65) "Filing," when used as a noun, means an item required to be filed with the
- 482 department including:
- 483 (a) a policy;
- 484 (b) a rate;
- 485 (c) a form;
- 486 (d) a document;
- 487 (e) a plan;
- 488 (f) a manual;
- 489 (g) an application;
- 490 (h) a report;

- 491 (i) a certificate;
 - 492 (j) an endorsement;
 - 493 (k) an actuarial certification;
 - 494 (l) a licensee annual statement;
 - 495 (m) a licensee renewal application;
 - 496 (n) an advertisement; or
 - 497 (o) an outline of coverage.
- 498 (66) "First party insurance" means an insurance policy or contract in which the insurer
499 agrees to pay a claim submitted to it by the insured for the insured's losses.
- 500 (67) "Foreign insurer" means an insurer domiciled outside of this state, including an
501 alien insurer.
- 502 (68) (a) "Form" means one of the following prepared for general use:
- 503 (i) a policy;
 - 504 (ii) a certificate;
 - 505 (iii) an application;
 - 506 (iv) an outline of coverage; or
 - 507 (v) an endorsement.
- 508 (b) "Form" does not include a document specially prepared for use in an individual
509 case.
- 510 (69) "Franchise insurance" means an individual insurance policy provided through a
511 mass marketing arrangement involving a defined class of persons related in some way other
512 than through the purchase of insurance.
- 513 (70) "General lines of authority" include:
- 514 (a) the general lines of insurance in Subsection (71);
 - 515 (b) title insurance under one of the following sublines of authority:
 - 516 (i) search, including authority to act as a title marketing representative;
 - 517 (ii) escrow, including authority to act as a title marketing representative; and
 - 518 (iii) title marketing representative only;
 - 519 (c) surplus lines;
 - 520 (d) workers' compensation; and
 - 521 (e) any other line of insurance that the commissioner considers necessary to recognize

522 in the public interest.

523 (71) "General lines of insurance" include:

524 (a) accident and health;

525 (b) casualty;

526 (c) life;

527 (d) personal lines;

528 (e) property; and

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

530 (72) "Group health plan" means an employee welfare benefit plan to the extent that the
531 plan provides medical care:

532 (a) (i) to an employee; or

533 (ii) to a dependent of an employee; and

534 (b) (i) directly;

535 (ii) through insurance reimbursement; or

536 (iii) through another method.

537 (73) (a) "Group insurance policy" means a policy covering a group of persons that is
538 issued:

539 (i) to a policyholder on behalf of the group; and

540 (ii) for the benefit of a member of the group who is selected under a procedure defined

541 in:

542 (A) the policy; or

543 (B) an agreement that is collateral to the policy.

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

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

549 (75) (a) Except as provided in Subsection (75)(b), "health benefit plan" means a policy
550 or certificate that:

551 (i) provides health care insurance;

552 (ii) provides major medical expense insurance; or

- 553 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
- 554 (A) a hospital confinement indemnity; or
- 555 (B) a limited benefit plan.
- 556 (b) "Health benefit plan" does not include a policy or certificate that:
- 557 (i) provides benefits solely for:
- 558 (A) accident;
- 559 (B) dental;
- 560 (C) income replacement;
- 561 (D) long-term care;
- 562 (E) a Medicare supplement;
- 563 (F) a specified disease;
- 564 (G) vision; or
- 565 (H) a short-term limited duration; or
- 566 (ii) is offered and marketed as supplemental health insurance.
- 567 (76) "Health care" means any of the following intended for use in the diagnosis,
- 568 treatment, mitigation, or prevention of a human ailment or impairment:
- 569 (a) a professional service;
- 570 (b) a personal service;
- 571 (c) a facility;
- 572 (d) equipment;
- 573 (e) a device;
- 574 (f) supplies; or
- 575 (g) medicine.
- 576 (77) (a) "Health care insurance" or "health insurance" means insurance providing:
- 577 (i) a health care benefit; or
- 578 (ii) payment of an incurred health care expense.
- 579 (b) "Health care insurance" or "health insurance" does not include accident and health
- 580 insurance providing a benefit for:
- 581 (i) replacement of income;
- 582 (ii) short-term accident;
- 583 (iii) fixed indemnity;

- 584 (iv) credit accident and health;
- 585 (v) supplements to liability;
- 586 (vi) workers' compensation;
- 587 (vii) automobile medical payment;
- 588 (viii) no-fault automobile;
- 589 (ix) equivalent self-insurance; or
- 590 (x) a type of accident and health insurance coverage that is a part of or attached to
- 591 another type of policy.

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

594 (79) "Income replacement insurance" or "disability income insurance" means insurance
595 written to provide payments to replace income lost from accident or sickness.

596 (80) "Indemnity" means the payment of an amount to offset all or part of an insured
597 loss.

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

600 (82) "Independently procured insurance" means insurance procured under Section
601 31A-15-104.

602 (83) "Individual" means a natural person.

603 (84) "Inland marine insurance" includes insurance covering:

- 604 (a) property in transit on or over land;
- 605 (b) property in transit over water by means other than boat or ship;
- 606 (c) bailee liability;
- 607 (d) fixed transportation property such as bridges, electric transmission systems, radio
608 and television transmission towers and tunnels; and
- 609 (e) personal and commercial property floaters.

610 (85) "Insolvency" means that:

- 611 (a) an insurer is unable to pay its debts or meet its obligations as the debts and
612 obligations mature;
- 613 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
614 RBC under Subsection 31A-17-601(8)(c); or

- 615 (c) an insurer is determined to be hazardous under this title.
- 616 (86) (a) "Insurance" means:
- 617 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
- 618 persons to one or more other persons; or
- 619 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
- 620 group of persons that includes the person seeking to distribute that person's risk.
- 621 (b) "Insurance" includes:
- 622 (i) a risk distributing arrangement providing for compensation or replacement for
- 623 damages or loss through the provision of a service or a benefit in kind;
- 624 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
- 625 business and not as merely incidental to a business transaction; and
- 626 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
- 627 but with a class of persons who have agreed to share the risk.
- 628 (87) "Insurance adjuster" means a person who directs the investigation, negotiation, or
- 629 settlement of a claim under an insurance policy other than life insurance or an annuity, on
- 630 behalf of an insurer, policyholder, or a claimant under an insurance policy.
- 631 (88) "Insurance business" or "business of insurance" includes:
- 632 (a) providing health care insurance by an organization that is or is required to be
- 633 licensed under this title;
- 634 (b) providing a benefit to an employee in the event of a contingency not within the
- 635 control of the employee, in which the employee is entitled to the benefit as a right, which
- 636 benefit may be provided either:
- 637 (i) by a single employer or by multiple employer groups; or
- 638 (ii) through one or more trusts, associations, or other entities;
- 639 (c) providing an annuity:
- 640 (i) including an annuity issued in return for a gift; and
- 641 (ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2)
- 642 and (3);
- 643 (d) providing the characteristic services of a motor club as outlined in Subsection
- 644 (116);
- 645 (e) providing another person with insurance;

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

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

649 (i) solicitation;

650 (ii) negotiation preliminary to execution;

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

652 (iv) insuring; and

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

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

656 (i) doing, or proposing to do, any business in substance equivalent to Subsections
657 (88)(a) through (h) in a manner designed to evade this title.

658 (89) "Insurance consultant" or "consultant" means a person who:

659 (a) advises another person about insurance needs and coverages;

660 (b) is compensated by the person advised on a basis not directly related to the insurance
661 placed; and

662 (c) except as provided in Section 31A-23a-501, is not compensated directly or
663 indirectly by an insurer or producer for advice given.

664 (90) "Insurance holding company system" means a group of two or more affiliated
665 persons, at least one of whom is an insurer.

666 (91) (a) "Insurance producer" or "producer" means a person licensed or required to be
667 licensed under the laws of this state to sell, solicit, or negotiate insurance.

668 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
669 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
670 insurer.

671 (ii) "Producer for the insurer" may be referred to as an "agent."

672 (c) (i) "Producer for the insured" means a producer who:

673 (A) is compensated directly and only by an insurance customer or an insured; and

674 (B) receives no compensation directly or indirectly from an insurer for selling,
675 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
676 insured.

- 677 (ii) "Producer for the insured" may be referred to as a "broker."
678 (92) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
679 promise in an insurance policy and includes:
680 (i) a policyholder;
681 (ii) a subscriber;
682 (iii) a member; and
683 (iv) a beneficiary.
684 (b) The definition in Subsection (92)(a):
685 (i) applies only to this title; and
686 (ii) does not define the meaning of this word as used in an insurance policy or
687 certificate.
688 (93) (a) "Insurer" means a person doing an insurance business as a principal including:
689 (i) a fraternal benefit society;
690 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
691 31A-22-1305(2) and (3);
692 (iii) a motor club;
693 (iv) an employee welfare plan; and
694 (v) a person purporting or intending to do an insurance business as a principal on that
695 person's own account.
696 (b) "Insurer" does not include a governmental entity to the extent the governmental
697 entity is engaged in an activity described in Section 31A-12-107.
698 (94) "Interinsurance exchange" is defined in Subsection [~~(145)~~] (146).
699 (95) "Involuntary unemployment insurance" means insurance:
700 (a) offered in connection with an extension of credit; and
701 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
702 coming due on a:
703 (i) specific loan; or
704 (ii) credit transaction.
705 (96) "Large employer," in connection with a health benefit plan, means an employer
706 who, with respect to a calendar year and to a plan year:
707 (a) employed an average of at least 51 eligible employees on each business day during

708 the preceding calendar year; and

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

710 (97) "Late enrollee," with respect to an employer health benefit plan, means an
711 individual whose enrollment is a late enrollment.

712 (98) "Late enrollment," with respect to an employer health benefit plan, means
713 enrollment of an individual other than:

714 (a) on the earliest date on which coverage can become effective for the individual
715 under the terms of the plan; or

716 (b) through special enrollment.

717 (99) (a) Except for a retainer contract or legal assistance described in Section
718 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a
719 specified legal expense.

720 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
721 expectation of an enforceable right.

722 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
723 legal services incidental to other insurance coverage.

724 (100) (a) "Liability insurance" means insurance against liability:

725 (i) for death, injury, or disability of a human being, or for damage to property,
726 exclusive of the coverages under:

727 (A) Subsection (110) for medical malpractice insurance;

728 (B) Subsection [~~(137)~~] (138) for professional liability insurance; and

729 (C) Subsection [~~(171)~~] (172) for workers' compensation insurance;

730 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
731 insured who is injured, irrespective of legal liability of the insured, when issued with or
732 supplemental to insurance against legal liability for the death, injury, or disability of a human
733 being, exclusive of the coverages under:

734 (A) Subsection (110) for medical malpractice insurance;

735 (B) Subsection [~~(137)~~] (138) for professional liability insurance; and

736 (C) Subsection [~~(171)~~] (172) for workers' compensation insurance;

737 (iii) for loss or damage to property resulting from an accident to or explosion of a
738 boiler, pipe, pressure container, machinery, or apparatus;

- 739 (iv) for loss or damage to property caused by:
- 740 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
- 741 (B) water entering through a leak or opening in a building; or
- 742 (v) for other loss or damage properly the subject of insurance not within another kind
- 743 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.
- 744 (b) "Liability insurance" includes:
- 745 (i) vehicle liability insurance;
- 746 (ii) residential dwelling liability insurance; and
- 747 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,
- 748 boiler, machinery, or apparatus of any kind when done in connection with insurance on the
- 749 elevator, boiler, machinery, or apparatus.
- 750 (101) (a) "License" means authorization issued by the commissioner to engage in an
- 751 activity that is part of or related to the insurance business.
- 752 (b) "License" includes a certificate of authority issued to an insurer.
- 753 (102) (a) "Life insurance" means:
- 754 (i) insurance on a human life; and
- 755 (ii) insurance pertaining to or connected with human life.
- 756 (b) The business of life insurance includes:
- 757 (i) granting a death benefit;
- 758 (ii) granting an annuity benefit;
- 759 (iii) granting an endowment benefit;
- 760 (iv) granting an additional benefit in the event of death by accident;
- 761 (v) granting an additional benefit to safeguard the policy against lapse; and
- 762 (vi) providing an optional method of settlement of proceeds.
- 763 (103) "Limited license" means a license that:
- 764 (a) is issued for a specific product of insurance; and
- 765 (b) limits an individual or agency to transact only for that product or insurance.
- 766 (104) "Limited line credit insurance" includes the following forms of insurance:
- 767 (a) credit life;
- 768 (b) credit accident and health;
- 769 (c) credit property;

- 770 (d) credit unemployment;
- 771 (e) involuntary unemployment;
- 772 (f) mortgage life;
- 773 (g) mortgage guaranty;
- 774 (h) mortgage accident and health;
- 775 (i) guaranteed automobile protection; and
- 776 (j) another form of insurance offered in connection with an extension of credit that:
 - 777 (i) is limited to partially or wholly extinguishing the credit obligation; and
 - 778 (ii) the commissioner determines by rule should be designated as a form of limited line
 - 779 credit insurance.

780 (105) "Limited line credit insurance producer" means a person who sells, solicits, or
781 negotiates one or more forms of limited line credit insurance coverage to an individual through
782 a master, corporate, group, or individual policy.

783 (106) "Limited line insurance" includes:

- 784 (a) bail bond;
- 785 (b) limited line credit insurance;
- 786 (c) legal expense insurance;
- 787 (d) motor club insurance;
- 788 (e) car rental related insurance;
- 789 (f) travel insurance;
- 790 (g) crop insurance;
- 791 (h) self-service storage insurance;
- 792 (i) guaranteed asset protection waiver;
- 793 (j) portable electronics insurance; and
- 794 (k) another form of limited insurance that the commissioner determines by rule should
795 be designated a form of limited line insurance.

796 (107) "Limited lines authority" includes:

- 797 (a) the lines of insurance listed in Subsection (106); and
- 798 (b) a customer service representative.

799 (108) "Limited lines producer" means a person who sells, solicits, or negotiates limited
800 lines insurance.

- 801 (109) (a) "Long-term care insurance" means an insurance policy or rider advertised,
802 marketed, offered, or designated to provide coverage:
- 803 (i) in a setting other than an acute care unit of a hospital;
 - 804 (ii) for not less than 12 consecutive months for a covered person on the basis of:
 - 805 (A) expenses incurred;
 - 806 (B) indemnity;
 - 807 (C) prepayment; or
 - 808 (D) another method;
 - 809 (iii) for one or more necessary or medically necessary services that are:
 - 810 (A) diagnostic;
 - 811 (B) preventative;
 - 812 (C) therapeutic;
 - 813 (D) rehabilitative;
 - 814 (E) maintenance; or
 - 815 (F) personal care; and
 - 816 (iv) that may be issued by:
 - 817 (A) an insurer;
 - 818 (B) a fraternal benefit society;
 - 819 (C) (I) a nonprofit health hospital; and
 - 820 (II) a medical service corporation;
 - 821 (D) a prepaid health plan;
 - 822 (E) a health maintenance organization; or
 - 823 (F) an entity similar to the entities described in Subsections (109)(a)(iv)(A) through (E)
- 824 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 825 (b) "Long-term care insurance" includes:
 - 826 (i) any of the following that provide directly or supplement long-term care insurance:
 - 827 (A) a group or individual annuity or rider; or
 - 828 (B) a life insurance policy or rider;
 - 829 (ii) a policy or rider that provides for payment of benefits on the basis of:
 - 830 (A) cognitive impairment; or
 - 831 (B) functional capacity; or

- 832 (iii) a qualified long-term care insurance contract.
- 833 (c) "Long-term care insurance" does not include:
- 834 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 835 (ii) basic hospital expense coverage;
- 836 (iii) basic medical/surgical expense coverage;
- 837 (iv) hospital confinement indemnity coverage;
- 838 (v) major medical expense coverage;
- 839 (vi) income replacement or related asset-protection coverage;
- 840 (vii) accident only coverage;
- 841 (viii) coverage for a specified:
- 842 (A) disease; or
- 843 (B) accident;
- 844 (ix) limited benefit health coverage; or
- 845 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 846 lump sum payment:
- 847 (A) if the following are not conditioned on the receipt of long-term care:
- 848 (I) benefits; or
- 849 (II) eligibility; and
- 850 (B) the coverage is for one or more the following qualifying events:
- 851 (I) terminal illness;
- 852 (II) medical conditions requiring extraordinary medical intervention; or
- 853 (III) permanent institutional confinement.
- 854 (110) "Medical malpractice insurance" means insurance against legal liability incident
- 855 to the practice and provision of a medical service other than the practice and provision of a
- 856 dental service.
- 857 (111) "Member" means a person having membership rights in an insurance
- 858 corporation.
- 859 (112) "Minimum capital" or "minimum required capital" means the capital that must be
- 860 constantly maintained by a stock insurance corporation as required by statute.
- 861 (113) "Mortgage accident and health insurance" means insurance offered in connection
- 862 with an extension of credit that provides indemnity for payments coming due on a mortgage

863 while the debtor has a disability.

864 (114) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
865 or other creditor is indemnified against losses caused by the default of a debtor.

866 (115) "Mortgage life insurance" means insurance on the life of a debtor in connection
867 with an extension of credit that pays if the debtor dies.

868 (116) "Motor club" means a person:

869 (a) licensed under:

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

871 (ii) Chapter 11, Motor Clubs; or

872 (iii) Chapter 14, Foreign Insurers; and

873 (b) that promises for an advance consideration to provide for a stated period of time
874 one or more:

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

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

877 (iii) (A) trip reimbursement;

878 (B) towing services;

879 (C) emergency road services;

880 (D) stolen automobile services;

881 (E) a combination of the services listed in Subsections (116)(b)(iii)(A) through (D); or

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

883 (117) "Mutual" means a mutual insurance corporation.

884 (118) "Network plan" means health care insurance:

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

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

889 (119) "Nonparticipating" means a plan of insurance under which the insured is not
890 entitled to receive a dividend representing a share of the surplus of the insurer.

891 (120) "Ocean marine insurance" means insurance against loss of or damage to:

892 (a) ships or hulls of ships;

893 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,

894 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
895 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

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

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

901 (121) "Order" means an order of the commissioner.

902 (122) "Outline of coverage" means a summary that explains an accident and health
903 insurance policy.

904 (123) "Participating" means a plan of insurance under which the insured is entitled to
905 receive a dividend representing a share of the surplus of the insurer.

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

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

911 (b) receives:

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

914 (ii) another government health benefit.

915 (125) "Person" includes:

916 (a) an individual;

917 (b) a partnership;

918 (c) a corporation;

919 (d) an incorporated or unincorporated association;

920 (e) a joint stock company;

921 (f) a trust;

922 (g) a limited liability company;

923 (h) a reciprocal;

924 (i) a syndicate; or

- 925 (j) another similar entity or combination of entities acting in concert.
- 926 (126) "Personal lines insurance" means property and casualty insurance coverage sold
927 for primarily noncommercial purposes to:
- 928 (a) an individual; or
929 (b) a family.
- 930 (127) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 931 (128) "Plan year" means:
- 932 (a) the year that is designated as the plan year in:
- 933 (i) the plan document of a group health plan; or
934 (ii) a summary plan description of a group health plan;
- 935 (b) if the plan document or summary plan description does not designate a plan year or
936 there is no plan document or summary plan description:
- 937 (i) the year used to determine deductibles or limits;
938 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 939 or
- 940 (iii) the employer's taxable year if:
- 941 (A) the plan does not impose deductibles or limits on a yearly basis; and
942 (B) (I) the plan is not insured; or
943 (II) the insurance policy is not renewed on an annual basis; or
944 (c) in a case not described in Subsection (128)(a) or (b), the calendar year.
- 945 (129) (a) "Policy" means a document, including an attached endorsement or application
946 that:
- 947 (i) purports to be an enforceable contract; and
948 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 949 (b) "Policy" includes a service contract issued by:
- 950 (i) a motor club under Chapter 11, Motor Clubs;
951 (ii) a service contract provided under Chapter 6a, Service Contracts; and
952 (iii) a corporation licensed under:
- 953 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
954 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
955 (c) "Policy" does not include:

- 956 (i) a certificate under a group insurance contract; or
957 (ii) a document that does not purport to have legal effect.
- 958 (130) "Policyholder" means a person who controls a policy, binder, or oral contract by
959 ownership, premium payment, or otherwise.
- 960 (131) "Policy illustration" means a presentation or depiction that includes
961 nonguaranteed elements of a policy of life insurance over a period of years.
- 962 (132) "Policy summary" means a synopsis describing the elements of a life insurance
963 policy.
- 964 (133) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No.
965 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and
966 related federal regulations and guidance.
- 967 [~~133~~] (134) "Preexisting condition," with respect to a health benefit plan:
968 (a) means a condition that was present before the effective date of coverage, whether or
969 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
970 and
971 (b) does not include a condition indicated by genetic information unless an actual
972 diagnosis of the condition by a physician has been made.
- 973 [~~134~~] (135) (a) "Premium" means the monetary consideration for an insurance policy.
974 (b) "Premium" includes, however designated:
975 (i) an assessment;
976 (ii) a membership fee;
977 (iii) a required contribution; or
978 (iv) monetary consideration.
- 979 (c) (i) "Premium" does not include consideration paid to a third party administrator for
980 the third party administrator's services.
981 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
982 insurance on the risks administered by the third party administrator.
- 983 [~~135~~] (136) "Principal officers" for a corporation means the officers designated under
984 Subsection 31A-5-203(3).
- 985 [~~136~~] (137) "Proceeding" includes an action or special statutory proceeding.
986 [~~137~~] (138) "Professional liability insurance" means insurance against legal liability

987 incident to the practice of a profession and provision of a professional service.

988 ~~[(138)]~~ (139) (a) Except as provided in Subsection ~~[(138)]~~ (139)(b), "property
989 insurance" means insurance against loss or damage to real or personal property of every kind
990 and any interest in that property:

991 (i) from all hazards or causes; and

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

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

995 (i) inland marine insurance; and

996 (ii) ocean marine insurance.

997 ~~[(139)]~~ (140) "Qualified long-term care insurance contract" or "federally tax qualified
998 long-term care insurance contract" means:

999 (a) an individual or group insurance contract that meets the requirements of Section
1000 7702B(b), Internal Revenue Code; or

1001 (b) the portion of a life insurance contract that provides long-term care insurance:

1002 (i) (A) by rider; or

1003 (B) as a part of the contract; and

1004 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
1005 Code.

1006 ~~[(140)]~~ (141) "Qualified United States financial institution" means an institution that:

1007 (a) is:

1008 (i) organized under the laws of the United States or any state; or

1009 (ii) in the case of a United States office of a foreign banking organization, licensed
1010 under the laws of the United States or any state;

1011 (b) is regulated, supervised, and examined by a United States federal or state authority
1012 having regulatory authority over a bank or trust company; and

1013 (c) meets the standards of financial condition and standing that are considered
1014 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
1015 will be acceptable to the commissioner as determined by:

1016 (i) the commissioner by rule; or

1017 (ii) the Securities Valuation Office of the National Association of Insurance

1018 Commissioners.

1019 [~~(141)~~] (142) (a) "Rate" means:

1020 (i) the cost of a given unit of insurance; or

1021 (ii) for property or casualty insurance, that cost of insurance per exposure unit either

1022 expressed as:

1023 (A) a single number; or

1024 (B) a pure premium rate, adjusted before the application of individual risk variations

1025 based on loss or expense considerations to account for the treatment of:

1026 (I) expenses;

1027 (II) profit; and

1028 (III) individual insurer variation in loss experience.

1029 (b) "Rate" does not include a minimum premium.

1030 [~~(142)~~] (143) (a) Except as provided in Subsection [~~(142)~~] (143)(b), "rate service

1031 organization" means a person who assists an insurer in rate making or filing by:

1032 (i) collecting, compiling, and furnishing loss or expense statistics;

1033 (ii) recommending, making, or filing rates or supplementary rate information; or

1034 (iii) advising about rate questions, except as an attorney giving legal advice.

1035 (b) "Rate service organization" does not mean:

1036 (i) an employee of an insurer;

1037 (ii) a single insurer or group of insurers under common control;

1038 (iii) a joint underwriting group; or

1039 (iv) an individual serving as an actuarial or legal consultant.

1040 [~~(143)~~] (144) "Rating manual" means any of the following used to determine initial and

1041 renewal policy premiums:

1042 (a) a manual of rates;

1043 (b) a classification;

1044 (c) a rate-related underwriting rule; and

1045 (d) a rating formula that describes steps, policies, and procedures for determining

1046 initial and renewal policy premiums.

1047 [~~(144)~~] (145) "Received by the department" means:

1048 (a) the date delivered to and stamped received by the department, if delivered in

1049 person;

1050 (b) the post mark date, if delivered by mail;

1051 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;

1052 (d) the received date recorded on an item delivered, if delivered by:

1053 (i) facsimile;

1054 (ii) email; or

1055 (iii) another electronic method; or

1056 (e) a date specified in:

1057 (i) a statute;

1058 (ii) a rule; or

1059 (iii) an order.

1060 [~~(145)~~] (146) "Reciprocal" or "interinsurance exchange" means an unincorporated

1061 association of persons:

1062 (a) operating through an attorney-in-fact common to all of the persons; and

1063 (b) exchanging insurance contracts with one another that provide insurance coverage

1064 on each other.

1065 [~~(146)~~] (147) "Reinsurance" means an insurance transaction where an insurer, for

1066 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to

1067 reinsurance transactions, this title sometimes refers to:

1068 (a) the insurer transferring the risk as the "ceding insurer"; and

1069 (b) the insurer assuming the risk as the:

1070 (i) "assuming insurer"; or

1071 (ii) "assuming reinsurer."

1072 [~~(147)~~] (148) "Reinsurer" means a person licensed in this state as an insurer with the

1073 authority to assume reinsurance.

1074 [~~(148)~~] (149) "Residential dwelling liability insurance" means insurance against

1075 liability resulting from or incident to the ownership, maintenance, or use of a residential

1076 dwelling that is a detached single family residence or multifamily residence up to four units.

1077 [~~(149)~~] (150) (a) "Retrocession" means reinsurance with another insurer of a liability

1078 assumed under a reinsurance contract.

1079 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a

1080 liability assumed under a reinsurance contract.

1081 [~~(150)~~] (151) "Rider" means an endorsement to:

1082 (a) an insurance policy; or

1083 (b) an insurance certificate.

1084 [~~(151)~~] (152) (a) "Security" means a:

1085 (i) note;

1086 (ii) stock;

1087 (iii) bond;

1088 (iv) debenture;

1089 (v) evidence of indebtedness;

1090 (vi) certificate of interest or participation in a profit-sharing agreement;

1091 (vii) collateral-trust certificate;

1092 (viii) preorganization certificate or subscription;

1093 (ix) transferable share;

1094 (x) investment contract;

1095 (xi) voting trust certificate;

1096 (xii) certificate of deposit for a security;

1097 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in

1098 payments out of production under such a title or lease;

1099 (xiv) commodity contract or commodity option;

1100 (xv) certificate of interest or participation in, temporary or interim certificate for,

1101 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed

1102 in Subsections [~~(151)~~] (152)(a)(i) through (xiv); or

1103 (xvi) another interest or instrument commonly known as a security.

1104 (b) "Security" does not include:

1105 (i) any of the following under which an insurance company promises to pay money in a

1106 specific lump sum or periodically for life or some other specified period:

1107 (A) insurance;

1108 (B) an endowment policy; or

1109 (C) an annuity contract; or

1110 (ii) a burial certificate or burial contract.

1111 [~~(152)~~] (153) "Secondary medical condition" means a complication related to an
1112 exclusion from coverage in accident and health insurance.

1113 [~~(153)~~] (154) (a) "Self-insurance" means an arrangement under which a person
1114 provides for spreading its own risks by a systematic plan.

1115 (b) Except as provided in this Subsection [~~(153)~~] (154), "self-insurance" does not
1116 include an arrangement under which a number of persons spread their risks among themselves.

1117 (c) "Self-insurance" includes:

1118 (i) an arrangement by which a governmental entity undertakes to indemnify an
1119 employee for liability arising out of the employee's employment; and

1120 (ii) an arrangement by which a person with a managed program of self-insurance and
1121 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
1122 employees for liability or risk that is related to the relationship or employment.

1123 (d) "Self-insurance" does not include an arrangement with an independent contractor.

1124 [~~(154)~~] (155) "Sell" means to exchange a contract of insurance:

1125 (a) by any means;

1126 (b) for money or its equivalent; and

1127 (c) on behalf of an insurance company.

1128 [~~(155)~~] (156) "Short-term care insurance" means an insurance policy or rider
1129 advertised, marketed, offered, or designed to provide coverage that is similar to long-term care
1130 insurance, but that provides coverage for less than 12 consecutive months for each covered
1131 person.

1132 [~~(156)~~] (157) "Significant break in coverage" means a period of 63 consecutive days
1133 during each of which an individual does not have creditable coverage.

1134 [~~(157)~~] (158) "Small employer," in connection with a health benefit plan, means an
1135 employer who, with respect to a calendar year and to a plan year:

1136 (a) employed an average of at least two employees but not more than 50 eligible
1137 employees on each business day during the preceding calendar year; and

1138 (b) employs at least two employees on the first day of the plan year.

1139 [~~(158)~~] (159) "Special enrollment period," in connection with a health benefit plan, has
1140 the same meaning as provided in federal regulations adopted pursuant to the Health Insurance
1141 Portability and Accountability Act.

1142 [~~(159)~~] (160) (a) "Subsidiary" of a person means an affiliate controlled by that person
1143 either directly or indirectly through one or more affiliates or intermediaries.

1144 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
1145 shares are owned by that person either alone or with its affiliates, except for the minimum
1146 number of shares the law of the subsidiary's domicile requires to be owned by directors or
1147 others.

1148 [~~(160)~~] (161) Subject to Subsection (86)(b), "surety insurance" includes:

1149 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1150 perform the principal's obligations to a creditor or other obligee;

1151 (b) bail bond insurance; and

1152 (c) fidelity insurance.

1153 [~~(161)~~] (162) (a) "Surplus" means the excess of assets over the sum of paid-in capital
1154 and liabilities.

1155 (b) (i) "Permanent surplus" means the surplus of [~~a mutual~~] an insurer or organization
1156 that is designated by the insurer or organization as permanent.

1157 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and [~~31A-14-209~~]
1158 31A-14-205 require that [~~mutuals~~] insurers or organizations doing business in this state
1159 maintain specified minimum levels of permanent surplus.

1160 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
1161 same as the minimum required capital requirement that applies to stock insurers.

1162 (c) "Excess surplus" means:

1163 (i) for a life insurer, accident and health insurer, health organization, or property and
1164 casualty insurer as defined in Section 31A-17-601, the lesser of:

1165 (A) that amount of an insurer's or health organization's total adjusted capital that
1166 exceeds the product of:

1167 (I) 2.5; and

1168 (II) the sum of the insurer's or health organization's minimum capital or permanent
1169 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1170 (B) that amount of an insurer's or health organization's total adjusted capital that
1171 exceeds the product of:

1172 (I) 3.0; and

1173 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and
1174 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
1175 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1176 (A) 1.5; and

1177 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1178 [~~162~~] 163 "Third party administrator" or "administrator" means a person who
1179 collects charges or premiums from, or who, for consideration, adjusts or settles claims of
1180 residents of the state in connection with insurance coverage, annuities, or service insurance
1181 coverage, except:

1182 (a) a union on behalf of its members;

1183 (b) a person administering a:

1184 (i) pension plan subject to the federal Employee Retirement Income Security Act of
1185 1974;

1186 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1187 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1188 (c) an employer on behalf of the employer's employees or the employees of one or
1189 more of the subsidiary or affiliated corporations of the employer;

1190 (d) an insurer licensed under the following, but only for a line of insurance for which
1191 the insurer holds a license in this state:

1192 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1193 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

1194 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1195 (iv) Chapter 9, Insurance Fraternal; or

1196 (v) Chapter 14, Foreign Insurers;

1197 (e) a person:

1198 (i) licensed or exempt from licensing under:

1199 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1200 Reinsurance Intermediaries; or

1201 (B) Chapter 26, Insurance Adjusters; and

1202 (ii) whose activities are limited to those authorized under the license the person holds
1203 or for which the person is exempt; or

1204 (f) an institution, bank, or financial institution:

1205 (i) that is:

1206 (A) an institution whose deposits and accounts are to any extent insured by a federal
1207 deposit insurance agency, including the Federal Deposit Insurance Corporation or National
1208 Credit Union Administration; or

1209 (B) a bank or other financial institution that is subject to supervision or examination by
1210 a federal or state banking authority; and

1211 (ii) that does not adjust claims without a third party administrator license.

1212 [~~163~~] (164) "Title insurance" means the insuring, guaranteeing, or indemnifying of an
1213 owner of real or personal property or the holder of liens or encumbrances on that property, or
1214 others interested in the property against loss or damage suffered by reason of liens or
1215 encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity
1216 or unenforceability of any liens or encumbrances on the property.

1217 [~~164~~] (165) "Total adjusted capital" means the sum of an insurer's or health
1218 organization's statutory capital and surplus as determined in accordance with:

1219 (a) the statutory accounting applicable to the annual financial statements required to be
1220 filed under Section 31A-4-113; and

1221 (b) another item provided by the RBC instructions, as RBC instructions is defined in
1222 Section 31A-17-601.

1223 [~~165~~] (166) (a) "Trustee" means "director" when referring to the board of directors of
1224 a corporation.

1225 (b) "Trustee," when used in reference to an employee welfare fund, means an
1226 individual, firm, association, organization, joint stock company, or corporation, whether acting
1227 individually or jointly and whether designated by that name or any other, that is charged with
1228 or has the overall management of an employee welfare fund.

1229 [~~166~~] (167) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted
1230 insurer" means an insurer:

1231 (i) not holding a valid certificate of authority to do an insurance business in this state;

1232 or

1233 (ii) transacting business not authorized by a valid certificate.

1234 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1235 (i) holding a valid certificate of authority to do an insurance business in this state; and
1236 (ii) transacting business as authorized by a valid certificate.

1237 [~~(167)~~] (168) "Underwrite" means the authority to accept or reject risk on behalf of the
1238 insurer.

1239 [~~(168)~~] (169) "Vehicle liability insurance" means insurance against liability resulting
1240 from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a
1241 vehicle comprehensive or vehicle physical damage coverage under Subsection [~~(138)~~] (139).

1242 [~~(169)~~] (170) "Voting security" means a security with voting rights, and includes a
1243 security convertible into a security with a voting right associated with the security.

1244 [~~(170)~~] (171) "Waiting period" for a health benefit plan means the period that must
1245 pass before coverage for an individual, who is otherwise eligible to enroll under the terms of
1246 the health benefit plan, can become effective.

1247 [~~(171)~~] (172) "Workers' compensation insurance" means:

1248 (a) insurance for indemnification of an employer against liability for compensation
1249 based on:

1250 (i) a compensable accidental injury; and

1251 (ii) occupational disease disability;

1252 (b) employer's liability insurance incidental to workers' compensation insurance and
1253 written in connection with workers' compensation insurance; and

1254 (c) insurance assuring to a person entitled to workers' compensation benefits the
1255 compensation provided by law.

1256 Section 2. Section **31A-2-201.2** is amended to read:

1257 **31A-2-201.2. Evaluation of health insurance market.**

1258 (1) Each year the commissioner shall:

1259 (a) conduct an evaluation of the state's health insurance market;

1260 (b) report the findings of the evaluation to the Health and Human Services Interim
1261 Committee before October 1 of each year; and

1262 (c) publish the findings of the evaluation on the department website.

1263 (2) The evaluation required by this section shall:

1264 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a
1265 healthy, competitive health insurance market that meets the needs of the state, and includes an

1266 analysis of:

1267 (i) the availability and marketing of individual and group products;

1268 (ii) rate changes;

1269 (iii) coverage and demographic changes;

1270 (iv) benefit trends;

1271 (v) market share changes; and

1272 (vi) accessibility;

1273 (b) assess complaint ratios and trends within the health insurance market, which

1274 assessment shall include complaint data from the Office of Consumer Health Assistance within
1275 the department;

1276 (c) contain recommendations for action to improve the overall effectiveness of the
1277 health insurance market, administrative rules, and statutes; and

1278 (d) include claims loss ratio data for each health insurance company doing business in
1279 the state.

1280 (3) When preparing the evaluation required by this section, the commissioner shall
1281 include a report of:

1282 (a) the types of health benefit plans sold in the Health Insurance Exchange created in
1283 Section 63M-1-2504;

1284 (b) the number of insurers participating in the defined contribution arrangement health
1285 benefit plans in the Health Insurance Exchange; and

1286 (c) the number of employers and covered lives in the defined contribution arrangement
1287 market in the Health Insurance Exchange[; ~~and~~].

1288 [~~(d) the number of lives covered by health benefit plans that do not include state~~
1289 ~~mandates as permitted by Subsection 31A-30-109(2).]~~

1290 (4) When preparing the evaluation and report required by this section, the
1291 commissioner may seek the input of insurers, employers, insured persons, providers, and others
1292 with an interest in the health insurance market.

1293 (5) The commissioner may adopt administrative rules for the purpose of collecting the
1294 data required by this section, taking into account the business confidentiality of the insurers.

1295 (6) Records submitted to the commissioner under this section shall be maintained by
1296 the commissioner as protected records under Title 63G, Chapter 2, Government Records

1297 Access and Management Act.

1298 Section 3. Section **31A-2-217** is amended to read:

1299 **31A-2-217. Coordination with other states.**

1300 (1) (a) Subject to Subsection (1)(b), the commissioner, by rule, may adopt one or more
1301 agreements with [~~another~~] a state governmental regulatory agency, within and outside of this
1302 state, or with the National Association of Insurance Commissioners to address state regulatory
1303 issues limited to:

1304 (i) licensing of insurance companies;

1305 (ii) licensing of agents;

1306 (iii) regulation of premium rates and policy forms; and

1307 (iv) regulation of insurer insolvency and insurance receiverships.

1308 (b) An agreement described in Subsection (1)(a), may authorize the commissioner to
1309 modify a requirement of this title if the commissioner determines that the requirements under
1310 the agreement provide protections similar to or greater than the requirements under this title.

1311 (2) (a) The commissioner may negotiate an interstate compact that addresses issuing
1312 certificates of authority, if the commissioner determines that:

1313 (i) each state participating in the compact has requirements for issuing certificates of
1314 authority that provide protections similar to or greater than the requirements of this title; or

1315 (ii) the interstate compact contains requirements for issuing certificates of authority
1316 that provide protections similar to or greater than the requirements of this title.

1317 (b) If an interstate compact described in Subsection (2)(a) is adopted by the
1318 Legislature, the commissioner may issue certificates of authority to insurers in accordance with
1319 the terms of the interstate compact.

1320 (3) If any provision of this title conflicts with a provision of the annual statement
1321 instructions or the National Association of Insurance Commissioners Accounting Practices and
1322 Procedures Manual, the commissioner may, by rule, resolve the conflict in favor of the annual
1323 statement instructions or the National Association of Insurance Commissioners Accounting
1324 Practices and Procedures Manual.

1325 (4) The commissioner may, by rule, accept the information prescribed by the National
1326 Association of Insurance Commissioners instead of the documents required to be filed with an
1327 application for a certificate of authority under:

- 1328 (a) Section 31A-4-103, 31A-5-204, 31A-8-205, or 31A-14-201; or
1329 (b) rules made by the commissioner.
- 1330 (5) Before November 30, 2001, the commissioner shall report to the Business and
1331 Labor Interim Committee regarding the status of:
- 1332 (a) any agreements entered into under Subsection (1);
1333 (b) any interstate compact entered into under Subsection (2); and
1334 (c) any rule made under Subsections (3) and (4).
1335 (6) This section shall be repealed in accordance with Section 63I-1-231.
- 1336 Section 4. Section **31A-2-402** is amended to read:
1337 **31A-2-402. Definitions.**
1338 As used in this part:
- 1339 (1) "Commission" means the Title and Escrow Commission created in Section
1340 31A-2-403.
- 1341 (2) "Concurrence" means the entities given a concurring role must jointly agree for the
1342 action to be taken.
- 1343 (3) "Dual licensed title licensee" means a title licensee who holds:
1344 (a) [a] an individual title insurance producer license as a title licensee; and
1345 (b) a license or certificate under:
1346 (i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;
1347 (ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or
1348 (iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.
- 1349 (4) "Real Estate Commission" means the Real Estate Commission created in Section
1350 61-2f-103.
- 1351 (5) "Title licensee" means a person licensed under this title as:
1352 (a) an agency title insurance producer with a title insurance line of authority;
1353 (b) [a] an individual title insurance producer with:
1354 (i) a general title insurance line of authority; or
1355 (ii) a specific category of authority for title insurance; or
1356 (c) a title insurance adjuster.
- 1357 Section 5. Section **31A-2-403** is amended to read:
1358 **31A-2-403. Title and Escrow Commission created.**

1359 (1) (a) Subject to Subsection (1)(b), there is created within the department the Title and
1360 Escrow Commission that is comprised of five members appointed by the governor with the
1361 consent of the Senate as follows beginning July 1, 2013:

1362 [~~(i)~~ ~~four members shall each:~~]

1363 (i) two members shall be an employee of a title insurer;

1364 (ii) two members shall:

1365 (A) be an employee of a Utah agency title insurance producer;

1366 [~~(A)~~] (B) be or have been licensed under the title insurance line of authority;

1367 [~~(B)~~] (C) as of the day on which the member is appointed, be or have been licensed
1368 with the search or escrow subline of authority for at least five years; and

1369 [~~(C)~~] (D) as of the day on which the member is appointed, not be from the same county
1370 as another member appointed under this Subsection (1)(a)[~~(i)~~](ii); and

1371 [~~(i)~~] (iii) one member shall be a member of the general public from any county in the
1372 state.

1373 (b) No more than one commission member may be appointed from a single company
1374 or an affiliate or subsidiary of the company.

1375 (2) (a) Subject to Subsection (2)(c), a commission member shall file with the
1376 commissioner a disclosure of any position of employment or ownership interest that the
1377 commission member has with respect to a person that is subject to the jurisdiction of the
1378 commissioner.

1379 (b) The disclosure statement required by this Subsection (2) shall be:

1380 (i) filed by no later than the day on which the person begins that person's appointment;
1381 and

1382 (ii) amended when a significant change occurs in any matter required to be disclosed
1383 under this Subsection (2).

1384 (c) A commission member is not required to disclose an ownership interest that the
1385 commission member has if the ownership interest is in a publicly traded company or held as
1386 part of a mutual fund, trust, or similar investment.

1387 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
1388 members expire, the governor shall appoint each new commission member to a four-year term
1389 ending on June 30.

1390 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
1391 time of appointment, adjust the length of terms to ensure that the terms of the commission
1392 members are staggered so that approximately half of the [~~commission is~~] members appointed
1393 under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are
1394 appointed every two years.

1395 (c) A commission member may not serve more than one consecutive term.

1396 (d) When a vacancy occurs in the membership for any reason, the governor, with the
1397 consent of the Senate, shall appoint a replacement for the unexpired term.

1398 (e) Notwithstanding the other provisions of this Subsection (3), a commission member
1399 serves until a successor is appointed by the governor with the consent of the Senate.

1400 (4) A commission member may not receive compensation or benefits for the
1401 commission member's service, but may receive per diem and travel expenses in accordance
1402 with:

1403 (a) Section 63A-3-106;

1404 (b) Section 63A-3-107; and

1405 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1406 63A-3-107.

1407 (5) Members of the commission shall annually select one commission member to serve
1408 as chair.

1409 (6) (a) The commission shall meet at least monthly. Notwithstanding Section
1410 52-4-207, a commission member shall physically attend a regularly scheduled monthly meeting
1411 of the commission and may not attend through electronic means. A commission member may
1412 attend subcommittee meetings, emergency meetings, or other not regularly scheduled meetings
1413 electronically in accordance with Section 52-4-207.

1414 (b) The commissioner may call additional meetings:

1415 (i) at the commissioner's discretion;

1416 (ii) upon the request of the chair of the commission; or

1417 (iii) upon the written request of three or more commission members.

1418 (c) (i) Three commission members constitute a quorum for the transaction of business.

1419 (ii) The action of a majority of the commission members when a quorum is present is
1420 the action of the commission.

1421 (7) The commissioner shall staff the commission.

1422 Section 6. Section **31A-2-404** is amended to read:

1423 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**

1424 (1) Notwithstanding the other provisions of this chapter, to the extent provided in this
1425 part, the commissioner shall administer and enforce the provisions in this title related to:

1426 (a) title insurance; and

1427 (b) escrow conducted by a title licensee or title insurer.

1428 (2) The commission shall:

1429 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
1430 subject to Subsection [~~(3)~~] (4), make rules for the administration of the provisions in this title
1431 related to title insurance including rules related to:

1432 (i) rating standards and rating methods for a title licensee, as provided in Section
1433 31A-19a-209;

1434 (ii) the licensing for a title licensee, including the licensing requirements of Section
1435 31A-23a-204;

1436 (iii) continuing education requirements of Section 31A-23a-202; and

1437 [~~(iv) examination procedures, after consultation with the commissioner and the
1438 commissioner's test administrator when required by Section 31A-23a-204; and]~~

1439 [~~(v)~~] (iv) standards of conduct for a title licensee;

1440 (b) concur in the issuance and renewal of a license in accordance with Section
1441 31A-23a-105 or 31A-26-203;

1442 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the
1443 commissioner, the fees imposed by this title on a title licensee;

1444 (d) in accordance with Section 31A-23a-415 determine, after consulting with the
1445 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

1446 (e) conduct an administrative hearing not delegated by the commission to an
1447 administrative law judge related to the:

1448 (i) licensing of an applicant;

1449 (ii) conduct of a title licensee; or

1450 (iii) approval of a continuing education program required by Section 31A-23a-202;

1451 (f) with the concurrence of the commissioner, approve a continuing education program

1452 required by Section 31A-23a-202;

1453 (g) with the concurrence of the commissioner, impose a penalty:

1454 (i) under this title related to:

1455 (A) title insurance; or

1456 (B) escrow conducted by a title licensee;

1457 (ii) after investigation by the commissioner in accordance with Part 3, Procedures and

1458 Enforcement; and

1459 (iii) that is enforced by the commissioner;

1460 (h) advise the commissioner on the administration and enforcement of any matter

1461 affecting the title insurance industry;

1462 (i) advise the commissioner on matters affecting the commissioner's budget related to

1463 title insurance; and

1464 (j) perform other duties as provided in this title.

1465 (3) The commission may make rules establishing an examination for a license that will

1466 satisfy Section 31A-23a-204:

1467 (a) after consultation with the commissioner and the commissioner's test administrator;

1468 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1469 (c) subject to Subsection (4).

1470 [~~3~~] (4) The commission may make a rule under this title only if at the time the

1471 commission files its proposed rule and rule analysis with the Division of Administrative Rules

1472 in accordance with Section 63G-3-301, the commission provides the Real Estate Commission

1473 that same information.

1474 [~~4~~] (5) (a) The commissioner shall annually report the information described in

1475 Subsection [~~4~~] (5)(b) in writing to:

1476 (i) the commission; and

1477 (ii) the Business and Labor Interim Committee.

1478 (b) The information required to be reported under this Subsection [~~4~~] (5):

1479 (i) may not identify a person; and

1480 (ii) shall include:

1481 (A) the number of complaints the commissioner receives with regard to transactions

1482 involving title insurance or a title licensee during the calendar year immediately proceeding the

1483 report;

1484 (B) the type of complaints described in Subsection [~~(4)~~] (5)(b)(ii)(A); and

1485 (C) for each complaint described in Subsection [~~(4)~~] (5)(b)(ii)(A):

1486 (I) any action taken by the commissioner with regard to the complaint; and

1487 (II) the time-period beginning the day on which a complaint is made and ending the
1488 day on which the commissioner determines it will take no further action with regard to the
1489 complaint.

1490 (6) The commission may not impose a penalty in a manner inconsistent with

1491 Subsection (2)(g) or make a rule that conflicts with Subsection (2)(g).

1492 Section 7. Section **31A-3-304 (Effective 07/01/13)** is amended to read:

1493 **31A-3-304 (Effective 07/01/13). Annual fees -- Other taxes or fees prohibited --**
1494 **Captive Insurance Restricted Account.**

1495 (1) (a) A captive insurance company shall pay an annual fee imposed under this section
1496 to obtain or renew a certificate of authority.

1497 (b) The commissioner shall:

1498 (i) determine the annual fee pursuant to Section 31A-3-103; and

1499 (ii) consider whether the annual fee is competitive with fees imposed by other states on
1500 captive insurance companies.

1501 (2) A captive insurance company that fails to pay the fee required by this section is
1502 subject to the relevant sanctions of this title.

1503 (3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter
1504 9, Taxation of Admitted Insurers, the following constitute the sole taxes, fees, or charges under
1505 the laws of this state that may be levied or assessed on a captive insurance company:

1506 (i) a fee under this section;

1507 (ii) a fee under Chapter 37, Captive Insurance Companies Act; and

1508 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company
1509 Act.

1510 (b) The state or a county, city, or town within the state may not levy or collect an
1511 occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii)
1512 against a captive insurance company.

1513 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115

1514 against a captive insurance company.

1515 (d) A captive insurance company is subject to real and personal property taxes.

1516 (4) A captive insurance company shall pay the fee imposed by this section to the
1517 commissioner by June 20 of each year.

1518 (5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be
1519 deposited into the Captive Insurance Restricted Account.

1520 (b) There is created in the General Fund a restricted account known as the "Captive
1521 Insurance Restricted Account."

1522 (c) The Captive Insurance Restricted Account shall consist of the fees described in
1523 Subsection (3)(a).

1524 (d) The commissioner shall administer the Captive Insurance Restricted Account.
1525 Subject to appropriations by the Legislature, the commissioner shall use the money deposited
1526 into the Captive Insurance Restricted Account to:

1527 (i) administer and enforce:

1528 (A) Chapter 37, Captive Insurance Companies Act; and

1529 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and

1530 (ii) promote the captive insurance industry in Utah.

1531 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing,
1532 except that at the end of each fiscal year, money received by the commissioner in excess of
1533 [~~\$950,000~~] \$1,250,000 shall be treated as free revenue in the General Fund.

1534 Section 85. Section ~~31A-4-117~~ is enacted to read:

1535 **31A-4-117. Closing or settlement protection.**

1536 (1) A title insurer may issue closing or settlement protection in the form of a closing
1537 protection letter filed with the department to a person who is a party to a transaction in which a
1538 title insurance policy is issued.

1539 (2) Closing or settlement protection may indemnify a person who is a party to a
1540 transaction referred to in Subsection (1) against loss that the title insurer approves for the
1541 closing or settlement protection, under the terms and conditions of the closing protection letter
1542 issued by the title insurer, because of one or more of the following acts of a title insurance
1543 policy issuing individual title insurance producer or agency title insurance producer or other
1544 settlement service provider:

1545 (a) theft or misappropriation of settlement funds in connection with a transaction in
1546 which one or more title insurance policies are issued by or on behalf of the title insurer issuing
1547 the closing or settlement protection, but only to the extent that the theft or misappropriation
1548 relates to the status of the title to that interest in land or to the validity, enforceability, and
1549 priority of the lien of the mortgage on that interest in land; or

1550 (b) failure to comply with the written closing instructions when agreed to by the
1551 settlement agent, title agent, or employee of the title insurer, but only to the extent that the
1552 failure to follow the written closing instructions relates to the status of the title to that interest
1553 in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in
1554 land.

1555 (3) A title insurer may not make the fee charged by a title insurer for each party
1556 receiving closing or settlement protection coverage subject to any agreement requiring a
1557 division of fees or premiums collected on behalf of the title insurer. The fee charged for a
1558 closing or settlement coverage protection letter will be filed by the title insurer with the
1559 department 30 days before use.

1560 (4) A title insurer may not provide any other protection that purports to contractually
1561 indemnify against improper acts or omissions of a person who is a party to a transaction
1562 referred to in Subsection (1) with regard to settlement or closing services.

1563 Section 9. Section **31A-8-301** is amended to read:

1564 **31A-8-301. Requirements for doing business in state.**

1565 (1) Only a corporation incorporated and licensed under Part 2, Domestic
1566 Organizations, may do business in this state as an organization.

1567 (2) To do business in this state as an organization, a foreign [~~corporations~~] corporation
1568 doing a similar business in other states shall incorporate a subsidiary and license [~~if~~] it under
1569 Part 2, Domestic Organizations, for its Utah business. Except as to Chapter 16, Insurance
1570 Holding Companies, the laws applicable to a domestic [~~organizations~~] organization apply only
1571 to the domestic organization and not to its foreign parent corporation.

1572 Section 10. Section **31A-14-211** is amended to read:

1573 **31A-14-211. Restrictions on foreign title insurers.**

1574 (1) An authorized foreign title insurer may [~~not~~] only insure property in this state
1575 [~~except~~]:

- 1576 (a) through [a] an agency title insurance producer who is a resident in Utah; or
- 1577 (b) [~~through~~] if the authorized foreign title insurer has a bona fide office in Utah:
- 1578 (i) that is under the direction and control of the authorized foreign title insurer;
- 1579 (ii) for which the authorized foreign title insurer pays the expenses, including
- 1580 compensation of the employees of the bona fide office;
- 1581 (iii) at which a person may request information about title services related to a real
- 1582 estate transaction for which the person is a party;
- 1583 (iv) at which a person may deliver written communications to the authorized foreign
- 1584 title insurer as required by the real estate transaction for which the person is a party; and
- 1585 (v) at which a person may deliver escrow money related to a real estate transaction for
- 1586 which the person is a party.
- 1587 (2) This section does not apply to reinsurance.
- 1588 Section 11. Section **31A-17-603** is amended to read:
- 1589 **31A-17-603. Company action level event.**
- 1590 (1) "Company action level event" means any of the following events:
- 1591 (a) the filing of an RBC report by an insurer or health organization that indicates that:
- 1592 (i) the insurer's or health organization's total adjusted capital is greater than or equal to
- 1593 its regulatory action level RBC but less than its company action level RBC; [~~or~~]
- 1594 (ii) if a life or accident and health insurer, the insurer has:
- 1595 (A) total adjusted capital that is greater than or equal to its company action level RBC
- 1596 but less than the product of its authorized control level RBC and [2.5] 3.0; and
- 1597 [~~(B) a negative trend, determined in accordance with the "trend test calculation"~~
- 1598 ~~included in the RBC instructions;~~]
- 1599 (B) triggers the trend test determined in accordance with the trend test calculation
- 1600 included in the life or fraternal RBC instructions; or
- 1601 (iii) if a property and casualty insurer, the insurer has:
- 1602 (A) total adjusted capital that is greater than or equal to its company action level RBC,
- 1603 but less than the product of its authorized control level RBC and 3.0; and
- 1604 (B) triggers the trend test determined in accordance with the trend test calculation
- 1605 included in the property and casualty RBC instructions;
- 1606 (b) the notification by the commissioner to the insurer or health organization of an

1607 adjusted RBC report that indicates an event in Subsection (1)(a), provided the insurer or health
1608 organization does not challenge the adjusted RBC report under Section 31A-17-607; or

1609 (c) if, pursuant to Section 31A-17-607, an insurer or health organization challenges an
1610 adjusted RBC report that indicates the event in Subsection (1)(a), the notification by the
1611 commissioner to the insurer or health organization that after a hearing the commissioner rejects
1612 the insurer's or health organization's challenge.

1613 (2) (a) In the event of a company action level event, the insurer or health organization
1614 shall prepare and submit to the commissioner an RBC plan that shall:

1615 (i) identify the conditions that contribute to the company action level event;

1616 (ii) contain proposals of corrective actions that the insurer or health organization
1617 intends to take and that are expected to result in the elimination of the company action level
1618 event;

1619 (iii) provide projections of the insurer's or health organization's financial results in the
1620 current year and at least the four succeeding years, both in the absence of proposed corrective
1621 actions and giving effect to the proposed corrective actions, including projections of:

1622 (A) statutory operating income;

1623 (B) net income;

1624 (C) capital;

1625 (D) surplus; and

1626 (E) RBC levels;

1627 (iv) identify the key assumptions impacting the insurer's or health organization's
1628 projections and the sensitivity of the projections to the assumptions; and

1629 (v) identify the quality of, and problems associated with, the insurer's or health
1630 organization's business, including its assets, anticipated business growth and associated surplus
1631 strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each
1632 case.

1633 (b) For purposes of Subsection (2)(a)(iii), the projections for both new and renewal
1634 business may include separate projections for each major line of business and separately
1635 identify each significant income, expense, and benefit component.

1636 (3) The RBC plan shall be submitted:

1637 (a) within 45 days of the company action level event; or

1638 (b) if the insurer or health organization challenges an adjusted RBC report pursuant to
1639 Section 31A-17-607, within 45 days after notification to the insurer or health organization that
1640 after a hearing the commissioner rejects the insurer's or health organization's challenge.

1641 (4) (a) Within 60 days after the submission by an insurer or health organization of an
1642 RBC plan to the commissioner, the commissioner shall notify the insurer or health organization
1643 whether the RBC plan:

1644 (i) shall be implemented; or

1645 (ii) is unsatisfactory.

1646 (b) If the commissioner determines the RBC plan is unsatisfactory, the notification to
1647 the insurer or health organization shall set forth the reasons for the determination, and may
1648 propose revisions that will render the RBC plan satisfactory. Upon notification from the
1649 commissioner, the insurer or health organization shall:

1650 (i) prepare a revised RBC plan that incorporates any revision proposed by the
1651 commissioner; and

1652 (ii) submit the revised RBC plan to the commissioner:

1653 (A) within 45 days after the notification from the commissioner; or

1654 (B) if the insurer challenges the notification from the commissioner under Section
1655 31A-17-607, within 45 days after a notification to the insurer or health organization that after a
1656 hearing the commissioner rejects the insurer's or health organization's challenge.

1657 (5) In the event of a notification by the commissioner to an insurer or health
1658 organization that the insurer's or health organization's RBC plan or revised RBC plan is
1659 unsatisfactory, the commissioner may specify in the notification that the notification constitutes
1660 a regulatory action level event subject to the insurer's or health organization's right to a hearing
1661 under Section 31A-17-607.

1662 (6) Every domestic insurer or health organization that files an RBC plan or revised
1663 RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with
1664 the insurance commissioner in any state in which the insurer or health organization is
1665 authorized to do business if:

1666 (a) the state has an RBC provision substantially similar to Subsection 31A-17-608(1);
1667 and

1668 (b) the insurance commissioner of that state notifies the insurer or health organization

1669 of its request for the filing in writing, in which case the insurer or health organization shall file
1670 a copy of the RBC plan or revised RBC plan in that state no later than the later of:

1671 (i) 15 days after the receipt of notice to file a copy of its RBC plan or revised RBC plan
1672 with that state; or

1673 (ii) the date on which the RBC plan or revised RBC plan is filed under Subsections (3)
1674 and (4).

1675 Section 12. Section **31A-19a-209** is amended to read:

1676 **31A-19a-209. Special provisions for title insurance.**

1677 (1) (a) (i) The Title and Escrow Commission shall adopt rules subject to Section
1678 31A-2-404, establishing rate standards and rating methods for [~~title agencies and producers~~]
1679 individual title insurance producers and agency title insurance producers.

1680 (ii) The commissioner shall determine compliance with rate standards and rating
1681 methods for title insurance insurers[~~, agencies, and producers~~], individual title insurance
1682 producers, and agency title insurance producers.

1683 (b) In addition to the considerations in determining compliance with rate standards and
1684 rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title
1685 insurers, the commissioner and the Title and Escrow Commission shall consider the costs and
1686 expenses incurred by title insurance insurers[~~, agencies, and producers~~], individual title
1687 insurance producers, and agency title insurance producers peculiar to the business of title
1688 insurance including:

1689 (i) the maintenance of title plants; and

1690 (ii) the searching and examining of public records to determine insurability of title to
1691 real redevelopment property.

1692 (2) (a) Every title insurance insurer[~~,~~] or agency[~~, and~~] title insurance producer, and
1693 every individual title insurance producer who is not designated by an agency title insurance
1694 producer, shall file with the commissioner:

1695 (i) a schedule of the escrow charges that the title insurance insurer[~~, agency, or~~],
1696 individual title insurance producer, or agency title insurance producer proposes to use in this
1697 state for services performed in connection with the issuance of policies of title insurance; and

1698 (ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).

1699 (b) Except for a schedule filed by a title insurance insurer under this Subsection (2), a

1700 schedule filed under this Subsection (2) is subject to review by the Title and Escrow
1701 Commission.

1702 (c) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes
1703 effect on the day on which the schedule of escrow charges is filed.

1704 (ii) Any changes to the schedule of the escrow charges required to be filed by
1705 Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow
1706 charges except that the effective date may not be less than 30 calendar days after the day on
1707 which the change to the schedule of escrow charges is filed.

1708 (3) A title insurance insurer~~[-agency, or producer]~~, individual title insurance producer,
1709 or agency title insurance producer may not file or use any rate or other charge relating to the
1710 business of title insurance, including rates or charges filed for escrow that would cause the title
1711 insurance company~~[-agency, or producer]~~, individual title insurance producer, or agency title
1712 insurance producer to:

1713 (a) operate at less than the cost of doing:

1714 (i) the insurance business; or

1715 (ii) the escrow business; or

1716 (b) fail to adequately underwrite a title insurance policy.

1717 (4) (a) All or any of the schedule of rates or schedule of charges, including the schedule
1718 of escrow charges, may be changed or amended at any time, subject to the limitations in this
1719 Subsection (4).

1720 (b) Each change or amendment shall:

1721 (i) be filed with the commissioner, subject to review by the Title and Escrow
1722 Commission; and

1723 (ii) state the effective date of the change or amendment, which may not be less than 30
1724 calendar days after the day on which the change or amendment is filed.

1725 (c) Any change or amendment remains in force for a period of at least 90 calendar days
1726 from the change or amendment's effective date.

1727 (5) While the schedule of rates and schedule of charges are effective, a copy of each
1728 shall be:

1729 (a) retained in each of the offices of:

1730 (i) the title insurance insurer in this state;

1731 (ii) the title insurance insurer's individual title insurance producers or agency title
 1732 insurance producers in this state; and

1733 (b) upon request, furnished to the public.

1734 (6) Except in accordance with the schedules of rates and charges filed with the
 1735 commissioner, a title insurance insurer ~~[, agency, or producer]~~, individual title insurance
 1736 producer, or agency title insurance producer may not make or impose any premium or other
 1737 charge:

1738 (a) in connection with the issuance of a policy of title insurance; or

1739 (b) for escrow services performed in connection with the issuance of a policy of title
 1740 insurance.

1741 Section 13. Section **31A-20-110** is amended to read:

1742 **31A-20-110. Underwriting rules for title insurance.**

1743 (1) ~~[No]~~ A title insurance policy may not be written until the title insurer or its
 1744 individual title insurance producer or agency title insurance producer has conducted a
 1745 reasonable search and examination of the title and has made a determination of insurability of
 1746 title under sound underwriting principles. Evidence of this search and reasonable
 1747 determination shall be retained in the files of the title insurer or its individual title insurance
 1748 producer or agency title insurance producer for not less than 15 years after the policy has been
 1749 issued, either in its original form or as recorded by any process which can accurately and
 1750 reliably reproduce the original. This section does not apply to a company assuming liability
 1751 through a contract of reinsurance, or to a company acting as coinsurer, if another coinsuring
 1752 company has complied with this section.

1753 (2) ~~[No]~~ A title insurance policy may not be issued except by a title [~~insurance~~
 1754 ~~company or by a~~] insurer, an individual title insurance producer who is appointed by an insurer,
 1755 or agency title insurance producer licensed under Section 31A-23a-105.

1756 (3) This section is enforceable only by the commissioner. It does not create, eliminate,
 1757 or modify any private cause of action or remedy.

1758 Section 14. Section **31A-21-314** is amended to read:

1759 **31A-21-314. Prohibited provisions.**

1760 ~~[No]~~ An insurance policy subject to this chapter may not contain any provision:

1761 (1) requiring it to be construed according to the laws of another jurisdiction except as

1762 necessary to meet the requirements of compulsory insurance laws of other jurisdictions;

1763 (2) depriving Utah courts of jurisdiction over an action against the insurer, except as
1764 provided in permissible arbitration provisions; [or]

1765 (3) limiting the right of action against the insurer to less than three years from the date
1766 the cause of action accrues[-]; or

1767 (4) purporting to give to an insurer, plan administrator, or claim administrator full and
1768 final discretion in interpreting benefits in an insurance policy.

1769 Section 15. Section 31A-21-503 is amended to read:

1770 **31A-21-503. Discrimination based on domestic violence or child abuse**
1771 **prohibited.**

1772 (1) Except as provided in Subsection (2), an insurer of life or accident and health
1773 insurance may not consider whether an insured or applicant is the subject of domestic abuse as
1774 a factor to:

1775 (a) refuse to insure the applicant;

1776 (b) refuse to continue to insure the insured;

1777 (c) refuse to renew or reissue a policy to insure the insured or applicant;

1778 (d) limit the amount, extent, or kind of coverage available to the insured or applicant;

1779 (e) charge a different rate for coverage to the insured or applicant;

1780 (f) exclude or limit benefits or coverage under an insurance policy or contract for
1781 losses incurred;

1782 (g) deny a claim; or

1783 (h) terminate coverage or fail to provide conversion privileges in violation of
1784 ~~[Sections]~~ Section 31A-22-612 ~~[and 31A-22-723]~~ under a group accident and health policy for
1785 the insured because the coverage was issued in the name of the perpetrator of the domestic
1786 violence or abuse.

1787 (2) (a) Notwithstanding Subsection (1), an insurer may underwrite on the basis of the
1788 physical or mental condition of an insured or applicant if the underwriting is on the basis of a
1789 determination that there is a correlation between the medical or mental condition and a material
1790 increase in insurance risk.

1791 (b) For purposes of Subsection (2)(a), the fact that an insured or applicant is a subject
1792 of domestic abuse is not a mental or physical condition.

1793 (c) The determination required by Subsection (2)(a) shall be made in conformance with
1794 sound actuarial principles.

1795 (d) Within 30 days after receiving an oral or written request from an insured or
1796 applicant, an insurer shall disclose in writing:

1797 (i) the basis of an action permitted under Subsection (2)(a); and

1798 (ii) if the policy has been issued or modified, the extent the action taken will impact the
1799 amount, extent, or kind of coverage or benefits available to the insured.

1800 Section 16. Section **31A-22-429** is enacted to read:

1801 **31A-22-429. Producer's duties related to replacement of life insurance or annuity.**

1802 (1) In connection with or as part of each application for life insurance or annuities, the
1803 applicant shall complete and the producer shall submit to the insurer the statements required by
1804 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as
1805 to:

1806 (a) whether the applicant has existing policies or contracts; and

1807 (b) whether the proposed life insurance or annuity will replace, discontinue, or change
1808 an existing policy or contract.

1809 (2) If an applicant for life insurance or an annuity answers "yes" to the question
1810 regarding replacement, discontinuance, or change of an existing policy or contract referred to in
1811 Subsection (1), the producer shall present to, and leave with, the applicant, not later than at the
1812 time of taking the application, the notice regarding replacements in the form adopted by the
1813 commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1814 Rulemaking Act, or other substantially similar document filed with the commissioner.
1815 However, a filing is not required when an amendment to the notice is limited to the omission of
1816 a reference not applicable to the product being sold or replaced. With respect to an
1817 electronically completed application and notice, the producer is not required to leave a copy of
1818 the electronically completed notice with the applicant.

1819 (3) (a) The notice described in Subsection (2) shall:

1820 (i) list each existing policy or contract contemplated to be replaced, properly identified
1821 by name of insurer, the insured or annuitant, and policy or contract number if available; and

1822 (ii) include a statement as to whether each policy or contract will be replaced or
1823 whether a policy will be used as a source of financing for the new policy or contract.

1824 (b) If a policy or contract number has not been issued by the existing insurer,
1825 alternative identification, such as an application or receipt number, shall be listed.

1826 (4) In connection with a replacement transaction, the producer shall leave with the
1827 applicant by no later than at the time of policy or contract delivery the original or a copy of all
1828 printed sales material. With respect to electronically presented sales material, it shall be
1829 provided to the policy or contract holder in printed form no later than at the time of policy or
1830 contract delivery.

1831 (5) Except as provided in rule made by the commissioner in accordance with Title
1832 63G, Chapter 3, Utah Administrative Rulemaking Act, in connection with a replacement
1833 transaction, the producer shall submit to the insurer to which an application for a policy or
1834 contract is presented:

1835 (a) a copy of each document required by this section;

1836 (b) a statement identifying any preprinted or electronically presented company
1837 approved sales materials used; and

1838 (c) copies of any individualized sales materials, including any illustrations related to
1839 the specific policy or contract purchased.

1840 Section 17. Section **31A-22-519** is amended to read:

1841 **31A-22-519. Death pending conversion.**

1842 If a person insured under a group life insurance policy, or the insured dependent of that
1843 person, dies during the period of eligibility for conversion under Section 31A-22-517 or
1844 31A-22-518 and before the individual policy becomes effective, the amount of life insurance to
1845 which ~~the~~ the insured would have been entitled to have issued under the individual policy is
1846 payable as a claim under the group policy, whether or not application for the individual policy
1847 or the payment of the first premium has been made.

1848 Section 18. Section **31A-22-612** is amended to read:

1849 **31A-22-612. Conversion privileges for insured former spouse.**

1850 (1) An accident and health insurance policy, which in addition to covering the insured
1851 also provides coverage to the spouse of the insured, may not contain a provision for
1852 termination of coverage of a spouse covered under the policy, except by entry of a valid decree
1853 of divorce or annulment between the parties.

1854 (2) Every policy which contains this type of provision shall provide that upon the entry

1855 of the divorce decree the spouse is entitled to have issued an individual policy of accident and
1856 health insurance without evidence of insurability, upon application to the company and
1857 payment of the appropriate premium. The policy shall provide the coverage being issued
1858 which is most nearly similar to the terminated coverage. Probationary or waiting periods in the
1859 policy are considered satisfied to the extent the coverage was in force under the prior policy.

1860 (3) When the insurer receives actual notice that the coverage of a spouse is to be
1861 terminated because of a divorce or annulment, the insurer shall promptly provide the spouse
1862 written notification of the right to obtain individual coverage as provided in Subsection (2), the
1863 premium amounts required, and the manner, place, and time in which premiums may be paid.
1864 The premium is determined in accordance with the insurer's table of premium rates applicable
1865 to the age and class of risk of the persons to be covered and to the type and amount of coverage
1866 provided. If the spouse applies and tenders the first monthly premium to the insurer within 30
1867 days after receiving the notice provided by this subsection, the spouse shall receive individual
1868 coverage that commences immediately upon termination of coverage under the insured's
1869 policy.

1870 (4) This section does not apply to accident and health insurance policies[~~-(a)~~] offered
1871 on a group blanket basis[~~;-or~~].

1872 [~~(b) that comply with Section 31A-22-723.~~]

1873 Section 19. Section **31A-22-617** is amended to read:

1874 **31A-22-617. Preferred provider contract provisions.**

1875 Health insurance policies may provide for insureds to receive services or
1876 reimbursement under the policies in accordance with preferred health care provider contracts as
1877 follows:

1878 (1) Subject to restrictions under this section, any insurer or third party administrator
1879 may enter into contracts with health care providers as defined in Section 78B-3-403 under
1880 which the health care providers agree to supply services, at prices specified in the contracts, to
1881 persons insured by an insurer.

1882 (a) (i) A health care provider contract may require the health care provider to accept the
1883 specified payment as payment in full, relinquishing the right to collect additional amounts from
1884 the insured person.

1885 (ii) In any dispute involving a provider's claim for reimbursement, the same shall be

1886 determined in accordance with applicable law, the provider contract, the subscriber contract,
1887 and the insurer's written payment policies in effect at the time services were rendered.

1888 (iii) If the parties are unable to resolve their dispute, the matter shall be subject to
1889 binding arbitration by a jointly selected arbitrator. Each party is to bear its own expense except
1890 the cost of the jointly selected arbitrator shall be equally shared. This Subsection (1)(a)(iii)
1891 does not apply to the claim of a general acute hospital to the extent it is inconsistent with the
1892 hospital's provider agreement.

1893 (iv) An organization may not penalize a provider solely for pursuing a claims dispute
1894 or otherwise demanding payment for a sum believed owing.

1895 (v) If an insurer permits another entity with which it does not share common ownership
1896 or control to use or otherwise lease one or more of the organization's networks of participating
1897 providers, the organization shall ensure, at a minimum, that the entity pays participating
1898 providers in accordance with the same fee schedule and general payment policies as the
1899 organization would for that network.

1900 (b) The insurance contract may reward the insured for selection of preferred health care
1901 providers by:

- 1902 (i) reducing premium rates;
- 1903 (ii) reducing deductibles;
- 1904 (iii) coinsurance;
- 1905 (iv) other copayments; or
- 1906 (v) any other reasonable manner.

1907 (c) If the insurer is a managed care organization, as defined in Subsection
1908 31A-27a-403(1)(f):

1909 (i) the insurance contract and the health care provider contract shall provide that in the
1910 event the managed care organization becomes insolvent, the rehabilitator or liquidator may:

1911 (A) require the health care provider to continue to provide health care services under
1912 the contract until the earlier of:

1913 (I) 90 days after the date of the filing of a petition for rehabilitation or the petition for
1914 liquidation; or

1915 (II) the date the term of the contract ends; and

1916 (B) subject to Subsection (1)(c)(v), reduce the fees the provider is otherwise entitled to

1917 receive from the managed care organization during the time period described in Subsection
1918 (1)(c)(i)(A);

1919 (ii) the provider is required to:

1920 (A) accept the reduced payment under Subsection (1)(c)(i)(B) as payment in full; and

1921 (B) relinquish the right to collect additional amounts from the insolvent managed care
1922 organization's enrollee, as defined in Subsection 31A-27a-403(1)(b);

1923 (iii) if the contract between the health care provider and the managed care organization
1924 has not been reduced to writing, or the contract fails to contain the language required by
1925 Subsection (1)(c)(i), the provider may not collect or attempt to collect from the enrollee:

1926 (A) sums owed by the insolvent managed care organization; or

1927 (B) the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B);

1928 (iv) the following may not bill or maintain any action at law against an enrollee to
1929 collect sums owed by the insolvent managed care organization or the amount of the regular fee
1930 reduction authorized under Subsection (1)(c)(i)(B):

1931 (A) a provider;

1932 (B) an agent;

1933 (C) a trustee; or

1934 (D) an assignee of a person described in Subsections (1)(c)(iv)(A) through (C); and

1935 (v) notwithstanding Subsection (1)(c)(i):

1936 (A) a rehabilitator or liquidator may not reduce a fee by less than 75% of the provider's
1937 regular fee set forth in the contract; and

1938 (B) the enrollee shall continue to pay the copayments, deductibles, and other payments
1939 for services received from the provider that the enrollee was required to pay before the filing
1940 of:

1941 (I) a petition for rehabilitation; or

1942 (II) a petition for liquidation.

1943 (2) (a) Subject to Subsections (2)(b) through (2)(~~f~~)(e), an insurer using preferred
1944 health care provider contracts [~~shall pay for the services of health care providers not under the~~
1945 ~~contract, unless the illnesses or injuries treated by the health care provider are not within the~~
1946 ~~scope of the insurance contract. As used in this section, "class of health care providers" means~~
1947 ~~all health care providers licensed or licensed and certified by the state within the same~~

1948 ~~professional, trade, occupational, or facility licensure or licensure and certification category~~
1949 ~~established pursuant to Titles 26, Utah Health Code and 58, Occupations and Professions]~~ is
1950 subject to the reimbursement requirements in Section 31A-8-501 on or after January 1, 2014.

1951 ~~[(b) (i) Until July 1, 2012, when the insured receives services from a health care~~
1952 ~~provider not under contract, the insurer shall reimburse the insured for at least 75% of the~~
1953 ~~average amount paid by the insurer for comparable services of preferred health care providers~~
1954 ~~who are members of the same class of health care providers.]~~

1955 ~~[(ii) Notwithstanding Subsection (2)(b)(i), an insurer may offer a health plan that~~
1956 ~~complies with the provisions of Subsection 31A-22-618.5(3).]~~

1957 ~~[(iii) The commissioner may adopt a rule dealing with the determination of what~~
1958 ~~constitutes 75% of the average amount paid by the insurer under Subsection (2)(b)(i) for~~
1959 ~~comparable services of preferred health care providers who are members of the same class of~~
1960 ~~health care providers.]~~

1961 ~~[(c)]~~ (b) When reimbursing for services of health care providers not under contract, the
1962 insurer may make direct payment to the insured.

1963 ~~[(d) Notwithstanding Subsection (2)(b), an]~~

1964 (c) An insurer using preferred health care provider contracts may impose a deductible
1965 on coverage of health care providers not under contract.

1966 ~~[(e)]~~ (d) When selecting health care providers with whom to contract under Subsection
1967 (1), an insurer may not unfairly discriminate between classes of health care providers, but may
1968 discriminate within a class of health care providers, subject to Subsection (7).

1969 ~~[(f)]~~ (e) For purposes of this section, unfair discrimination between classes of health
1970 care providers ~~[shall include]~~ includes:

1971 (i) refusal to contract with class members in reasonable proportion to the number of
1972 insureds covered by the insurer and the expected demand for services from class members; and

1973 (ii) refusal to cover procedures for one class of providers that are:

1974 (A) commonly ~~[utilized]~~ used by members of the class of health care providers for the
1975 treatment of illnesses, injuries, or conditions;

1976 (B) otherwise covered by the insurer; and

1977 (C) within the scope of practice of the class of health care providers.

1978 (3) Before the insured consents to the insurance contract, the insurer shall fully disclose

1979 to the insured that it has entered into preferred health care provider contracts. The insurer shall
1980 provide sufficient detail on the preferred health care provider contracts to permit the insured to
1981 agree to the terms of the insurance contract. The insurer shall provide at least the following
1982 information:

1983 (a) a list of the health care providers under contract, and if requested their business
1984 locations and specialties;

1985 (b) a description of the insured benefits, including any deductibles, coinsurance, or
1986 other copayments;

1987 (c) a description of the quality assurance program required under Subsection (4); and

1988 (d) a description of the adverse benefit determination procedures required under
1989 Subsection (5).

1990 (4) (a) An insurer using preferred health care provider contracts shall maintain a quality
1991 assurance program for assuring that the care provided by the health care providers under
1992 contract meets prevailing standards in the state.

1993 (b) The commissioner in consultation with the executive director of the Department of
1994 Health may designate qualified persons to perform an audit of the quality assurance program.
1995 The auditors shall have full access to all records of the organization and its health care
1996 providers, including medical records of individual patients.

1997 (c) The information contained in the medical records of individual patients shall
1998 remain confidential. All information, interviews, reports, statements, memoranda, or other data
1999 furnished for purposes of the audit and any findings or conclusions of the auditors are
2000 privileged. The information is not subject to discovery, use, or receipt in evidence in any legal
2001 proceeding except hearings before the commissioner concerning alleged violations of this
2002 section.

2003 (5) An insurer using preferred health care provider contracts shall provide a reasonable
2004 procedure for resolving complaints and adverse benefit determinations initiated by the insureds
2005 and health care providers.

2006 (6) An insurer may not contract with a health care provider for treatment of illness or
2007 injury unless the health care provider is licensed to perform that treatment.

2008 (7) (a) A health care provider or insurer may not discriminate against a preferred health
2009 care provider for agreeing to a contract under Subsection (1).

2010 (b) Any health care provider licensed to treat any illness or injury within the scope of
2011 the health care provider's practice, who is willing and able to meet the terms and conditions
2012 established by the insurer for designation as a preferred health care provider, shall be able to
2013 apply for and receive the designation as a preferred health care provider. Contract terms and
2014 conditions may include reasonable limitations on the number of designated preferred health
2015 care providers based upon substantial objective and economic grounds, or expected use of
2016 particular services based upon prior provider-patient profiles.

2017 (8) Upon the written request of a provider excluded from a provider contract, the
2018 commissioner may hold a hearing to determine if the insurer's exclusion of the provider is
2019 based on the criteria set forth in Subsection (7)(b).

2020 (9) ~~[Insurers]~~ Except as provided in Subsection 31A-22-618.5(3)(a), insurers are
2021 subject to ~~[the provisions of]~~ Sections 31A-22-613.5, 31A-22-614.5, and 31A-22-618.

2022 (10) Nothing in this section is to be construed as to require an insurer to offer a certain
2023 benefit or service as part of a health benefit plan.

2024 (11) This section does not apply to catastrophic mental health coverage provided in
2025 accordance with Section 31A-22-625.

2026 Section 20. Section **31A-22-618.5** is amended to read:

2027 **31A-22-618.5. Health benefit plan offerings.**

2028 (1) The purpose of this section is to increase the range of health benefit plans available
2029 in the small group, small employer group, large group, and individual insurance markets.

2030 (2) A health maintenance organization that is subject to Chapter 8, Health Maintenance
2031 Organizations and Limited Health Plans:

2032 (a) shall offer to potential purchasers at least one health benefit plan that is subject to
2033 the requirements of Chapter 8, Health Maintenance Organizations and Limited Health Plans;
2034 and

2035 (b) may offer to a potential purchaser one or more health benefit plans that:

2036 (i) are not subject to one or more of the following:

2037 (A) the limitations on insured indemnity benefits in Subsection 31A-8-105(4);

2038 (B) the limitation on point of service products in Subsections 31A-8-408(3) through

2039 (6);

2040 (C) except as provided in Subsection (2)(b)(ii), basic health care services as defined in

2041 Section 31A-8-101; or

2042 (D) coverage mandates enacted after January 1, 2009 that are not required by federal
2043 law, provided that the insurer offers one plan under Subsection (2)(a) that covers the mandate
2044 enacted after January 1, 2009; and

2045 (ii) when offering a health plan under this section, provide coverage for an emergency
2046 medical condition as required by Section 31A-22-627 as follows:

2047 (A) within the organization's service area, covered services shall include health care
2048 services from nonaffiliated providers when medically necessary to stabilize an emergency
2049 medical condition; and

2050 (B) outside the organization's service area, covered services shall include medically
2051 necessary health care services for the treatment of an emergency medical condition that are
2052 immediately required while the enrollee is outside the geographic limits of the organization's
2053 service area.

2054 (3) An insurer that offers a health benefit plan that is not subject to Chapter 8, Health
2055 Maintenance Organizations and Limited Health Plans:

2056 [~~(a) notwithstanding Subsection 31A-22-617(2), may offer a health benefit plan that~~
2057 ~~groups providers into the following reimbursement levels:]~~

2058 [~~(i) tier one contracted providers;]~~

2059 [~~(ii) tier two contracted providers who the insurer shall reimburse at least 75% of tier~~
2060 ~~one providers; and]~~

2061 [~~(iii) one or more tiers of non-contracted providers;]~~

2062 [~~(b)] (a) notwithstanding Subsection 31A-22-617(9), may offer a health benefit plan~~
2063 ~~that is not subject to Section 31A-22-618;~~

2064 [~~(c) beginning July 1, 2012, may offer health benefit plans that:]~~

2065 [~~(i) are not subject to Subsection 31A-22-617(2); and]~~

2066 [~~(ii) are subject to the reimbursement requirements in Section 31A-8-501;]~~

2067 [~~(d)] (b) when offering a health plan under this Subsection (3), shall provide coverage~~
2068 ~~of emergency care services as required by Section 31A-22-627 [by providing coverage at a~~
2069 ~~reimbursement level of at least 75% of the health benefit plan's highest contracted provider~~
2070 ~~category]; and~~

2071 [~~(e) are] (c) is not subject to coverage mandates enacted after January 1, 2009 that are~~

2072 not required by federal law, provided that an insurer offers one plan that covers a mandate
2073 enacted after January 1, 2009.

2074 (4) Section 31A-8-106 does not prohibit the offer of a health benefit plan under
2075 Subsection (2)(b).

2076 (5) (a) Any difference in price between a health benefit plan offered under Subsections
2077 (2)(a) and (b) shall be based on actuarially sound data.

2078 (b) Any difference in price between a health benefit plan offered under [~~Subsections~~]
2079 Subsection (3)(a) [~~and (b)~~] shall be based on actuarially sound data.

2080 (6) Nothing in this section limits the number of health benefit plans that an insurer may
2081 offer.

2082 Section 21. Section **31A-22-722** is amended to read:

2083 **31A-22-722. Utah mini-COBRA benefits for employer group coverage.**

2084 (1) An insured may extend the employee's coverage under the current employer's group
2085 policy for a period of 12 months, except as provided in Subsections (2) and 31A-22-722.5(4).

2086 The right to extend coverage includes:

- 2087 (a) voluntary termination;
- 2088 (b) involuntary termination;
- 2089 (c) retirement;
- 2090 (d) death;
- 2091 (e) divorce or legal separation;
- 2092 (f) loss of dependent status;
- 2093 (g) sabbatical;
- 2094 (h) a disability;
- 2095 (i) leave of absence; or
- 2096 (j) reduction of hours.

2097 (2) (a) Notwithstanding Subsection (1), an employee may not extend coverage under
2098 the current employer's group insurance policy if the employee:

- 2099 (i) fails to pay premiums or contributions in accordance with the terms of the insurance
2100 policy;
- 2101 (ii) acquires other group coverage covering all preexisting conditions including
2102 maternity, if the coverage exists;

2103 (iii) performs an act or practice that constitutes fraud in connection with the coverage;

2104 (iv) makes an intentional misrepresentation of material fact under the terms of the

2105 coverage;

2106 (v) is terminated from employment for gross misconduct;

2107 (vi) is not continuously covered under the current employer's group policy for a period

2108 of three months immediately before the termination of the insurance policy due to an event set

2109 forth in Subsection (1);

2110 (vii) is eligible for an extension of coverage required by federal law;

2111 (viii) establishes residence outside of this state;

2112 (ix) moves out of the insurer's service area;

2113 (x) is eligible for similar coverage under another group insurance policy; or

2114 (xi) has the employee's coverage terminated because the employer's coverage is

2115 terminated, except as provided in Subsection (8); ~~or~~;

2116 [~~(xii) elects alternative coverage under Section 31A-22-724.~~]

2117 (b) The right to extend coverage under Subsection (1) applies to spouse or dependent

2118 coverage, including a surviving spouse or dependents whose coverage under the insurance

2119 policy terminates by reason of the death of the employee or member.

2120 (3) (a) The employer shall notify the following in writing of the right to extend group

2121 coverage and the payment amounts required for extension of coverage, including the manner,

2122 place, and time in which the payments shall be made:

2123 (i) a terminated insured;

2124 (ii) an ex-spouse of an insured; or

2125 (iii) if Subsection (2)(b) applies:

2126 (A) a surviving spouse; and

2127 (B) the guardian of surviving dependents, if different from a surviving spouse.

2128 (b) The notification required in Subsection (3)(a) shall be sent first class mail within 30

2129 days after the termination date of the group coverage to:

2130 (i) the terminated insured's home address as shown on the records of the employer;

2131 (ii) the address of the surviving spouse, if different from the insured's address and if

2132 shown on the records of the employer;

2133 (iii) the guardian of any dependents address, if different from the insured's address, and

2134 if shown on the records of the employer; and

2135 (iv) the address of the ex-spouse, if shown on the records of the employer.

2136 (4) The insurer shall provide the employee, spouse, or any eligible dependent the
2137 opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

2138 (a) the employer policyholder does not provide the terminated insured the written
2139 notification required by Subsection (3)(a); and

2140 (b) the employee or other individual eligible for extension contacts the insurer within
2141 60 days of coverage termination.

2142 (5) A premium amount for extended group coverage may not exceed 102% of the
2143 group rate in effect for a group member, including an employer's contribution, if any, for a
2144 group insurance policy.

2145 (6) Except as provided in this Subsection (6), coverage extends without interruption for
2146 12 months and may not terminate if the terminated insured or, with respect to a minor, the
2147 parent or guardian of the terminated insured:

2148 (a) elects to extend group coverage within 60 days of losing group coverage; and

2149 (b) tenders the amount required to the employer or insurer.

2150 (7) The insured's coverage may be terminated before 12 months if the terminated
2151 insured:

2152 (a) establishes residence outside of this state;

2153 (b) moves out of the insurer's service area;

2154 (c) fails to pay premiums or contributions in accordance with the terms of the insurance
2155 policy, including any timeliness requirements;

2156 (d) performs an act or practice that constitutes fraud in connection with the coverage;

2157 (e) makes an intentional misrepresentation of material fact under the terms of the
2158 coverage;

2159 (f) becomes eligible for similar coverage under another group insurance policy; or

2160 (g) has the coverage terminated because the employer's coverage is terminated, except
2161 as provided in Subsection (8).

2162 (8) If the current employer coverage is terminated and the employer replaces coverage
2163 with similar coverage under another group insurance policy, without interruption, the
2164 terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection

2165 (2)(b) applies, may obtain extension of coverage under the replacement group insurance policy:

2166 (a) for the balance of the period the terminated insured would have extended coverage
2167 under the replaced group insurance policy; and

2168 (b) if the terminated insured is otherwise eligible for extension of coverage.

2169 ~~[(9)(a) Within 30 days of the insured's exhaustion of extension of coverage, the~~
2170 ~~employer shall provide the terminated insured and the ex-spouse, or, in the case of the death of~~
2171 ~~the insured, the surviving spouse, or guardian of any dependents, written notification of the~~
2172 ~~right to an individual conversion policy under Section 31A-22-723.]~~

2173 ~~[(b) The notification required by Subsection (9)(a):]~~

2174 ~~[(i) shall be sent first class mail to:]~~

2175 ~~[(A) the insured's last-known address as shown on the records of the employer;]~~

2176 ~~[(B) the address of the surviving spouse, if different from the insured's address, and if~~
2177 ~~shown on the records of the employer;]~~

2178 ~~[(C) the guardian of any dependents last known address as shown on the records of the~~
2179 ~~employer, if different from the address of the surviving spouse; and]~~

2180 ~~[(D) the address of the ex-spouse as shown on the records of the employer, if~~
2181 ~~applicable; and]~~

2182 ~~[(ii) shall contain the name, address, and telephone number of the insurer that will~~
2183 ~~provide the conversion coverage.]~~

2184 Section 22. Section 31A-23a-102 is amended to read:

2185 **31A-23a-102. Definitions.**

2186 As used in this chapter:

2187 (1) "Bail bond producer" is as defined in Section 31A-35-102.

2188 ~~[(2) "Escrow" means a license subline of authority in conjunction with the title~~
2189 ~~insurance line of authority that allows a person to conduct escrow as defined in Section~~
2190 ~~31A-1-301.]~~

2191 ~~[(3)]~~ (2) "Home state" means a state or territory of the United States or the District of
2192 Columbia in which an insurance producer:

2193 (a) maintains the insurance producer's principal:

2194 (i) place of residence; or

2195 (ii) place of business; and

2196 (b) is licensed to act as an insurance producer.
2197 [~~(4)~~] (3) "Insurer" is as defined in Section 31A-1-301, except that the following
2198 persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:
2199 (a) a risk retention group as defined in:
2200 (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;
2201 (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and
2202 (iii) Chapter 15, Part 2, Risk Retention Groups Act;
2203 (b) a residual market pool;
2204 (c) a joint underwriting authority or association; and
2205 (d) a captive insurer.
2206 [~~(5)~~] (4) "License" is defined in Section 31A-1-301.
2207 [~~(6)~~] (5) (a) "Managing general agent" means a person that:
2208 (i) manages all or part of the insurance business of an insurer, including the
2209 management of a separate division, department, or underwriting office;
2210 (ii) acts as an agent for the insurer whether it is known as a managing general agent,
2211 manager, or other similar term;
2212 (iii) produces and underwrites an amount of gross direct written premium equal to, or
2213 more than 5% of, the policyholder surplus as reported in the last annual statement of the insurer
2214 in any one quarter or year:
2215 (A) with or without the authority;
2216 (B) separately or together with an affiliate; and
2217 (C) directly or indirectly; and
2218 (iv) (A) adjusts or pays claims in excess of an amount determined by the
2219 commissioner; or
2220 (B) negotiates reinsurance on behalf of the insurer.
2221 (b) Notwithstanding Subsection [~~(6)~~] (5)(a), the following persons may not be
2222 considered as managing general agent for the purposes of this chapter:
2223 (i) an employee of the insurer;
2224 (ii) a United States manager of the United States branch of an alien insurer;
2225 (iii) an underwriting manager that, pursuant to contract:
2226 (A) manages all the insurance operations of the insurer;

- 2227 (B) is under common control with the insurer;
- 2228 (C) is subject to Chapter 16, Insurance Holding Companies; and
- 2229 (D) is not compensated based on the volume of premiums written; and
- 2230 (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal
- 2231 insurer or inter-insurance exchange under powers of attorney.
- 2232 ~~[(7)]~~ (6) "Negotiate" means the act of conferring directly with or offering advice
- 2233 directly to a purchaser or prospective purchaser of a particular contract of insurance concerning
- 2234 a substantive benefit, term, or condition of the contract if the person engaged in that act:
- 2235 (a) sells insurance; or
- 2236 (b) obtains insurance from insurers for purchasers.
- 2237 ~~[(8)]~~ (7) "Reinsurance intermediary" means:
- 2238 (a) a reinsurance intermediary-broker; or
- 2239 (b) a reinsurance intermediary-manager.
- 2240 ~~[(9)]~~ (8) "Reinsurance intermediary-broker" means a person other than an officer or
- 2241 employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or
- 2242 places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority
- 2243 or power to bind reinsurance on behalf of the insurer.
- 2244 ~~[(10)]~~ (9) (a) "Reinsurance intermediary-manager" means a person who:
- 2245 (i) has authority to bind or who manages all or part of the assumed reinsurance
- 2246 business of a reinsurer, including the management of a separate division, department, or
- 2247 underwriting office; and
- 2248 (ii) acts as an agent for the reinsurer whether the person is known as a reinsurance
- 2249 intermediary-manager, manager, or other similar term.
- 2250 (b) Notwithstanding Subsection ~~[(10)]~~ (9)(a), the following persons may not be
- 2251 considered reinsurance intermediary-managers for the purpose of this chapter with respect to
- 2252 the reinsurer:
- 2253 (i) an employee of the reinsurer;
- 2254 (ii) a United States manager of the United States branch of an alien reinsurer;
- 2255 (iii) an underwriting manager that, pursuant to contract:
- 2256 (A) manages all the reinsurance operations of the reinsurer;
- 2257 (B) is under common control with the reinsurer;

2258 (C) is subject to Chapter 16, Insurance Holding Companies; and
2259 (D) is not compensated based on the volume of premiums written; and
2260 (iv) the manager of a group, association, pool, or organization of insurers that:
2261 (A) engage in joint underwriting or joint reinsurance; and
2262 (B) are subject to examination by the insurance commissioner of the state in which the
2263 manager's principal business office is located.

2264 [~~(11)~~] (10) "Search" means a license subline of authority in conjunction with the title
2265 insurance line of authority that allows a person to issue title insurance commitments or policies
2266 on behalf of a title insurer.

2267 [~~(12)~~] (11) "Sell" means to exchange a contract of insurance:

- 2268 (a) by any means;
- 2269 (b) for money or its equivalent; and
- 2270 (c) on behalf of an insurance company.

2271 [~~(13)~~] (12) "Solicit" means:

- 2272 (a) attempting to sell insurance;
- 2273 (b) asking or urging a person to apply for:
 - 2274 (i) a particular kind of insurance; and
 - 2275 (ii) insurance from a particular insurance company;
- 2276 (c) advertising insurance, including advertising for the purpose of obtaining leads for
2277 the sale of insurance; or
- 2278 (d) holding oneself out as being in the insurance business.

2279 [~~(14)~~] (13) "Terminate" means:

- 2280 (a) the cancellation of the relationship between:
 - 2281 (i) an individual licensee or agency licensee and a particular insurer; or
 - 2282 (ii) an individual licensee and a particular agency licensee; or
- 2283 (b) the termination of:
 - 2284 (i) an individual licensee's or agency licensee's authority to transact insurance on behalf
2285 of a particular insurance company; or
 - 2286 (ii) an individual licensee's authority to transact insurance on behalf of a particular
2287 agency licensee.

2288 [~~(15)~~] (14) "Title marketing representative" means a person who:

2289 (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:

2290 (i) title insurance; or

2291 (ii) escrow services; and

2292 (b) does not have a search or escrow license as provided in Section 31A-23a-106.

2293 ~~[(16)]~~ (15) "Uniform application" means the version of the National Association of

2294 Insurance Commissioners' uniform application for resident and nonresident producer licensing

2295 at the time the application is filed.

2296 ~~[(17)]~~ (16) "Uniform business entity application" means the version of the National

2297 Association of Insurance Commissioners' uniform business entity application for resident and

2298 nonresident business entities at the time the application is filed.

2299 Section 23. Section **31A-23a-105** is amended to read:

2300 **31A-23a-105. General requirements for individual and agency license issuance**

2301 **and renewal.**

2302 (1) (a) The commissioner shall issue or renew a license to a person described in

2303 Subsection (1)(b) to act as:

2304 (i) a producer;

2305 (ii) a surplus lines producer;

2306 (iii) a limited line producer;

2307 (iv) a consultant;

2308 (v) a managing general agent; or

2309 (vi) a reinsurance intermediary.

2310 (b) The commissioner shall issue or renew a license under Subsection (1)(a) to a

2311 person who, as to the license type and line of authority classification applied for under Section

2312 31A-23a-106:

2313 (i) satisfies the application requirements under Section 31A-23a-104;

2314 (ii) satisfies the character requirements under Section 31A-23a-107;

2315 (iii) satisfies any applicable continuing education requirements under Section

2316 31A-23a-202;

2317 (iv) satisfies any applicable examination requirements under Section 31A-23a-108;

2318 (v) satisfies any applicable training period requirements under Section 31A-23a-203;

2319 (vi) if an applicant for a resident individual producer license, certifies that, to the extent

- 2320 applicable, the applicant:
- 2321 (A) is in compliance with Section 31A-23a-203.5; and
- 2322 (B) will maintain compliance with Section 31A-23a-203.5 during the period for which
- 2323 the license is issued or renewed;
- 2324 (vii) has not committed an act that is a ground for denial, suspension, or revocation as
- 2325 provided in Section 31A-23a-111;
- 2326 (viii) if a nonresident:
- 2327 (A) complies with Section 31A-23a-109; and
- 2328 (B) holds an active similar license in that person's state of residence;
- 2329 (ix) if an applicant for [a] an individual title insurance producer or agency title
- 2330 insurance producer license, satisfies the requirements of Section 31A-23a-204;
- 2331 (x) if an applicant for a license to act as a life settlement provider or life settlement
- 2332 producer, satisfies the requirements of Section 31A-23a-117; and
- 2333 (xi) pays the applicable fees under Section 31A-3-103.
- 2334 (2) (a) This Subsection (2) applies to the following persons:
- 2335 (i) an applicant for a pending:
- 2336 (A) individual or agency producer license;
- 2337 (B) surplus lines producer license;
- 2338 (C) limited line producer license;
- 2339 (D) consultant license;
- 2340 (E) managing general agent license; or
- 2341 (F) reinsurance intermediary license; or
- 2342 (ii) a licensed:
- 2343 (A) individual or agency producer;
- 2344 (B) surplus lines producer;
- 2345 (C) limited line producer;
- 2346 (D) consultant;
- 2347 (E) managing general agent; or
- 2348 (F) reinsurance intermediary.
- 2349 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 2350 (i) an administrative action taken against the person, including a denial of a new or

2351 renewal license application:

2352 (A) in another jurisdiction; or

2353 (B) by another regulatory agency in this state; and

2354 (ii) a criminal prosecution taken against the person in any jurisdiction.

2355 (c) The report required by Subsection (2)(b) shall:

2356 (i) be filed:

2357 (A) at the time the person files the application for an individual or agency license; and

2358 (B) for an action or prosecution that occurs on or after the day on which the person

2359 files the application:

2360 (I) for an administrative action, within 30 days of the final disposition of the

2361 administrative action; or

2362 (II) for a criminal prosecution, within 30 days of the initial appearance before a court;

2363 and

2364 (ii) include a copy of the complaint or other relevant legal documents related to the

2365 action or prosecution described in Subsection (2)(b).

2366 (3) (a) The department may require a person applying for a license or for consent to
2367 engage in the business of insurance to submit to a criminal background check as a condition of
2368 receiving a license or consent.

2369 (b) A person, if required to submit to a criminal background check under Subsection
2370 (3)(a), shall:

2371 (i) submit a fingerprint card in a form acceptable to the department; and

2372 (ii) consent to a fingerprint background check by:

2373 (A) the Utah Bureau of Criminal Identification; and

2374 (B) the Federal Bureau of Investigation.

2375 (c) For a person who submits a fingerprint card and consents to a fingerprint
2376 background check under Subsection (3)(b), the department may request:

2377 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
2378 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

2379 (ii) complete Federal Bureau of Investigation criminal background checks through the
2380 national criminal history system.

2381 (d) Information obtained by the department from the review of criminal history records

2382 received under this Subsection (3) shall be used by the department for the purposes of:

2383 (i) determining if a person satisfies the character requirements under Section

2384 31A-23a-107 for issuance or renewal of a license;

2385 (ii) determining if a person has failed to maintain the character requirements under

2386 Section 31A-23a-107; and

2387 (iii) preventing a person who violates the federal Violent Crime Control and Law

2388 Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in

2389 the state.

2390 (e) If the department requests the criminal background information, the department

2391 shall:

2392 (i) pay to the Department of Public Safety the costs incurred by the Department of

2393 Public Safety in providing the department criminal background information under Subsection

2394 (3)(c)(i);

2395 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau

2396 of Investigation in providing the department criminal background information under

2397 Subsection (3)(c)(ii); and

2398 (iii) charge the person applying for a license or for consent to engage in the business of

2399 insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

2400 (4) To become a resident licensee in accordance with Section 31A-23a-104 and this

2401 section, a person licensed as one of the following in another state who moves to this state shall

2402 apply within 90 days of establishing legal residence in this state:

2403 (a) insurance producer;

2404 (b) surplus lines producer;

2405 (c) limited line producer;

2406 (d) consultant;

2407 (e) managing general agent; or

2408 (f) reinsurance intermediary.

2409 (5) (a) The commissioner may deny a license application for a license listed in

2410 Subsection (5)(b) if the person applying for the license, as to the license type and line of

2411 authority classification applied for under Section 31A-23a-106:

2412 (i) fails to satisfy the requirements as set forth in this section; or

2413 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in
2414 Section 31A-23a-111.

2415 (b) This Subsection (5) applies to the following licenses:

2416 (i) producer;

2417 (ii) surplus lines producer;

2418 (iii) limited line producer;

2419 (iv) consultant;

2420 (v) managing general agent; or

2421 (vi) reinsurance intermediary.

2422 (6) Notwithstanding the other provisions of this section, the commissioner may:

2423 (a) issue a license to an applicant for a license for a title insurance line of authority only
2424 with the concurrence of the Title and Escrow Commission; and

2425 (b) renew a license for a title insurance line of authority only with the concurrence of
2426 the Title and Escrow Commission.

2427 Section 24. Section **31A-23a-106** is amended to read:

2428 **31A-23a-106. License types.**

2429 (1) (a) A resident or nonresident license issued under this chapter shall be issued under
2430 the license types described under Subsection (2).

2431 (b) A license type and a line of authority pertaining to a license type describe the type
2432 of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license
2433 type is intended to describe the matters to be considered under any education, examination, and
2434 training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and
2435 31A-23a-203.

2436 (2) (a) A producer license type includes the following lines of authority:

2437 (i) life insurance, including a nonvariable contract;

2438 (ii) variable contracts, including variable life and annuity, if the producer has the life
2439 insurance line of authority;

2440 (iii) accident and health insurance, including a contract issued to a policyholder under
2441 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
2442 Organizations and Limited Health Plans;

2443 (iv) property insurance;

- 2444 (v) casualty insurance, including a surety or other bond;
- 2445 (vi) title insurance under one or more of the following categories:
- 2446 (A) search, including authority to act as a title marketing representative;
- 2447 (B) escrow, including authority to act as a title marketing representative; and
- 2448 (C) title marketing representative only; and
- 2449 (vii) personal lines insurance.
- 2450 (b) A surplus lines producer license type includes the following lines of authority:
- 2451 (i) property insurance, if the person holds an underlying producer license with the
- 2452 property line of insurance; and
- 2453 (ii) casualty insurance, if the person holds an underlying producer license with the
- 2454 casualty line of authority.
- 2455 (c) A limited line producer license type includes the following limited lines of
- 2456 authority:
- 2457 (i) limited line credit insurance;
- 2458 (ii) travel insurance;
- 2459 (iii) motor club insurance;
- 2460 (iv) car rental related insurance;
- 2461 (v) legal expense insurance;
- 2462 (vi) crop insurance;
- 2463 (vii) self-service storage insurance;
- 2464 (viii) bail bond producer;
- 2465 (ix) guaranteed asset protection waiver; and
- 2466 (x) portable electronics insurance.
- 2467 (d) A consultant license type includes the following lines of authority:
- 2468 (i) life insurance, including a nonvariable contract;
- 2469 (ii) variable contracts, including variable life and annuity, if the consultant has the life
- 2470 insurance line of authority;
- 2471 (iii) accident and health insurance, including a contract issued to a policyholder under
- 2472 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
- 2473 Organizations and Limited Health Plans;
- 2474 (iv) property insurance;

2475 (v) casualty insurance, including a surety or other bond; and
2476 (vi) personal lines insurance.
2477 (e) A managing general agent license type includes the following lines of authority:
2478 (i) life insurance, including a nonvariable contract;
2479 (ii) variable contracts, including variable life and annuity, if the managing general
2480 agent has the life insurance line of authority;
2481 (iii) accident and health insurance, including a contract issued to a policyholder under
2482 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
2483 Organizations and Limited Health Plans;
2484 (iv) property insurance;
2485 (v) casualty insurance, including a surety or other bond; and
2486 (vi) personal lines insurance.
2487 (f) A reinsurance intermediary license type includes the following lines of authority:
2488 (i) life insurance, including a nonvariable contract;
2489 (ii) variable contracts, including variable life and annuity, if the reinsurance
2490 intermediary has the life insurance line of authority;
2491 (iii) accident and health insurance, including a contract issued to a policyholder under
2492 Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance
2493 Organizations and Limited Health Plans;
2494 (iv) property insurance;
2495 (v) casualty insurance, including a surety or other bond; and
2496 (vi) personal lines insurance.
2497 (g) A person who holds a license under Subsection (2)(a) has the qualifications
2498 necessary to act as a holder of a license under Subsection (2)(c), except that the person may not
2499 act under Subsection (2)(c)(viii) or (ix).
2500 (3) (a) The commissioner may by rule recognize other producer, surplus lines producer,
2501 limited line producer, consultant, managing general agent, or reinsurance intermediary lines of
2502 authority as to kinds of insurance not listed under Subsections (2)(a) through (f).
2503 (b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and
2504 Escrow Commission may by rule, with the concurrence of the commissioner and subject to
2505 Section 31A-2-404, recognize other categories for [a] an individual title insurance producer or

2506 agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

2507 (4) The variable contracts line of authority requires:

2508 (a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

2509 (i) registered broker-dealer; or

2510 (ii) broker-dealer agent, with a current registration with a broker-dealer; and

2511 (b) for a consultant, registration with the Securities and Exchange Commission or

2512 licensure by the Utah Division of Securities as an:

2513 (i) investment adviser; or

2514 (ii) investment adviser representative, with a current association with an investment

2515 adviser.

2516 (5) A surplus lines producer is a producer who has a surplus lines license.

2517 Section 25. Section **31A-23a-118** is enacted to read:

2518 **31A-23a-118. Car rental related licensing requirements.**

2519 (1) Subject to Section 31A-23a-103, a person is required to hold a limited line

2520 producer license with a car rental related insurance limited line of authority to sell or offer car

2521 rental related insurance coverage under a car rental related insurance policy.

2522 (2) A car rental related insurance limited line license issued pursuant to 31A-23a-103

2523 and 31A-23a-106 authorizes an employee or authorized representative of the licensee to sell or

2524 offer coverage under a car rental related insurance policy to a customer at each location at

2525 which the licensee engages in car rental related insurance transactions.

2526 (3) An agency holding a car rental related insurance limited line license shall:

2527 (a) be appointed by an insurer underwriting a car rental related insurance policy that the

2528 agency sells or offers; and

2529 (b) have a designated responsible licensed individual at each location at which the

2530 agency is soliciting, selling, or offering car rental related insurance.

2531 (4) An agency holding a car rental related insurance limited line license may employ a

2532 nonlicensed individual employed as a counter sales representative in soliciting, selling, or

2533 offering car rental related insurance. The nonlicensed individual shall be:

2534 (a) trained and supervised in the sale of car rental related insurance products; and

2535 (b) responsible to a licensed individual designated by the agency at each location where

2536 a car rental related insurance product is sold.

2537 Section 26. Section 31A-23a-202 is amended to read:

2538 **31A-23a-202. Continuing education requirements.**

2539 (1) Pursuant to this section, the commissioner shall by rule prescribe the continuing
2540 education requirements for a producer and a consultant.

2541 (2) (a) The commissioner may not state a continuing education requirement in terms of
2542 formal education.

2543 (b) The commissioner may state a continuing education requirement in terms of hours
2544 of insurance-related instruction received.

2545 (c) Insurance-related formal education may be a substitute, in whole or in part, for the
2546 hours required under Subsection (2)(b).

2547 (3) (a) The commissioner shall impose continuing education requirements in
2548 accordance with a two-year licensing period in which the licensee meets the requirements of
2549 this Subsection (3).

2550 (b) (i) Except as provided in this section, the continuing education requirements shall
2551 require:

2552 (A) that a licensee complete 24 credit hours of continuing education for every two-year
2553 licensing period;

2554 (B) that 3 of the 24 credit hours described in Subsection (3)(b)(i)(A) be ethics courses;
2555 and

2556 (C) that the licensee complete at least half of the required hours through classroom
2557 hours of insurance-related instruction.

2558 (ii) An hour of continuing education in accordance with Subsection (3)(b)(i) may be
2559 obtained through:

2560 (A) classroom attendance;

2561 (B) home study;

2562 (C) watching a video recording;

2563 (D) experience credit; or

2564 (E) another method provided by rule.

2565 (iii) (A) Notwithstanding Subsections (3)(b)(i)(A) and (B), [a] an individual title
2566 insurance producer is required to complete 12 credit hours of continuing education for every
2567 two-year licensing period, with 3 of the credit hours being ethics courses unless the individual

2568 title insurance producer is licensed in this state as [a] an individual title insurance producer for
2569 20 or more consecutive years.

2570 (B) If [a] an individual title insurance producer is licensed in this state as [a] an
2571 individual title insurance producer for 20 or more consecutive years, the individual title
2572 insurance producer is required to complete 6 credit hours of continuing education for every
2573 two-year licensing period, with 3 of the credit hours being ethics courses.

2574 (C) Notwithstanding Subsection (3)(b)(iii)(A) or (B), [a] an individual title insurance
2575 producer is considered to have met the continuing education requirements imposed under
2576 Subsection (3)(b)(iii)(A) or (B) if the individual title insurance producer:

2577 (I) is an active member in good standing with the Utah State Bar;

2578 (II) is in compliance with the continuing education requirements of the Utah State Bar;

2579 and

2580 (III) if requested by the department, provides the department evidence that the
2581 individual title insurance producer complied with the continuing education requirements of the
2582 Utah State Bar.

2583 (c) A licensee may obtain continuing education hours at any time during the two-year
2584 licensing period.

2585 (d) (i) A licensee is exempt from continuing education requirements under this section
2586 if:

2587 (A) the licensee was first licensed before April 1, 1978;

2588 (B) the license does not have a continuous lapse for a period of more than one year,
2589 except for a license for which the licensee has had an exemption approved before May 11,
2590 2011;

2591 (C) the licensee requests an exemption from the department; and

2592 (D) the department approves the exemption.

2593 (ii) If the department approves the exemption under Subsection (3)(d)(i), the licensee is
2594 not required to apply again for the exemption.

2595 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2596 commissioner shall, by rule:

2597 (i) publish a list of insurance professional designations whose continuing education
2598 requirements can be used to meet the requirements for continuing education under Subsection

2599 (3)(b);

2600 (ii) authorize a continuing education provider or a state or national professional
2601 producer or consultant association to:

2602 (A) offer a qualified program for a license type or line of authority on a geographically
2603 accessible basis; and

2604 (B) collect a reasonable fee for funding and administration of a continuing education
2605 program, subject to the review and approval of the commissioner; and

2606 (iii) provide that membership by a producer or consultant in a state or national
2607 professional producer or consultant association is considered a substitute for the equivalent of
2608 two hours for each year during which the producer or consultant is a member of the
2609 professional association, except that the commissioner may not give more than two hours of
2610 continuing education credit in a year regardless of the number of professional associations of
2611 which the producer or consultant is a member.

2612 (f) A fee permitted under Subsection (3)(e)(ii)(B) that is charged for attendance at a
2613 professional producer or consultant association program may be less for an association
2614 member, on the basis of the member's affiliation expense, but shall preserve the right of a
2615 nonmember to attend without affiliation.

2616 (4) The commissioner shall approve a continuing education provider or continuing
2617 education course that satisfies the requirements of this section.

2618 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2619 commissioner shall by rule set the processes and procedures for continuing education provider
2620 registration and course approval.

2621 (6) The requirements of this section apply only to a producer or consultant who is an
2622 individual.

2623 (7) A nonresident producer or consultant is considered to have satisfied this state's
2624 continuing education requirements if the nonresident producer or consultant satisfies the
2625 nonresident producer's or consultant's home state's continuing education requirements for a
2626 licensed insurance producer or consultant.

2627 (8) A producer or consultant subject to this section shall keep documentation of
2628 completing the continuing education requirements of this section for two years after the end of
2629 the two-year licensing period to which the continuing education applies.

2630 Section 27. Section 31A-23a-203.5 is amended to read:

2631 **31A-23a-203.5. Errors and omissions coverage requirements.**

2632 (1) In accordance with this section, a resident individual producer shall ensure that the
2633 resident individual producer is covered:

2634 (a) for the legal liability of the resident individual producer as the result of an
2635 erroneous act or failure to act in the resident individual producer's capacity as a producer; and

2636 (b) at all times during the term of the resident individual producer's license.

2637 (2) The coverage required by Subsection (1) shall consist of:

2638 (a) a policy naming the resident individual producer;

2639 (b) a policy naming the agency that designates the resident individual producer in
2640 accordance with this chapter; or

2641 (c) a written agreement by an insurer or group of affiliated insurers, on behalf of a
2642 resident individual producer who is or will become an exclusive agent of the insurer or group
2643 of affiliated insurers, under which the insurer or group of affiliated insurers agrees to assume
2644 responsibility, to the benefit of an aggrieved person, for legal liability of the resident individual
2645 producer as the result of an erroneous act or failure to act in the resident individual producer's
2646 capacity as a producer for the insurer or group of affiliated insurers.

2647 (3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3,
2648 Utah Administrative Rulemaking Act, provide for:

2649 (a) the terms and conditions of the coverage required under Subsection (1); and

2650 (b) if the coverage required by Subsection (1) is terminated during a resident individual
2651 producer's license term, requirements to:

2652 (i) provide notice; and

2653 (ii) replace the coverage.

2654 (4) ~~[A]~~ An individual title insurance producer is considered to be in compliance with
2655 this section ~~[if the]~~ when:

2656 (a) the individual title insurance producer is not designated by an agency title producer
2657 and maintains [a] the individual title insurance producer's own bond, policy, or other financial
2658 protection in accordance with Subsection 31A-23a-204(2)~~[-];~~ or

2659 (b) the individual title insurance producer is designated by an agency title insurance
2660 producer that maintains a bond, policy, or other financial protection in accordance with

2661 Subsection 31A-23a-204(2).

2662 (5) Notwithstanding the other provisions of this section, a resident individual producer
2663 is exempt from the requirement to maintain coverage as provided in this section during a
2664 period in which the resident individual producer is not either:

2665 (a) appointed by an insurer under this title; or

2666 (b) designated by an agency under this title.

2667 (6) A limited lines producer is exempt from this section.

2668 Section 28. Section **31A-23a-204** is amended to read:

2669 **31A-23a-204. Special requirements for title insurance producers and agencies.**

2670 [~~A~~] An individual title insurance producer or agency title insurance producer [~~;~~
2671 ~~including an agency,~~] shall be licensed in accordance with this chapter, with the additional
2672 requirements listed in this section.

2673 (1) (a) A person that receives a new license under this title as [~~a~~] an agency title
2674 insurance [agency,] producer shall at the time of licensure be owned or managed by at least one
2675 individual who is licensed for at least three of the five years immediately preceding the date on
2676 which the agency title insurance [agency] producer applies for a license with both:

2677 (i) a search line of authority; and

2678 (ii) an escrow line of authority.

2679 (b) [~~A~~] An agency title insurance [agency] producer subject to Subsection (1)(a) may
2680 comply with Subsection (1)(a) by having the agency title insurance [agency] producer owned or
2681 managed by:

2682 (i) one or more individuals who are licensed with the search line of authority for the
2683 time period provided in Subsection (1)(a); and

2684 (ii) one or more individuals who are licensed with the escrow line of authority for the
2685 time period provided in Subsection (1)(a).

2686 (c) A person licensed as [~~a~~] an agency title insurance [agency] producer shall at all
2687 times during the term of licensure be owned or managed by at least one individual who is
2688 licensed for at least three years within the preceding five-year period with both:

2689 (i) a search line of authority; and

2690 (ii) an escrow line of authority.

2691 (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,

2692 exempt an attorney with real estate experience from the experience requirements in Subsection
2693 (1)(a).

2694 (e) An individual who satisfies the requirements of this Subsection (1) is known as a
2695 "qualifying licensee." At any given time, an individual may be a qualifying licensee for not
2696 more than two agency title insurance producers.

2697 (2) (a) [~~A~~] An individual title insurance producer or agency title insurance [agency or]
2698 producer appointed by an insurer shall maintain:

2699 (i) a fidelity bond;

2700 (ii) a professional liability insurance policy; or

2701 (iii) a financial protection:

2702 (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and

2703 (B) that the commissioner considers adequate.

2704 (b) The bond, insurance, or financial protection required by this Subsection (2):

2705 (i) shall be supplied under a contract approved by the commissioner to provide
2706 protection against the improper performance of any service in conjunction with the issuance of
2707 a contract or policy of title insurance; and

2708 (ii) be in a face amount no less than \$50,000.

2709 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
2710 exempt individual title insurance producer or agency title insurance producers from the
2711 requirements of this Subsection (2) upon a finding that, and only so long as, the required policy
2712 or bond is generally unavailable at reasonable rates.

2713 (3) [~~A~~] An individual title insurance producer or agency title insurance [agency or]
2714 producer appointed by an insurer may maintain a reserve fund to the extent money was
2715 deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance
2716 producer or agency title insurance producer.

2717 (4) An examination for licensure shall include questions regarding the search and
2718 examination of title to real property.

2719 (5) [~~A~~] An individual title insurance producer may not perform the functions of escrow
2720 unless the individual title insurance producer has been examined on the fiduciary duties and
2721 procedures involved in those functions.

2722 (6) The Title and Escrow Commission [~~shall~~] may adopt rules, subject to Section

2723 31A-2-404, after consulting with the [~~department~~] commissioner and the [~~department's~~
 2724 commissioner's test administrator, establishing an examination for a license that will satisfy
 2725 this section.

2726 (7) A license may be issued to [~~a~~] an individual title insurance producer or agency title
 2727 insurance producer who has qualified:

2728 (a) to perform only searches and examinations of title as specified in Subsection (4);

2729 (b) to handle only escrow arrangements as specified in Subsection (5); or

2730 (c) to act as a title marketing representative.

2731 (8) (a) A person licensed to practice law in Utah is exempt from the requirements of
 2732 Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

2733 (b) In determining the number of policies issued by a person licensed to practice law in
 2734 Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a
 2735 policy to more than one party to the same closing, the person is considered to have issued only
 2736 one policy.

2737 (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or
 2738 not, shall maintain a trust account separate from a law firm trust account for all title and real
 2739 estate escrow transactions.

2740 Section 29. Section **31A-23a-402** is amended to read:

2741 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**
 2742 **discrimination -- Coercion or intimidation -- Restriction on choice.**

2743 (1) (a) (i) Any of the following may not make or cause to be made any communication
 2744 that contains false or misleading information, relating to an insurance product or contract, any
 2745 insurer, or any licensee under this title, including information that is false or misleading
 2746 because it is incomplete:

2747 (A) a person who is or should be licensed under this title;

2748 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

2749 (C) a person whose primary interest is as a competitor of a person licensed under this
 2750 title; and

2751 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

2752 (ii) As used in this Subsection (1), "false or misleading information" includes:

2753 (A) assuring the nonobligatory payment of future dividends or refunds of unused

2754 premiums in any specific or approximate amounts, but reporting fully and accurately past
2755 experience is not false or misleading information; and

2756 (B) with intent to deceive a person examining it:

2757 (I) filing a report;

2758 (II) making a false entry in a record; or

2759 (III) wilfully refraining from making a proper entry in a record.

2760 (iii) A licensee under this title may not:

2761 (A) use any business name, slogan, emblem, or related device that is misleading or
2762 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee
2763 already in business; or

2764 (B) use any advertisement or other insurance promotional material that would cause a
2765 reasonable person to mistakenly believe that a state or federal government agency, including
2766 the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section
2767 63M-1-2504, the Comprehensive Health Insurance Pool created in Chapter 29, Comprehensive
2768 Health Insurance Pool Act, and the Children's Health Insurance Program created in Title 26,
2769 Chapter 40, Utah Children's Health Insurance Act:

2770 (I) is responsible for the insurance sales activities of the person;

2771 (II) stands behind the credit of the person;

2772 (III) guarantees any returns on insurance products of or sold by the person; or

2773 (IV) is a source of payment of any insurance obligation of or sold by the person.

2774 (iv) A person who is not an insurer may not assume or use any name that deceptively
2775 implies or suggests that person is an insurer.

2776 (v) A person other than persons licensed as health maintenance organizations under
2777 Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to
2778 itself.

2779 (b) A licensee's violation creates a rebuttable presumption that the violation was also
2780 committed by the insurer if:

2781 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
2782 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
2783 insurer:

2784 (A) that the licensee represents; or

2785 (B) for whom the licensee processes claims; and
2786 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
2787 insurer.

2788 (2) (a) A title insurer [~~or~~], individual title insurance producer, or agency title insurance
2789 producer or any officer or employee of [~~either~~] the title insurer, individual title insurance
2790 producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or
2791 give, directly or indirectly, as an inducement to obtaining any title insurance business:

2792 (i) any rebate, reduction, or abatement of any rate or charge made incident to the
2793 issuance of the title insurance;

2794 (ii) any special favor or advantage not generally available to others; [~~or~~]

2795 (iii) any money or other consideration, except if approved under Section 31A-2-405; or

2796 (iv) material inducement.

2797 (b) "Charge made incident to the issuance of the title insurance" includes escrow
2798 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
2799 after consultation with the commissioner and subject to Section 31A-2-404.

2800 (c) An insured or any other person connected, directly or indirectly, with the
2801 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to
2802 in Subsection (2)(a), including:

2803 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices
2804 and Licensing Act;

2805 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
2806 Act;

2807 (iii) a builder;

2808 (iv) an attorney; or

2809 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

2810 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
2811 different premiums or by offering different terms of coverage, except on the basis of
2812 classifications related to the nature and the degree of the risk covered or the expenses involved.

2813 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
2814 insured under a group, blanket, or franchise policy, and the terms of those policies are not
2815 unfairly discriminatory merely because they are more favorable than in similar individual

2816 policies.

2817 (4) (a) This Subsection (4) applies to:

2818 (i) a person who is or should be licensed under this title;

2819 (ii) an employee of that licensee or person who should be licensed;

2820 (iii) a person whose primary interest is as a competitor of a person licensed under this
2821 title; and

2822 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

2823 (b) A person described in Subsection (4)(a) may not commit or enter into any

2824 agreement to participate in any act of boycott, coercion, or intimidation that:

2825 (i) tends to produce:

2826 (A) an unreasonable restraint of the business of insurance; or

2827 (B) a monopoly in that business; or

2828 (ii) results in an applicant purchasing or replacing an insurance contract.

2829 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
2830 insurer or licensee under this chapter, another person who is required to pay for insurance as a
2831 condition for the conclusion of a contract or other transaction or for the exercise of any right
2832 under a contract.

2833 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
2834 coverage selected on reasonable grounds.

2835 (b) The form of corporate organization of an insurer authorized to do business in this
2836 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
2837 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
2838 declining an application for insurance.

2839 (6) A person may not make any charge other than insurance premiums and premium
2840 financing charges for the protection of property or of a security interest in property, as a
2841 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
2842 the lending of money on the security of an interest in the property.

2843 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
2844 agency to the principal on demand.

2845 (b) A licensee whose license is suspended, limited, or revoked under Section
2846 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the

2847 commissioner on demand.

2848 (8) (a) A person may not engage in an unfair method of competition or any other unfair
2849 or deceptive act or practice in the business of insurance, as defined by the commissioner by
2850 rule, after a finding that the method of competition, the act, or the practice:

2851 (i) is misleading;

2852 (ii) is deceptive;

2853 (iii) is unfairly discriminatory;

2854 (iv) provides an unfair inducement; or

2855 (v) unreasonably restrains competition.

2856 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
2857 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an
2858 unfair method of competition or unfair or deceptive act or practice after a finding that the
2859 method of competition, the act, or the practice:

2860 (i) is misleading;

2861 (ii) is deceptive;

2862 (iii) is unfairly discriminatory;

2863 (iv) provides an unfair inducement; or

2864 (v) unreasonably restrains competition.

2865 Section 30. Section **31A-23a-402.5** is amended to read:

2866 **31A-23a-402.5. Inducements.**

2867 (1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee
2868 under this title, or an officer or employee of a licensee, may not induce a person to enter into,
2869 continue, or terminate an insurance contract by offering a benefit that is not:

2870 (i) specified in the insurance contract; or

2871 (ii) directly related to the insurance contract.

2872 (b) An insurer may not make or knowingly allow an agreement of insurance that is not
2873 clearly expressed in the insurance contract to be issued or renewed.

2874 (c) A licensee under this title may not absorb the tax under Section 31A-3-301.

2875 (2) This section does not apply to a title insurer, [~~a title~~] an individual title insurance
2876 producer, or agency title insurance producer, or an officer or employee of a title insurer [~~or~~
2877 title], an individual title insurance producer, or an agency title insurance producer.

- 2878 (3) Items not prohibited by Subsection (1) include an insurer:
- 2879 (a) reducing premiums because of expense savings;
- 2880 (b) providing to a policyholder or insured one or more incentives, as defined by the
- 2881 commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2882 Rulemaking Act, to participate in a program or activity designed to reduce claims or claim
- 2883 expenses, including:
- 2884 (i) a premium discount offered to a small or large employer group based on a wellness
- 2885 program if:
- 2886 (A) the premium discount for the employer group does not exceed 20% of the group
- 2887 premium; and
- 2888 (B) the premium discount based on the wellness program is offered uniformly by the
- 2889 insurer to all employer groups in the large or small group market;
- 2890 (ii) a premium discount offered to employees of a small or large employer group in an
- 2891 amount that does not exceed federal limits on wellness program incentives; or
- 2892 (iii) a combination of premium discounts offered to the employer group and the
- 2893 employees of an employer group, based on a wellness program, if:
- 2894 (A) the premium discounts for the employer group comply with Subsection (3)(b)(i);
- 2895 and
- 2896 (B) the premium discounts for the employees of an employer group comply with
- 2897 Subsection (3)(b)(ii); or
- 2898 (c) receiving premiums under an installment payment plan.
- 2899 (4) Items not prohibited by Subsection (1) include a producer, consultant, or other
- 2900 licensee, or an officer or employee of a licensee, either directly or through a third party:
- 2901 (a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not
- 2902 conditioned on a quote or the purchase of a particular insurance product;
- 2903 (b) extending credit on a premium to the insured:
- 2904 (i) without interest, for no more than 90 days from the effective date of the insurance
- 2905 contract;
- 2906 (ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid
- 2907 balance after the time period described in Subsection (4)(b)(i); and
- 2908 (iii) except that an installment or payroll deduction payment of premiums on an

2909 insurance contract issued under an insurer's mass marketing program is not considered an
2910 extension of credit for purposes of this Subsection (4)(b);

2911 (c) preparing or conducting a survey that:

2912 (i) is directly related to an accident and health insurance policy purchased from the
2913 licensee; or

2914 (ii) is used by the licensee to assess the benefit needs and preferences of insureds,
2915 employers, or employees directly related to an insurance product sold by the licensee;

2916 (d) providing limited human resource services that are directly related to an insurance
2917 product sold by the licensee, including:

2918 (i) answering questions directly related to:

2919 (A) an employee benefit offering or administration, if the insurance product purchased
2920 from the licensee is accident and health insurance or health insurance; and

2921 (B) employment practices liability, if the insurance product offered by or purchased
2922 from the licensee is property or casualty insurance; and

2923 (ii) providing limited human resource compliance training and education directly
2924 pertaining to an insurance product purchased from the licensee;

2925 (e) providing the following types of information or guidance:

2926 (i) providing guidance directly related to compliance with federal and state laws for an
2927 insurance product purchased from the licensee;

2928 (ii) providing a workshop or seminar addressing an insurance issue that is directly
2929 related to an insurance product purchased from the licensee; or

2930 (iii) providing information regarding:

2931 (A) employee benefit issues;

2932 (B) directly related insurance regulatory and legislative updates; or

2933 (C) similar education about an insurance product sold by the licensee and how the
2934 insurance product interacts with tax law;

2935 (f) preparing or providing a form that is directly related to an insurance product
2936 purchased from, or offered by, the licensee;

2937 (g) preparing or providing documents directly related to a premium only cafeteria plan
2938 within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but
2939 not providing ongoing administration of a flexible spending account;

- 2940 (h) providing enrollment and billing assistance, including:
- 2941 (i) providing benefit statements or new hire insurance benefits packages; and
- 2942 (ii) providing technology services such as an electronic enrollment platform or
- 2943 application system;
- 2944 (i) communicating coverages in writing and in consultation with the insured and
- 2945 employees;
- 2946 (j) providing employee communication materials and notifications directly related to an
- 2947 insurance product purchased from a licensee;
- 2948 (k) providing claims management and resolution to the extent permitted under the
- 2949 licensee's license;
- 2950 (l) providing underwriting or actuarial analysis or services;
- 2951 (m) negotiating with an insurer regarding the placement and pricing of an insurance
- 2952 product;
- 2953 (n) recommending placement and coverage options;
- 2954 (o) providing a health fair or providing assistance or advice on establishing or
- 2955 operating a wellness program, but not providing any payment for or direct operation of the
- 2956 wellness program;
- 2957 (p) providing COBRA and Utah mini-COBRA administration, consultations, and other
- 2958 services directly related to an insurance product purchased from the licensee;
- 2959 (q) assisting with a summary plan description;
- 2960 (r) providing information necessary for the preparation of documents directly related to
- 2961 the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as
- 2962 amended;
- 2963 (s) providing information or services directly related to the Health Insurance Portability
- 2964 and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services
- 2965 directly related to health care access, portability, and renewability when offered in connection
- 2966 with accident and health insurance sold by a licensee;
- 2967 (t) sending proof of coverage to a third party with a legitimate interest in coverage;
- 2968 (u) providing information in a form approved by the commissioner and directly related
- 2969 to determining whether an insurance product sold by the licensee meets the requirements of a
- 2970 third party contract that requires or references insurance coverage;

- 2971 (v) facilitating risk management services directly related to ~~the~~ property and casualty
2972 insurance ~~product~~ products sold or offered for sale by the licensee, including:
- 2973 (i) risk management;
- 2974 (ii) claims and loss control services; ~~and~~
- 2975 (iii) risk assessment consulting~~;~~, including analysis of:
- 2976 (A) employer's job descriptions; or
- 2977 (B) employer's safety procedures or manuals; and
- 2978 (iv) providing information and training on best practices;
- 2979 (w) otherwise providing services that are legitimately part of servicing an insurance
2980 product purchased from a licensee; and
- 2981 (x) providing other directly related services approved by the department.
- 2982 (5) An inducement prohibited under Subsection (1) includes a producer, consultant, or
2983 other licensee, or an officer or employee of a licensee:
- 2984 (a) (i) providing a premium or commission rebate;
- 2985 (ii) paying the salary of an employee of a person who purchases an insurance product
2986 from the licensee; or
- 2987 (iii) if the licensee is an insurer, or a third party administrator who contracts with an
2988 insurer, paying the salary for an onsite staff member to perform an act prohibited under
2989 Subsection (5)(b)(xii); or
- 2990 (b) engaging in one or more of the following unless a fee is paid in accordance with
2991 Subsection ~~(7)~~ (8):
- 2992 (i) performing background checks of prospective employees;
- 2993 (ii) providing legal services by a person licensed to practice law;
- 2994 (iii) performing drug testing that is directly related to an insurance product purchased
2995 from the licensee;
- 2996 (iv) preparing employer or employee handbooks, except that a licensee may:
- 2997 (A) provide information for a medical benefit section of an employee handbook;
- 2998 (B) provide information for the section of an employee handbook directly related to an
2999 employment practices liability insurance product purchased from the licensee; or
- 3000 (C) prepare or print an employee benefit enrollment guide;
- 3001 (v) providing job descriptions, postings, and applications for a person ~~that purchases~~

3002 an employment practices liability insurance product from the licensee];

3003 (vi) providing payroll services;

3004 (vii) providing performance reviews or performance review training;

3005 (viii) providing union advice;

3006 (ix) providing accounting services;

3007 (x) providing data analysis information technology programs, except as provided in

3008 Subsection (4)(h)(ii);

3009 (xi) providing administration of health reimbursement accounts or health savings

3010 accounts; or

3011 (xii) if the licensee is an insurer, or a third party administrator who contracts with an

3012 insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of

3013 the following prohibited benefits:

3014 (A) performing background checks of prospective employees;

3015 (B) providing legal services by a person licensed to practice law;

3016 (C) performing drug testing that is directly related to an insurance product purchased

3017 from the insurer;

3018 (D) preparing employer or employee handbooks;

3019 (E) providing job descriptions postings, and applications;

3020 (F) providing payroll services;

3021 (G) providing performance reviews or performance review training;

3022 (H) providing union advice;

3023 (I) providing accounting services;

3024 (J) providing discrimination testing; or

3025 (K) providing data analysis information technology programs.

3026 (6) A producer, consultant, or other licensee or an officer or employee of a licensee

3027 shall itemize and bill separately from any other insurance product or service offered or

3028 provided under Subsection (5)(b).

3029 ~~[(6)]~~ (7) (a) A de minimis gift or meal not to exceed \$25 for each individual receiving

3030 the gift or meal is presumed to be a social courtesy not conditioned on ~~[the]~~ a quote or purchase

3031 of a particular insurance product for purposes of Subsection (4)(a).

3032 (b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10

3033 may be conditioned on receipt of a quote of a particular insurance product if the de minimis gift
3034 or meal is provided by the insurer and not by a producer or consultant.

3035 [~~7~~] (8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee
3036 is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with
3037 Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal
3038 or exceed the fair market value of the item.

3039 Section 31. Section **31A-23a-406** is amended to read:

3040 **31A-23a-406. Title insurance producer's business.**

3041 (1) [~~A~~] An individual title insurance producer or agency title insurance producer may
3042 do escrow involving real property transactions if all of the following exist:

3043 (a) the individual title insurance producer or agency title insurance producer is licensed
3044 with:

3045 (i) the title line of authority; and

3046 (ii) the escrow subline of authority;

3047 (b) the individual title insurance producer or agency title insurance producer is
3048 appointed by a title insurer authorized to do business in the state;

3049 (c) the individual title insurance producer or agency title insurance producer issues one
3050 or more of the following as part of the transaction:

3051 (i) an owner's policy of title insurance; or

3052 (ii) a lender's policy of title insurance;

3053 (d) money deposited with the individual title insurance producer or agency title
3054 insurance producer in connection with any escrow:

3055 (i) is deposited:

3056 (A) in a federally insured financial institution; and

3057 (B) in a trust account that is separate from all other trust account money that is not
3058 related to real estate transactions;

3059 (ii) is the property of the one or more persons entitled to the money under the
3060 provisions of the escrow; and

3061 (iii) is segregated escrow by escrow in the records of the individual title insurance
3062 producer or agency title insurance producer;

3063 (e) earnings on money held in escrow may be paid out of the escrow account to any

3064 person in accordance with the conditions of the escrow;

3065 (f) the escrow does not require the individual title insurance producer or agency title
3066 insurance producer to hold:

3067 (i) construction money; or

3068 (ii) money held for exchange under Section 1031, Internal Revenue Code; and

3069 (g) the individual title insurance producer or agency title insurance producer shall
3070 maintain a physical office in Utah staffed by a person with an escrow subline of authority who
3071 processes the escrow.

3072 (2) Notwithstanding Subsection (1), [~~a~~] an individual title insurance producer or
3073 agency title insurance producer may engage in the escrow business if:

3074 (a) the escrow involves:

3075 (i) a mobile home;

3076 (ii) a grazing right;

3077 (iii) a water right; or

3078 (iv) other personal property authorized by the commissioner; and

3079 (b) the individual title insurance producer or agency title insurance producer complies
3080 with this section except for Subsection (1)(c).

3081 (3) Money held in escrow:

3082 (a) is not subject to any debts of the individual title insurance producer or agency title
3083 insurance producer;

3084 (b) may only be used to fulfill the terms of the individual escrow under which the
3085 money is accepted; and

3086 (c) may not be used until the conditions of the escrow are met.

3087 (4) Assets or property other than escrow money received by [~~a~~] an individual title
3088 insurance producer or agency title insurance producer in accordance with an escrow shall be
3089 maintained in a manner that will:

3090 (a) reasonably preserve and protect the asset or property from loss, theft, or damages;
3091 and

3092 (b) otherwise comply with the general duties and responsibilities of a fiduciary or
3093 bailee.

3094 (5) (a) A check from the trust account described in Subsection (1)(d) may not be

3095 drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account
3096 from which money is to be disbursed contains a sufficient credit balance consisting of collected
3097 and cleared money at the time the check is drawn, executed, or dated, or money is otherwise
3098 disbursed.

3099 (b) As used in this Subsection (5), money is considered to be "collected and cleared,"
3100 and may be disbursed as follows:

3101 (i) cash may be disbursed on the same day the cash is deposited;

3102 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; and

3103 (iii) the proceeds of one or more of the following financial instruments may be
3104 disbursed on the same day the financial instruments are deposited if received from a single
3105 party to the real estate transaction and if the aggregate of the financial instruments for the real
3106 estate transaction is less than \$10,000:

3107 (A) a cashier's check, certified check, or official check that is drawn on an existing
3108 account at a federally insured financial institution;

3109 (B) a check drawn on the trust account of a principal broker or associate broker
3110 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual
3111 title insurance producer or agency title insurance producer has reasonable and prudent grounds
3112 to believe sufficient money will be available from the trust account on which the check is
3113 drawn at the time of disbursement of proceeds from the individual title insurance producer or
3114 agency title insurance producer's escrow account;

3115 (C) a personal check not to exceed \$500 per closing; or

3116 (D) a check drawn on the escrow account of another individual title insurance producer
3117 or agency title insurance producer, if the individual title insurance producer or agency title
3118 insurance producer in the escrow transaction has reasonable and prudent grounds to believe
3119 that sufficient money will be available for withdrawal from the account upon which the check
3120 is drawn at the time of disbursement of money from the escrow account of the individual title
3121 insurance producer or agency title insurance producer in the escrow transaction.

3122 (c) A check or deposit not described in Subsection (5)(b) may be disbursed:

3123 (i) within the time limits provided under the Expedited Funds Availability Act, 12
3124 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

3125 (ii) upon notification from the financial institution to which the money has been

3126 deposited that final settlement has occurred on the deposited financial instrument.

3127 (6) ~~[A]~~ An individual title insurance producer or agency title insurance producer shall
3128 maintain a record of a receipt or disbursement of escrow money.

3129 (7) ~~[A]~~ An individual title insurance producer or agency title insurance producer shall
3130 comply with:

3131 (a) Section 31A-23a-409;

3132 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

3133 (c) any rules adopted by the Title and Escrow Commission, subject to Section

3134 31A-2-404, that govern escrows.

3135 (8) If ~~[a]~~ an individual title insurance producer or agency title insurance producer
3136 conducts a search for real estate located in the state, the individual title insurance producer or
3137 agency title insurance producer shall conduct a ~~[minimum mandatory search, as defined by rule~~
3138 ~~made by the Title and Escrow Commission, subject to Section 31A-2-404]~~ reasonable search of
3139 the public records.

3140 Section 32. Section ~~31A-23a-406.5~~ is enacted to read:

3141 **31A-23a-406.5. Conduct of escrow.**

3142 (1) Only an escrow agent or a title insurer in compliance with Subsection
3143 31A-4-107(1)(a) and Section 31A-14-211 shall conduct escrow.

3144 (2) Subsection (1) does not apply to:

3145 (a) a person defined as an escrow agent in Section 7-22-101; or

3146 (b) a person licensed to practice law in Utah, if that person meets the requirements of
3147 Section 31A-23a-204.

3148 Section 33. Section ~~31A-23a-407~~ is amended to read:

3149 **31A-23a-407. Liability of title insurers for acts of title insurance producers.**

3150 Any title company, represented by one or more individual title insurance producers
3151 appointed by an insurer or agency title insurance producers, is directly and primarily liable to
3152 others dealing with the individual title insurance producers or agency title insurance producers
3153 for the receipt and disbursement of funds deposited in escrows with the individual title
3154 insurance producers appointed by an insurer or agency title insurance producers in all those
3155 transactions where a commitment or binder for or policy or contract of title insurance of that
3156 title ~~[insurance company]~~ insurer has been ordered, or a preliminary report of the title

3157 [~~insurance company~~] insurer has been issued or distributed. This liability does not modify,
 3158 mitigate, impair, or affect the contractual obligations between the individual title insurance
 3159 producers or agency title insurance producers and the title [~~insurance company~~] insurer.

3160 Section 34. Section **31A-23a-413** is amended to read:

3161 **31A-23a-413. Title insurance producer's annual report.**

3162 [~~Every~~] An agency title insurance producer and an individual title insurance producer
 3163 who has not been designated by an agency title insurance producer shall annually file with the
 3164 commissioner, by a date and in a form the commissioner specifies by rule, a verified statement
 3165 of the agency title insurance producer's or individual title insurance producer's financial
 3166 condition, transactions, and affairs as of the end of the preceding calendar year.

3167 Section 35. Section **31A-23a-415** is amended to read:

3168 **31A-23a-415. Assessment on agency title insurance producers or title insurers --**

3169 **Account created.**

3170 (1) For purposes of this section:

3171 (a) "Premium" is as defined in Subsection 59-9-101(3).

3172 (b) "Title insurer" means a person:

3173 (i) making any contract or policy of title insurance as:

3174 (A) insurer;

3175 (B) guarantor; or

3176 (C) surety;

3177 (ii) proposing to make any contract or policy of title insurance as:

3178 (A) insurer;

3179 (B) guarantor; or

3180 (C) surety; or

3181 (iii) transacting or proposing to transact any phase of title insurance, including:

3182 (A) soliciting;

3183 (B) negotiating preliminary to execution;

3184 (C) executing of a contract of title insurance;

3185 (D) insuring; and

3186 (E) transacting matters subsequent to the execution of the contract and arising out of

3187 the contract.

3188 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or
3189 personal property located in Utah, an owner of real or personal property, the holders of liens or
3190 encumbrances on that property, or others interested in the property against loss or damage
3191 suffered by reason of:

3192 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the
3193 property; or

3194 (ii) invalidity or unenforceability of any liens or encumbrances on the property.

3195 (2) (a) The commissioner may assess each title insurer, each individual title insurance
3196 producer, who is not designated by an agency title insurance producer, and each agency title
3197 insurance [agency] producer an annual assessment:

3198 (i) determined by the Title and Escrow Commission:

3199 (A) after consultation with the commissioner; and

3200 (B) in accordance with this Subsection (2); and

3201 (ii) to be used for the purposes described in Subsection (3).

3202 (b) ~~[A]~~ An agency title insurance [agency] producer and individual title insurance
3203 producer who is not designated by an agency title insurance producer shall be assessed up to:

3204 (i) \$250 for the first office in each county in which the agency title insurance [agency]
3205 producer or individual title insurance producer maintains an office; and

3206 (ii) \$150 for each additional office the agency title insurance [agency] producer or
3207 individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

3208 (c) A title insurer shall be assessed up to:

3209 (i) \$250 for the first office in each county in which the title insurer maintains an office;

3210 (ii) \$150 for each additional office the title insurer maintains in the county described in
3211 Subsection (2)(c)(i); and

3212 (iii) an amount calculated by:

3213 (A) aggregating the assessments imposed on:

3214 (I) agency title insurance [agencies] producers and individual title insurance producers
3215 under Subsection (2)(b); and

3216 (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

3217 (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total
3218 costs and expenses determined under Subsection (2)(d); and

3219 (C) multiplying:
3220 (I) the amount calculated under Subsection (2)(c)(iii)(B); and
3221 (II) the percentage of total premiums for title insurance on Utah risk that are premiums
3222 of the title insurer.

3223 (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title
3224 and Escrow Commission by rule shall establish the amount of costs and expenses described
3225 under Subsection (3) that will be covered by the assessment, except the costs or expenses to be
3226 covered by the assessment may not exceed \$80,000 annually.

3227 (3) (a) Money received by the state under this section shall be deposited into the Title
3228 Licensee Enforcement Restricted Account.

3229 (b) There is created in the General Fund a restricted account known as the "Title
3230 Licensee Enforcement Restricted Account."

3231 (c) The Title Licensee Enforcement Restricted Account shall consist of the money
3232 received by the state under this section.

3233 (d) The commissioner shall administer the Title Licensee Enforcement Restricted
3234 Account. Subject to appropriations by the Legislature, the commissioner shall use the money
3235 deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or
3236 expense incurred by the department in the administration, investigation, and enforcement of
3237 this part and Part 5, Compensation of Producers and Consultants, related to:

3238 (i) the marketing of title insurance; and
3239 (ii) audits of ~~agencies~~ agency title insurance producers.

3240 (e) An appropriation from the Title Licensee Enforcement Restricted Account is
3241 nonlapsing.

3242 (4) The assessment imposed by this section shall be in addition to any premium
3243 assessment imposed under Subsection 59-9-101(3).

3244 Section 36. Section ~~31A-23a-503~~ is amended to read:

3245 **31A-23a-503. Controlled business in title insurance.**

3246 (1) As used in this section:

3247 (a) "Associate" means any:

3248 (i) business organized for profit in which a person who refers title business is a
3249 director, officer, partner, or employee;

3250 (ii) spouse or relative within the second degree by blood or marriage of a person who
3251 refers title business, who is a natural person;

3252 (iii) employee of a person who refers title business; or

3253 (iv) person with whom a person who refers title business or any associate of that title
3254 insurer, individual title insurance producer, or agency title insurance producer has any
3255 agreement, arrangement, or understanding, or pursues any course of conduct, designed to avoid
3256 the provisions of this chapter.

3257 (b) "Controlled business" means that portion of the title insurance business of a title
3258 insurer [or], individual title insurance producer, or agency title insurance producer in this state
3259 that is referred to it by all those producers of title business who have a financial interest in the
3260 title insurer [or], individual title insurance producer, or agency title insurance producer and by
3261 all associates of those producers. Business is referred if there is influence over the selection of
3262 the person with whom the business is placed.

3263 (c) "A person who refers title business" includes any person engaged in this state in a
3264 business of:

3265 (i) buying or selling interests in real property;

3266 (ii) making loans secured by interests in real property; or

3267 (iii) acting as a representative or employee of a person who buys or sells any interest in
3268 real property or who lends or borrows money with interest as security, other than acting as a
3269 licensed title insurer [or], individual title insurance producer, or agency title insurance producer
3270 doing the business of title insurance.

3271 (d) "Financial interest" means any legal or beneficial interest that together with other
3272 interests entitles the holder to more than 1% of the net profits or net worth of the business in
3273 which the interest is held.

3274 (2) A title insurer [or], individual title insurance producer, or agency title insurance
3275 producer or person having a financial interest in a title insurer [or], individual title insurance
3276 producer, or agency title insurance producer may not knowingly be a party to or knowingly
3277 permit to continue in any arrangement in which the title insurer, individual title insurance
3278 producer or agency title insurance producer, or person knows or has reason to believe that any
3279 person who refers title business has or will have, directly or indirectly, a financial interest in the
3280 title insurer [or], individual title insurance producer, or agency title insurance producer, if it

3281 reasonably appears that a substantial factor in the person who refers title business owning or
3282 acquiring the financial interest is the expected realization of financial profit or gain derived in
3283 whole or in part from controlled business.

3284 (3) A title insurer may not appoint or knowingly continue its authorization of any
3285 individual title insurance producer or agency title insurance producer in which the company
3286 knows or has reason to believe that any person who refers title business has or will have,
3287 directly or indirectly, a financial interest, if it reasonably appears that a substantial factor in the
3288 person who refers title business owning or acquiring the financial interest is the person's
3289 expected realization of financial profit or gain derived in whole or part from controlled
3290 business.

3291 (4) (a) If for any calendar quarter, the gross operating revenues of a title insurer [or],
3292 individual title insurance producer, or agency title insurance producer derived from all sources
3293 of controlled business in this state amount to more than 1/3 of its gross operating revenues
3294 from all other sources of its business of title insurance in this state, it is presumed that the
3295 expected realization of financial profit or gain derived in whole or in part from controlled
3296 business was a substantial factor in the ownership of financial interest in the title insurer [or],
3297 individual title insurance producer, or agency title insurance producer.

3298 (b) The title insurer [or], individual title insurance producer, or agency title insurance
3299 producer has the burden of overcoming the presumption described in Subsection (4)(a).

3300 (c) This Subsection (4) does not authorize any controlled business if a violation of the
3301 standards set forth in Subsection (2) or (3) exists.

3302 (5) A title insurer [or], individual title insurance producer, or agency title insurance
3303 producer may not accept any order for the business of title insurance that it knows or has reason
3304 to believe constitutes controlled business, unless it records and maintains in its permanent
3305 records on forms prescribed by the commissioner the facts relating to the transactions.

3306 (6) An applicant for qualification as a title insurer [or], individual title insurance
3307 producer, or agency title insurance producer may not be granted a license if it reasonably
3308 appears that the expected realization of financial profit or gain to be derived in whole or in part
3309 from controlled business is or will be a substantial factor in the applicant's plan of operation or
3310 in the ownership or acquisition of financial interests in the applicant by any person who refers
3311 title business.

3312 (7) Each title insurer [~~and~~], individual title insurance producer, and agency title
3313 insurance producer shall maintain permanent records relating to its controlled business on
3314 forms prescribed by the commissioner.

3315 (8) (a) Each title insurer and agency title insurance producer shall file annually with the
3316 commissioner, on forms prescribed by the commissioner, reports setting forth:

3317 (i) the names and addresses of any persons owning a financial interest in the title
3318 insurer or agency title insurance producer as of the last day of the calendar year, who are
3319 known or reasonably believed by the title insurer or agency title insurance producer to be a
3320 person who refers title business; and

3321 (ii) a summary compiled from the title insurer's or agency title insurance producer's
3322 records of the controlled business, sufficient to inform the commissioner and the Title and
3323 Escrow Commission as to the proportion of the title insurer's or agency title insurance
3324 producer's gross operating revenues attributable to controlled business during the preceding
3325 calendar year.

3326 (b) The reports shall be filed with the reports required under Section 31A-23a-413 and
3327 shall contain the certification of an officer of the title insurer or agency title insurance producer
3328 that the information contained in them is true to the best of the officer's knowledge,
3329 information, and belief. Upon filing, the reports are public records.

3330 (c) A report filed pursuant to Subsection (8)(a) is subject to review by the Title and
3331 Escrow Commission.

3332 (9) An attorney who is also a licensed individual title insurance producer and who
3333 issues as producer a policy of title insurance to a client on behalf of whom the attorney is also
3334 acting as an attorney and who, in so doing, acts consistently with the applicable ethical
3335 standards of the Utah State Bar pertaining to the billing and receipt of legal fees and the receipt
3336 of a commission on a policy of title insurance is not, without more, considered to be engaged in
3337 controlled business.

3338 Section 37. Section **31A-23a-504** is amended to read:

3339 **31A-23a-504. Sharing commissions.**

3340 (1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter
3341 or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the
3342 licensee knows that the person is licensed under this chapter as to the particular type of

3343 insurance to act in Utah as:

- 3344 (i) a producer;
- 3345 (ii) a limited line producer;
- 3346 (iii) a consultant;
- 3347 (iv) a managing general agent; or
- 3348 (v) a reinsurance intermediary.

3349 (b) A person may only accept commission compensation or other compensation as a
3350 person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of
3351 an insurance transaction if that person is licensed under this chapter to act as described in
3352 Subsection (1)(a).

3353 (2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive
3354 a commission or other compensation that is directly or indirectly the result of an insurance
3355 transaction.

3356 (b) A consultant may share a consultant fee or other compensation received for
3357 consulting services performed within Utah only:

- 3358 (i) with another consultant licensed under this chapter; and
- 3359 (ii) to the extent that the other consultant contributed to the services performed.

3360 (3) This section does not prohibit:

3361 (a) the payment of renewal commissions to former licensees under this chapter, former
3362 Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency
3363 sales agreement;

3364 (b) compensation paid to or received by a person for referral of a potential customer
3365 that seeks to purchase or obtain an opinion or advice on an insurance product if:

- 3366 (i) the person is not licensed to sell insurance;
- 3367 (ii) the person does not sell or provide opinions or advice on the product; and
- 3368 (iii) the compensation does not depend on whether the referral results in a purchase or
3369 sale; or

3370 (c) the payment or assignment of a commission, service fee, brokerage, or other
3371 valuable consideration to an agency or a person who does not sell, solicit, or negotiate
3372 insurance in this state, unless the payment would constitute an inducement or commission
3373 rebate under Section 31A-23a-402 or 31A-23a-402.5.

3374 (4) (a) In selling a policy of title insurance, sharing of commissions under Subsection
3375 (1) may not occur if it will result in:

- 3376 (i) an unlawful rebate;
- 3377 (ii) compensation in connection with controlled business; or
- 3378 (iii) payment of a forwarding fee or finder's fee.

3379 (b) A person may share compensation for the issuance of a title insurance policy only
3380 to the extent that the person contributed to the search and examination of the title or other
3381 services connected with the title insurance policy.

3382 (5) This section does not apply to a bail bond producer or bail enforcement agent as
3383 defined in Section 31A-35-102[-] and as described in Subsection 31A-23a-106(2)(c); or

3384 (b) a nonlicensed individual employee or authorized representative of a licensed
3385 limited line producer who holds one or more of the following limited lines of authority as
3386 described in Subsection 31A-23a-106(2)(c):

- 3387 (i) car rental related insurance;
- 3388 (ii) self-service storage insurance; or
- 3389 (iii) portable electronics insurance.

3390 Section 38. Section **31A-27a-104** is amended to read:

3391 **31A-27a-104. Persons covered.**

3392 (1) This chapter applies to:

- 3393 (a) an insurer who:
 - 3394 (i) is doing, or has done, an insurance business in this state; and
 - 3395 (ii) against whom a claim arising from that business may exist;
- 3396 (b) a person subject to examination by the commissioner;
- 3397 (c) an insurer who purports to do an insurance business in this state;
- 3398 (d) an insurer who has an insured who is resident in this state; and
- 3399 (e) in addition to Subsections (1)(a) through (d), a person doing business as follows:
 - 3400 (i) under Chapter 6a, Service Contracts;
 - 3401 (ii) under Chapter 7, Nonprofit Health Service Insurance Corporations;
 - 3402 (iii) under Chapter 8a, Health Discount Program Consumer Protection Act;
 - 3403 (iv) under Chapter 9, Insurance Fraternal;
 - 3404 (v) under Chapter 11, Motor Clubs;

3405 (vi) under Chapter 13, Employee Welfare Funds and Plans;
3406 (vii) under Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention
3407 Groups;
3408 (viii) as a bail bond surety company under Chapter 35, Bail Bond Act;
3409 (ix) under Chapter 37, Captive Insurance Companies Act;
3410 (x) a title insurance company;
3411 (xi) a prepaid health care delivery plan; and
3412 (xii) a person not described in Subsections (1)(e)(i) through (xi) that is organized or
3413 doing insurance business, or in the process of organizing with the intent to do insurance
3414 business in this state.

3415 (2) Notwithstanding Sections 31A-1-301 and 31A-27a-102, this chapter does not apply
3416 to a person licensed by the insurance commissioner as one or more of the following in this state
3417 unless the person engages in the business of insurance as an insurer:

3418 (a) an insurance agency;
3419 (b) an insurance producer;
3420 (c) a limited line producer;
3421 (d) an insurance consultant;
3422 (e) a managing general agent;
3423 (f) reinsurance intermediary;
3424 (g) [a] an individual title insurance producer or agency title insurance producer;
3425 (h) a third party administrator;
3426 (i) an insurance adjustor;
3427 (j) a life settlement provider; or
3428 (k) a life settlement producer.

3429 Section 39. Section **31A-29-106** is amended to read:

3430 **31A-29-106. Powers of board.**

3431 (1) The board shall have the general powers and authority granted under the laws of
3432 this state to insurance companies licensed to transact health care insurance business. In
3433 addition, the board shall have the specific authority to:

3434 (a) enter into contracts to carry out the provisions and purposes of this chapter,
3435 including, with the approval of the commissioner, contracts with:

- 3436 (i) similar pools of other states for the joint performance of common administrative
3437 functions; or
- 3438 (ii) persons or other organizations for the performance of administrative functions;
- 3439 (b) sue or be sued, including taking such legal action necessary to avoid the payment of
3440 improper claims against the pool or the coverage provided through the pool;
- 3441 (c) establish appropriate rates, rate schedules, rate adjustments, expense allowances,
3442 agents' referral fees, claim reserve formulas, and any other actuarial function appropriate to the
3443 operation of the pool;
- 3444 (d) issue policies of insurance in accordance with the requirements of this chapter;
- 3445 (e) retain an executive director and appropriate legal, actuarial, and other personnel as
3446 necessary to provide technical assistance in the operations of the pool;
- 3447 (f) establish rules, conditions, and procedures for reinsuring risks under this chapter;
- 3448 (g) cause the pool to have an annual audit of its operations by the state auditor;
- 3449 (h) coordinate with the Department of Health in seeking to obtain from the Centers for
3450 Medicare and Medicaid Services, or other appropriate office or agency of government, all
3451 appropriate waivers, authority, and permission needed to coordinate the coverage available
3452 from the pool with coverage available under Medicaid, either before or after Medicaid
3453 coverage, or as a conversion option upon completion of Medicaid eligibility, without the
3454 necessity for requalification by the enrollee;
- 3455 (i) provide for and employ cost containment measures and requirements including
3456 preadmission certification, concurrent inpatient review, and individual case management for
3457 the purpose of making the pool more cost-effective;
- 3458 (j) offer pool coverage through contracts with health maintenance organizations,
3459 preferred provider organizations, and other managed care systems that will manage costs while
3460 maintaining quality care;
- 3461 (k) establish annual limits on benefits payable under the pool to or on behalf of any
3462 enrollee;
- 3463 (l) exclude from coverage under the pool specific benefits, medical conditions, and
3464 procedures for the purpose of protecting the financial viability of the pool;
- 3465 (m) administer the Pool Fund;
- 3466 (n) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

3467 Rulemaking Act, to implement this chapter; [~~and~~]

3468 (o) adopt, trademark, and copyright a trade name for the pool for use in marketing and
3469 publicizing the pool and its products[-]; and

3470 (p) transition health care coverage for all individuals covered under the pool as part of
3471 the conversion to health insurance coverage, regardless of preexisting conditions, under
3472 PPACA.

3473 (2) (a) The board shall prepare and submit an annual report to the Legislature which
3474 shall include:

- 3475 (i) the net premiums anticipated;
3476 (ii) actuarial projections of payments required of the pool;
3477 (iii) the expenses of administration; and
3478 (iv) the anticipated reserves or losses of the pool.

3479 (b) The budget for operation of the pool is subject to the approval of the board.

3480 (c) The administrative budget of the board and the commissioner under this chapter
3481 shall comply with the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, and is
3482 subject to review and approval by the Legislature.

3483 (3) (a) The board shall on or before September 1, 2004, require the plan administrator
3484 or an independent actuarial consultant retained by the plan administrator to redetermine the
3485 reasonable equivalent of the criteria for uninsurability required under Subsection
3486 31A-30-106(1)(h) that is used by the board to determine eligibility for coverage in the pool.

3487 (b) The board shall redetermine the criteria established in Subsection (3)(a) at least
3488 every five years thereafter.

3489 Section 40. Section **31A-29-113** is amended to read:

3490 **31A-29-113. Benefits -- Additional types of pool insurance -- Preexisting**
3491 **conditions -- Waiver -- Maximum benefits.**

3492 (1) (a) The pool policy shall pay for eligible medical expenses rendered or furnished
3493 for the diagnoses or treatment of illness or injury that:

3494 (i) exceed the deductible and copayment amounts applicable under Section
3495 31A-29-114; and

3496 (ii) are not otherwise limited or excluded.

3497 (b) Eligible medical expenses are the allowed charges established by the board for the

3498 health care services and items rendered during times for which benefits are extended under the
3499 pool policy.

3500 (2) The coverage to be issued by the pool, its schedule of benefits, exclusions, and
3501 other limitations shall be established by the board.

3502 (3) The commissioner shall approve the benefit package developed by the board to
3503 ensure its compliance with this chapter.

3504 (4) The pool shall offer at least one benefit plan through a managed care program as
3505 authorized under Section 31A-29-106.

3506 (5) This chapter may not be construed to prohibit the pool from issuing additional types
3507 of pool policies with different types of benefits which in the opinion of the board may be of
3508 benefit to the citizens of Utah.

3509 (6) (a) The board shall design and require an administrator to employ cost containment
3510 measures and requirements including preadmission certification and concurrent inpatient
3511 review for the purpose of making the pool more cost effective.

3512 (b) Sections 31A-22-617 and 31A-22-618 do not apply to coverage issued under this
3513 chapter.

3514 (7) (a) A pool policy may contain provisions under which coverage for a preexisting
3515 condition is excluded if:

3516 (i) the exclusion relates to a condition, regardless of the cause of the condition, for
3517 which medical advice, diagnosis, care, or treatment was recommended or received, from an
3518 individual licensed or similarly authorized to provide such services under state law and
3519 operating within the scope of practice authorized by state law, within the six-month period
3520 ending on the effective date of plan coverage; and

3521 (ii) except as provided in Subsection (8), the exclusion extends for a period no longer
3522 than the six-month period following the effective date of plan coverage for a given individual.

3523 (b) Subsection (7)(a) does not apply to a HIPAA eligible individual.

3524 (8) (a) A pool policy may contain provisions under which coverage for a preexisting
3525 pregnancy is excluded during a ten-month period following the effective date of plan coverage
3526 for a given individual.

3527 (b) Subsection (8)(a) does not apply to a HIPAA eligible individual.

3528 (9) (a) The pool will waive the preexisting condition exclusion described in

3529 Subsections (7)(a) and (8)(a) for an individual that is changing health coverage to the pool, to
3530 the extent to which similar exclusions have been satisfied under any prior health insurance
3531 coverage if the individual applies not later than 63 days following the date of involuntary
3532 termination, other than for nonpayment of premiums, from health coverage.

3533 (b) If this Subsection (9) applies, coverage in the pool shall be effective from the date
3534 on which the prior coverage was terminated.

3535 (10) Covered benefits available from the pool may not exceed a [~~\$1,500,000~~]
3536 \$1,800,000 lifetime maximum, which includes a per enrollee calendar year maximum
3537 established by the board.

3538 Section 41. Section **31A-30-115** is amended to read:

3539 **31A-30-115. Actuarial review of health benefit plans.**

3540 (1) (a) The department shall conduct an actuarial review of rates submitted by small
3541 employer carriers:

3542 (i) prior to the publication of the premium rates on the Health Insurance Exchange;

3543 (ii) except as permitted by Subsection 31A-30-207(2), to determine if the carrier is
3544 using the same rating and underwriting practices in both the defined contribution arrangement
3545 market in the Health Insurance Exchange and the defined benefit market offered outside the
3546 Health Insurance Exchange[~~, in compliance with Subsection 31A-30-202.5(1)(b)~~];

3547 (iii) to verify the validity of the rates, underwriting and risk factors, and premiums of
3548 plans both in and outside of the Health Insurance Exchange;

3549 (iv) to verify that insurers are pricing similar health benefit plans and groups the same
3550 in and out of the exchange, except as permitted by Subsection 31A-30-207(2); and

3551 (v) as the department determines is necessary to oversee market conduct.

3552 (b) The actuarial review by the department shall be funded from a fee:

3553 (i) established by the department in accordance with Section 63J-1-504; and

3554 (ii) paid by all small employer carriers participating in the defined contribution
3555 arrangement market and small employer carriers offering health benefit plans under Part 1,
3556 Individual and Small Employer Group.

3557 (c) The department shall:

3558 (i) report aggregate data from the actuarial review to the risk adjuster board created in
3559 Section 31A-42-201; and

- 3560 (ii) contact carriers, if the department determines it is appropriate, to:
- 3561 (A) inform a carrier of the department's findings regarding the rates of a particular
- 3562 carrier; and
- 3563 (B) request a carrier to recalculate or verify base rates, rating factors, and premiums.
- 3564 (d) A carrier shall comply with the department's request under Subsection (1)(c)(ii).
- 3565 (2) (a) There is created in the General Fund a restricted account known as the "Health
- 3566 Insurance Actuarial Review Restricted Account."
- 3567 (b) The Health Insurance Actuarial Review Restricted Account shall consist of money
- 3568 received by the commissioner under this section.
- 3569 (c) The commissioner shall administer the Health Insurance Actuarial Review
- 3570 Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use
- 3571 money deposited into the Health Insurance Actuarial Review Restricted Account to pay for the
- 3572 actuarial review conducted by the department under this section.
- 3573 Section 42. Section **31A-30-208** is amended to read:
- 3574 **31A-30-208. Enrollment for defined contribution arrangements.**
- 3575 (1) An insurer offering a health benefit plan in the defined contribution arrangement
- 3576 market:
- 3577 (a) shall allow an employer to enroll in a small employer defined contribution
- 3578 arrangement plan;
- 3579 (b) may not impose a surcharge under Section 31A-30-106.7 for a small employer
- 3580 group selecting a defined contribution arrangement health benefit plan on or before January 1,
- 3581 2012; and
- 3582 (c) shall otherwise comply with the requirements of this part, Chapter 42, Defined
- 3583 Contribution Risk Adjuster Act, and Title 63M, Chapter 1, Part 25, Health System Reform Act.
- 3584 (2) (a) [~~Except as provided in Subsection 31A-30-202.5(2), in~~] In accordance with
- 3585 Subsection (2)(b), on January 1 of each year, an insurer may enter or exit the defined
- 3586 contribution arrangement market.
- 3587 (b) An insurer may offer new or modify existing products in the defined contribution
- 3588 arrangement market:
- 3589 (i) on January 1 of each year;
- 3590 (ii) when required by changes in other law; and

3591 (iii) at other times as established by the risk adjuster board created in Section
3592 31A-42-201.

3593 (c) (i) An insurer shall give the department, the Health Insurance Exchange, and the
3594 risk adjuster board 90 days' advance written notice of any event described in Subsection (2)(a)
3595 or (b).

3596 (ii) When an insurer elects to participate in the defined contribution arrangement
3597 market, the insurer shall participate in the defined contribution arrangement market for no less
3598 than two years.

3599 Section 43. Section **31A-31-108** is amended to read:

3600 **31A-31-108. Assessment of insurers.**

3601 (1) For purposes of this section:

3602 (a) The commissioner shall by rule made in accordance with Title 63G, Chapter 3,
3603 Utah Administrative Rulemaking Act, define:

3604 (i) "annuity consideration";

3605 (ii) "membership fees";

3606 (iii) "other fees";

3607 (iv) "deposit-type contract funds"; and

3608 (v) "other considerations in Utah."

3609 (b) "Insurance fraud provisions" means:

3610 (i) this chapter;

3611 (ii) Section 34A-2-110; and

3612 (iii) Section 76-6-521.

3613 (c) "Utah consideration" means:

3614 (i) the total premiums written for Utah risks;

3615 (ii) annuity consideration;

3616 (iii) membership fees collected by the insurer;

3617 (iv) other fees collected by the insurer;

3618 (v) deposit-type contract funds; and

3619 (vi) other considerations in Utah.

3620 (d) "Utah risks" means insurance coverage on the lives, health, or against the liability
3621 of persons residing in Utah, or on property located in Utah, other than property temporarily in

3622 transit through Utah.

3623 (2) To implement insurance fraud provisions, the commissioner may assess an
3624 admitted insurer and a nonadmitted insurer transacting insurance under Chapter 15, Parts 1,
3625 Unauthorized Insurers and Surplus Lines, and 2, Risk Retention Groups Act, an annual fee as
3626 follows:

3627 (a) \$200 for an insurer for which the sum of the Utah consideration is less than or equal
3628 to \$1,000,000;

3629 (b) \$450 for an insurer for which the sum of the Utah consideration is greater than
3630 \$1,000,000 but is less than or equal to \$2,500,000;

3631 (c) \$800 for an insurer for which the sum of the Utah consideration is greater than
3632 \$2,500,000 but is less than or equal to \$5,000,000;

3633 (d) \$1,600 for an insurer for which the sum of the Utah consideration is greater than
3634 \$5,000,000 but less than or equal to \$10,000,000;

3635 (e) \$6,100 for an insurer for which the sum of the Utah consideration is greater than
3636 \$10,000,000 but less than \$50,000,000; and

3637 (f) \$15,000 for an insurer for which the sum of the Utah consideration equals or
3638 exceeds \$50,000,000.

3639 (3) Money received by the state under this section shall be deposited into the Insurance
3640 Fraud Investigation Restricted Account created in Subsection (4).

3641 (4) (a) There is created in the General Fund a restricted account known as the
3642 "Insurance Fraud Investigation Restricted Account."

3643 (b) The Insurance Fraud Investigation Restricted Account shall consist of the money
3644 received by the commissioner under this section and [~~Section 31A-31-109.~~] Subsections
3645 31A-31-109(1)(a)(ii), (1)(b), (2)(b)(i), (2)(c), and (3)(a). Money ordered paid under
3646 Subsections 31A-31-109(1)(a)(i) and (2)(a) shall be deposited in the Insurance Fraud Victim
3647 Restitution Fund pursuant to Section 31A-31-108.5.

3648 (c) The commissioner shall administer the Insurance Fraud Investigation Restricted
3649 Account. Subject to appropriations by the Legislature, the commissioner shall use the money
3650 deposited into the Insurance Fraud Investigation Restricted Account to pay for a cost or
3651 expense incurred by the commissioner in the administration, investigation, and enforcement of
3652 insurance fraud provisions.

3653 Section 44. Section **31A-31-108.5** is enacted to read:

3654 **31A-31-108.5. Insurance Fraud Victim Restitution Fund.**

3655 (1) There is created a restricted special revenue fund known as the "Insurance Fraud
3656 Victim Restitution Fund."

3657 (2) The Insurance Fraud Victim Restitution Fund shall consist of money ordered paid
3658 under Subsections 31A-31-109(1)(a)(i) and (2)(a).

3659 (3) The commissioner shall administer the Insurance Fraud Victim Restitution Fund for
3660 the sole benefit of insurance fraud victims.

3661 Section 45. Section **31A-41-102** is amended to read:

3662 **31A-41-102. Definitions.**

3663 As used in this chapter:

3664 (1) "Commission" means the Title and Escrow Commission created in Section
3665 31A-2-403.

3666 (2) "Fund" means the Title Insurance Recovery, Education, and Research Fund created
3667 in Section 31A-41-201.

3668 (3) "Title insurance licensee" means:

3669 (a) [~~a~~] an agency title insurance [~~agency~~] producer; or

3670 (b) [~~a~~] an individual title insurance producer.

3671 Section 46. Section **31A-41-201** is amended to read:

3672 **31A-41-201. Creation of Title Insurance Recovery, Education, and Research**
3673 **Fund.**

3674 (1) There is created a restricted special revenue fund to be known as the "Title
3675 Insurance Recovery, Education, and Research Fund."

3676 (2) The fund shall consist of:

3677 (a) assessments on individual title insurance producers and agency title insurance
3678 producers made under this chapter;

3679 (b) amounts collected under Section 31A-41-305; and

3680 (c) interest earned on the fund.

3681 (3) Interest on fund money shall be deposited into the fund.

3682 (4) The department shall administer the fund.

3683 Section 47. Section **31A-41-202** is amended to read:

3684 **31A-41-202. Assessments.**

3685 (1) Beginning January 1, 2009, [a] an agency title insurance [agency] producer licensed
3686 under this title shall pay an annual assessment determined by the commission by rule made in
3687 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the
3688 annual assessment:

3689 (a) may not exceed \$1,000; and

3690 (b) shall be determined on the basis of title insurance premium volume.

3691 (2) Beginning January 1, 2009, an individual who applies for a license or renewal of a
3692 license as [a] an individual title insurance producer, shall pay in addition to any other fee
3693 required by this title, an assessment not to exceed \$20, as determined by the commission by
3694 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3695 except that if the individual holds more than one license, the total of all assessments under this
3696 Subsection (2) may not exceed \$20 in a fiscal year.

3697 (3) (a) To be licensed as [a] an agency title insurance [agency] producer on or after July
3698 1, 2008, a person shall pay to the department an assessment of \$1,000 before the day on which
3699 the person is licensed as a title insurance agency.

3700 (b) (i) By no later than July 15, 2008, the department shall assess on [a] an agency title
3701 insurance [agency] producer licensed as of June 30, 2008, an amount equal to the greater of:

3702 (A) \$1,000; or

3703 (B) subject to Subsection (3)(b)(ii), 2% of the balance as of December 31, 2007, in the
3704 agency title insurance [agency's] producer's reserve account [~~required under~~] described in
3705 Subsection 31A-23a-204(3).

3706 (ii) The department may assess on [a] an agency title insurance [agency] producer an
3707 amount less than 2% of the balance described in Subsection (3)(b)(i)(B) if:

3708 (A) before issuing the assessments under this Subsection (3)(b) the department
3709 determines that the total of all assessments under Subsection (3)(b)(i) will exceed \$250,000;

3710 (B) the amount assessed on the agency title insurance [agency] producer is not less than
3711 \$1,000; and

3712 (C) the department reduces the assessment in a proportionate amount for agency title
3713 insurance [agencies] producers assessed on the basis of the 2% of the balance described in
3714 Subsection (3)(b)(i)(B).

3715 (iii) [A] An agency title insurance [~~agency~~] producer assessed under this Subsection
3716 (3)(b) shall pay the assessment by no later than August 1, 2008.

3717 (4) The department may not assess a title insurance licensee an assessment for
3718 purposes of the fund if that assessment is not expressly provided for in this section.

3719 Section 48. Section **49-20-410** is amended to read:

3720 **49-20-410. High deductible health plan -- Health savings account --**

3721 **Contributions.**

3722 (1) (a) In addition to other employee benefit plans offered under Subsection
3723 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan
3724 with a health savings account as an optional health plan.

3725 (b) The provisions and limitations of the plan shall be:

3726 (i) determined by the office in accordance with federal requirements and limitations;

3727 and

3728 (ii) designed to promote appropriate health care utilization by consumers, including
3729 preventive health care services.

3730 (c) A state employee hired on or after July 1, 2011, who is offered a plan under
3731 Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health
3732 plan unless the employee chooses a different health benefit plan during the employee's open
3733 enrollment period.

3734 (2) The office shall:

3735 (a) administer the high deductible health plan in coordination with a health savings
3736 account for medical expenses for each covered individual in the high deductible health plan;

3737 (b) offer to all employees training regarding all health plans offered to employees;

3738 (c) prepare online training as an option for the training required by Subsections (2)(b)

3739 and (4);

3740 (d) ensure the training offered under Subsections (2)(b) and (c) includes information on
3741 changing coverages to the high deductible plan with a health savings account, including
3742 coordination of benefits with other insurances, restrictions on other insurance coverages, and
3743 general tax implications; and

3744 (e) coordinate annual open enrollment with the Department of Human Resource
3745 Management to give state employees the opportunity to affirmatively select preferences from

3746 among insurance coverage options.

3747 (3) (a) Contributions to the health savings account may be made by the employer.

3748 (b) The amount of the employer contributions under Subsection (3)(a) shall be
3749 determined annually by the office, after consultation with the Department of Human Resource
3750 Management and the Governor's Office of Planning and Budget so that the annual employer
3751 contribution amount reflects the difference in the actuarial value between the program's health
3752 maintenance organization coverage and the federally qualified high deductible health plan
3753 coverage, after taking into account any difference in employee premium contribution.

3754 (c) The office shall distribute the annual amount determined under Subsection (3)(b) to
3755 employees in two equal amounts with a pay date in January and a pay date in July of each plan
3756 year.

3757 (d) An employee may also make contributions to the health savings account.

3758 ~~[(4) The program shall offer a state employee and the employee's eligible dependents
3759 the option to continue coverage under the employee's high deductible health plan in place of a
3760 conversion policy under Section 31A-22-723 if:]~~

3761 ~~[(a) the employee was covered by the state employee's high deductible health plan for
3762 at least the four years before the date of termination of employment;]~~

3763 ~~[(b) the employee or the employee's eligible dependents have exhausted federal
3764 COBRA coverage with the same or similar state employee's high deductible health plan; and]~~

3765 ~~[(c) the employee pays the premium group rate determined by the office for the
3766 coverage.]~~

3767 ~~[(5)]~~ (4) (a) An employer participating in a plan offered under Subsection
3768 49-20-202(1)(a) shall require each employee to complete training on the health plan options
3769 available to the employee.

3770 (b) The training required by Subsection ~~[(5)]~~ (4)(a):

3771 (i) shall include materials prepared by the office under Subsection (2);

3772 (ii) may be completed online; and

3773 (iii) shall be completed:

3774 (A) before the end of the 2012 open enrollment period for current enrollees in the
3775 program; and

3776 (B) for employees hired on or after July 1, 2011, before the employee's selection of a

3777 plan in the program.

3778 Section 49. **Repealer.**

3779 This bill repeals:

3780 Section 31A-22-723, **Conversion from group coverage.**

3781 Section 31A-22-724, **Offer of alternative coverage -- Utah NetCare Plan.**

3782 Section 31A-30-109, **Health benefit plan choices.**

3783 Section 31A-30-202.5, **Insurer participation in defined contribution arrangement**
3784 **market.**

3785 Section 31A-30-205, **Health benefit plans offered in the defined contribution**
3786 **market.**

3787 Section 50. **Effective date.**

3788 (1) If approved by two-thirds of all the members elected to each house, Section
3789 31A-4-117 takes effect upon approval by the governor, or the day following the constitutional
3790 time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in
3791 the case of a veto, the date of veto override.

3792 (2) Except as provided in Subsections (1), (3) and (4), this bill takes effect on May 14,
3793 2013.

3794 (3) The actions affecting the following take effect on January 1, 2014:

3795 (a) Section 31A-2-201.2;

3796 (b) Section 31A-21-503;

3797 (c) Section 31A-22-612;

3798 (d) Section 31A-22-722;

3799 (e) Section 31A-22-723;

3800 (f) Section 31A-30-109;

3801 (g) Section 31A-30-115;

3802 (h) Section 31A-30-202.5;

3803 (i) Section 31A-30-205;

3804 (j) Section 31A-30-208;

3805 (k) Section 49-20-410;

3806 (4) The actions affecting Section 31A-3-304 (Effective 07/01/13) take effect on July 1,
3807 2015.