

INSURANCE DEPARTMENT COMPLAINT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Administrative Rules Review and General Oversight Committee recommended this bill.

Legislative Vote: 8 voting for 0 voting against 2 absent

General Description:

This bill gives broader enforcement authority to the Insurance Department.

Highlighted Provisions:

This bill:

▶ authorizes the Insurance Department to freeze the trust account of agency producers with no active underwriter appointment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-23a-115, as last amended by Laws of Utah 2017, Chapter 168

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

Section 1. Section **31A-23a-115** is amended to read:



28 **31A-23a-115. Appointment of individual and agency insurance producer, limited**
29 **line producer, or managing general agent -- Reports and lists.**

30 (1) (a) An insurer shall appoint an individual or agency with whom it has a contract as
31 an insurance producer, limited line producer, or managing general agent to act on the insurer's
32 behalf in order for the licensee to do business for the insurer in this state.

33 (b) An insurer shall report to the commissioner, at intervals and in the form the
34 commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah
35 Administrative Rulemaking Act:

- 36 (i) a new appointment; and
- 37 (ii) a termination of appointment.

38 (c) The Insurance Department may, in accordance with Title 63G, Chapter 4,
39 Administrative Procedures Act, freeze the trust account of a person that fails to comply with
40 Subsection (1)(a) or (b).

41 (2) An insurer shall notify a producer that the producer's appointment is terminated by
42 the insurer and of the reason for termination at an interval and in the form the commissioner
43 establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
44 Rulemaking Act.

45 (3) (a) (i) An insurer shall report to the commissioner the cause of termination of an
46 appointment if:

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

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

- 51 (I) a court;
- 52 (II) a government body; or
- 53 (III) a self-regulatory organization, which the commissioner may define by rule made
54 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

57 (b) An insurer is immune from civil action, civil penalty, or damages if the insurer
58 complies in good faith with this Subsection (3) in reporting to the commissioner the cause of

59 termination of an appointment.

60 (c) Notwithstanding any other provision in this section, an insurer is not immune from
61 any action or resulting penalty imposed on the reporting insurer as a result of proceedings
62 brought by or on behalf of the department if the action is based on evidence other than the
63 report submitted in compliance with this Subsection (3).

64 (4) If an insurer appoints an agency, the insurer need not appoint, report, or pay
65 appointment reporting fees for an individual designated on the agency's license under Section
66 [31A-23a-302](#).

67 (5) If an insurer has a contract with or lists a licensee in a report submitted under
68 Subsection (3), there is a rebuttable presumption that in placing a risk with the insurer the
69 contracted or appointed licensee or any of the licensee's licensed employees act on behalf of the
70 insurer.

71 Section 2. **Effective date.**

72 This bill takes effect on May 1, 2024.