

Senator Curtis S. Bramble proposes the following substitute bill:

INSURANCE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill updates the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts a health care sharing ministry from regulation under the Insurance Code, provided the health care sharing ministry makes certain disclosures to participants and the commissioner;
- ▶ requires that the commissioner evaluate annually the state's health insurance market and provide that evaluation to the Health and Human Services Interim Committee;
- ▶ removes provisions relating to the commissioner declaring a rule in effect during a transition period;
- ▶ clarifies the scope of the consumer assistance that the commissioner provides;
- ▶ updates the duties of the Office of Consumer Health Assistance;
- ▶ modifies the commissioner's enforcement authority to allow the commissioner to accept or compromise a forfeiture after the filing of a complaint;
- ▶ amends provisions relating to mutual insurance holding companies;
- ▶ amends the enforcement provisions under this chapter;



- 26 ▶ removes the filing fee for a rate filing;
- 27 ▶ addresses the allowable amount of a rate or other charge used by a title insurer;
- 28 ▶ allows a licensee to make installment payments on a judgment if the payments are
29 not more than 60 days overdue;
- 30 ▶ describes the process for renewal, cancellation, and modification of a life insurance
31 policy;
- 32 ▶ requires that certain licensees and prospective licensees report to the commissioner
33 any civil action that is filed against the licensee or prospective licensee and involves
34 conduct related to a professional or occupational license;
- 35 ▶ institutes new capital and net worth requirements for title insurance producers;
- 36 ▶ removes the requirement that an individual title insurance producer file an annual
37 report with the commissioner;
- 38 ▶ allows a federal home loan bank to obtain collateral pledged by an insurer-member
39 when the member-insurer is in receivership;
- 40 ▶ increases the fee that the commissioner may assess certain admitted and
41 nonadmitted insurers;
- 42 ▶ authorizes an association captive insurance company to provide homeowners'
43 insurance, subject to commissioner approval; and
- 44 ▶ makes technical changes.

45 **Money Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51 [31A-1-103](#), as last amended by Laws of Utah 2021, Chapter 252
- 52 [31A-1-301](#), as last amended by Laws of Utah 2023, Chapter 327
- 53 [31A-2-201.2](#), as last amended by Laws of Utah 2019, Chapters 241, 439
- 54 [31A-2-211](#), as last amended by Laws of Utah 1987, Chapter 161
- 55 [31A-2-215](#), as last amended by Laws of Utah 2002, Chapter 308
- 56 [31A-2-216](#), as last amended by Laws of Utah 2002, Chapter 308

- 57 **31A-2-308**, as last amended by Laws of Utah 2019, Chapter 193
- 58 **31A-4-113.5**, as last amended by Laws of Utah 2023, Chapter 194
- 59 **31A-6a-109**, as enacted by Laws of Utah 1992, Chapter 203
- 60 **31A-16-102.6**, as enacted by Laws of Utah 2022, Chapter 198
- 61 **31A-19a-203**, as last amended by Laws of Utah 2004, Chapter 117
- 62 **31A-19a-209**, as last amended by Laws of Utah 2023, Chapter 194
- 63 **31A-20-108**, as last amended by Laws of Utah 2009, Chapter 349
- 64 **31A-21-402**, as last amended by Laws of Utah 2021, Chapter 252
- 65 **31A-22-605**, as last amended by Laws of Utah 2017, Chapter 168
- 66 **31A-22-620**, as last amended by Laws of Utah 2015, Chapter 244
- 67 **31A-22-802**, as last amended by Laws of Utah 2011, Chapter 366
- 68 **31A-22-2002**, as last amended by Laws of Utah 2021, Chapter 252
- 69 **31A-23a-105**, as last amended by Laws of Utah 2014, Chapters 290, 300
- 70 **31A-23a-111**, as last amended by Laws of Utah 2023, Chapter 194
- 71 **31A-23a-406**, as last amended by Laws of Utah 2023, Chapter 194
- 72 **31A-23a-413**, as last amended by Laws of Utah 2015, Chapter 312
- 73 **31A-26-301.6**, as last amended by Laws of Utah 2023, Chapter 328
- 74 **31A-28-113**, as last amended by Laws of Utah 2018, Chapter 391
- 75 **31A-31-108**, as last amended by Laws of Utah 2013, Chapter 319
- 76 **31A-35-202**, as last amended by Laws of Utah 2016, Chapter 234
- 77 **31A-35-406**, as last amended by Laws of Utah 2021, Chapter 252
- 78 **31A-37-202**, as last amended by Laws of Utah 2023, Chapter 194
- 79 **31A-37-204**, as last amended by Laws of Utah 2023, Chapter 194
- 80 **31A-37-502**, as last amended by Laws of Utah 2019, Chapter 193

81 ENACTS:

- 82 **31A-22-432**, Utah Code Annotated 1953
- 83 **31A-22-523**, Utah Code Annotated 1953
- 84 **31A-23a-119**, Utah Code Annotated 1953
- 85 **31A-27a-108.1**, Utah Code Annotated 1953

86 REPEALS:

- 87 **31A-2-303**, as last amended by Laws of Utah 2009, Chapter 388

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

Section 1. Section **31A-1-103** is amended to read:

31A-1-103. Scope and applicability of title.

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;

(ii) the person is not an employee of the organization; and

(iii) (A) substantially all the person's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

- 119 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.
- 120 (2) (a) This title restricts otherwise legitimate business activity.
- 121 (b) What this title does not prohibit is permitted unless contrary to other provisions of
- 122 Utah law.
- 123 (3) Except as otherwise expressly provided, this title does not apply to:
- 124 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of
- 125 the federal Employee Retirement Income Security Act of 1974, as amended;
- 126 (b) ocean marine insurance;
- 127 (c) death, accident, health, or disability benefits provided by an organization [~~if the~~
- 128 ~~organization:] that:~~
- 129 (i) has as the organization's principal purpose to achieve charitable, educational, social,
- 130 or religious objectives rather than to provide death, accident, health, or disability benefits;
- 131 (ii) does not incur a legal obligation to pay a specified amount; [~~and~~]
- 132 (iii) does not create reasonable expectations of receiving a specified amount on the part
- 133 of an insured person; and
- 134 (iv) is not a health care sharing ministry.
- 135 (d) other business specified in rules adopted by the commissioner on a finding that:
- 136 (i) the transaction of the business in this state does not require regulation for the
- 137 protection of the interests of the residents of this state; or
- 138 (ii) it would be impracticable to require compliance with this title;
- 139 (e) except as provided in Subsection (4), a transaction independently procured through
- 140 negotiations under Section [31A-15-104](#);
- 141 (f) self-insurance;
- 142 (g) reinsurance;
- 143 (h) subject to Subsection (5), an employee or labor union group insurance policy
- 144 covering risks in this state or an employee or labor union blanket insurance policy covering
- 145 risks in this state, if:
- 146 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 147 (ii) the policyholder:
- 148 (A) is not a resident of this state;
- 149 (B) is not a domestic corporation; or

- 150 (C) does not have the policyholder's principal office in this state;
- 151 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 152 (iv) on request of the commissioner, the insurer files with the department a copy of the
- 153 policy and a copy of each form or certificate; and
- 154 (v) (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's
- 155 business, as if the insurer were authorized to do business in this state; and
- 156 (B) the insurer provides the commissioner with the security the commissioner
- 157 considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of
- 158 Admitted Insurers;
- 159 (i) to the extent provided in Subsection (6):
- 160 (i) a manufacturer's or seller's warranty; and
- 161 (ii) a manufacturer's or seller's service contract;
- 162 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;
- 163 [or]
- 164 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a
- 165 guaranteed asset protection waiver[-]; or
- 166 (l) a health care sharing ministry, if the health care sharing ministry:
- 167 (i) provides to each participant upon enrollment and annually thereafter a written
- 168 statement of nationwide and Utah-specific data from the preceding calendar year that lists the
- 169 total dollar amount of:
- 170 (A) expenses submitted for sharing;
- 171 (B) expenses qualified for sharing;
- 172 (C) qualified expenses published or assigned to participants for sharing;
- 173 (D) contributions provided to participants toward qualified expenses; and
- 174 (E) denied expenses; and
- 175 (ii) includes a written disclaimer, titled "Notice", on or with each application and all
- 176 guideline materials that states:
- 177 (A) the health care sharing ministry is not an insurance company;
- 178 (B) nothing the health care sharing ministry offers or provides is an insurance policy,
- 179 including the health care sharing ministry's guidelines or plan of operations;
- 180 (C) participation in the health care sharing ministry is entirely voluntary and no

181 participant is compelled by law to contribute to another participant's expenses;

182 (D) participation in the health care sharing ministry or subscription to any of the health
183 care sharing ministry's services is not insurance; and

184 (E) each participant is always personally responsible for the participant's expenses
185 regardless of whether the participant receives payment for the expenses through the health care
186 sharing ministry or whether this health care sharing ministry continues to operate; and

187 (iii) submits to the commissioner no later than April 1 of each year:

188 (A) the information in Subsection (1)(i);

189 (B) nationwide and Utah-specific enrollment data from the prior calendar year; and

190 (C) the health care sharing ministry's contact information for consumers, providers, and
191 the commissioner.

192 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
193 31A-3-301.

194 (5) (a) After a hearing, the commissioner may order an insurer of certain group
195 insurance policies or blanket insurance policies to transfer the Utah portion of the business
196 otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been
197 written by an unauthorized insurer.

198 (b) If the commissioner finds that the conditions required for the exemption of a group
199 or blanket insurer are not satisfied or that adequate protection to residents of this state is not
200 provided, the commissioner may require:

201 (i) the insurer to be authorized to do business in this state; or

202 (ii) that any of the insurer's transactions be subject to this title.

203 (c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and
204 health insurance.

205 (6) (a) As used in Subsection (3)(i) and this Subsection (6):

206 (i) "manufacturer's or seller's service contract" means a service contract:

207 (A) made available by:

208 (I) a manufacturer of a product;

209 (II) a seller of a product; or

210 (III) an affiliate of a manufacturer or seller of a product;

211 (B) made available:

212 (I) on one or more specific products; or
213 (II) on products that are components of a system; and
214 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to
215 be provided under the service contract including, if the manufacturer's or seller's service
216 contract designates, providing parts and labor;
217 (ii) "manufacturer's or seller's warranty" means the guaranty of:
218 (A) (I) the manufacturer of a product;
219 (II) a seller of a product; or
220 (III) an affiliate of a manufacturer or seller of a product;
221 (B) (I) on one or more specific products; or
222 (II) on products that are components of a system; and
223 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services
224 to be provided under the warranty, including, if the manufacturer's or seller's warranty
225 designates, providing parts and labor; and
226 (iii) "service contract" means the same as that term is defined in Section [31A-6a-101](#).
227 (b) A manufacturer's or seller's warranty may be designated as:
228 (i) a warranty;
229 (ii) a guaranty; or
230 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
231 (c) This title does not apply to:
232 (i) a manufacturer's or seller's warranty;
233 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
234 addition to the consideration paid for the product itself; and
235 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's
236 or seller's service contract if:
237 (A) the service contract is paid for with consideration that is in addition to the
238 consideration paid for the product itself;
239 (B) the service contract is for the repair or maintenance of goods;
240 (C) the purchase price of the product is \$3,700 or less;
241 (D) the product is not a motor vehicle; and
242 (E) the product is not the subject of a home warranty service contract.

243 (d) This title does not apply to a manufacturer's or seller's warranty or service contract
244 paid for with consideration that is in addition to the consideration paid for the product itself
245 regardless of whether the manufacturer's or seller's warranty or service contract is sold:

- 246 (i) at the time of the purchase of the product; or
- 247 (ii) at a time other than the time of the purchase of the product.

248 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an
249 entity formed by two or more political subdivisions or public agencies of the state:

- 250 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
- 251 (ii) for the purpose of providing for the political subdivisions or public agencies:
 - 252 (A) subject to Subsection (7)(b), insurance coverage; or
 - 253 (B) risk management.

254 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may
255 not provide health insurance unless the public agency insurance mutual provides the health
256 insurance using:

- 257 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
- 258 (ii) an admitted insurer; or
- 259 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and
260 Insurance Program Act.

261 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from
262 this title.

263 (d) A public agency insurance mutual is considered to be a governmental entity and
264 political subdivision of the state with all of the rights, privileges, and immunities of a
265 governmental entity or political subdivision of the state including all the rights and benefits of
266 Title 63G, Chapter 7, Governmental Immunity Act of Utah.

267 Section 2. Section **31A-1-301** is amended to read:

268 **31A-1-301. Definitions.**

269 As used in this title, unless otherwise specified:

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

- 272 (i) a medical condition including:
 - 273 (A) a medical care expense; or

- 274 (B) the risk of disability;
- 275 (ii) accident; or
- 276 (iii) sickness.
- 277 (b) "Accident and health insurance":
- 278 (i) includes a contract with disability contingencies including:
- 279 (A) an income replacement contract;
- 280 (B) a health care contract;
- 281 (C) a fixed indemnity contract;
- 282 (D) a credit accident and health contract;
- 283 (E) a continuing care contract; and
- 284 (F) a long-term care contract; and
- 285 (ii) may provide:
- 286 (A) hospital coverage;
- 287 (B) surgical coverage;
- 288 (C) medical coverage;
- 289 (D) loss of income coverage;
- 290 (E) prescription drug coverage;
- 291 (F) dental coverage; or
- 292 (G) vision coverage.
- 293 (c) "Accident and health insurance" does not include workers' compensation insurance.
- 294 (d) For purposes of a national licensing registry, "accident and health insurance" is the
- 295 same as "accident and health or sickness insurance."
- 296 (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title
- 297 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 298 (3) "Administrator" means the same as that term is defined in Subsection [~~(182)~~]
- 299 (187).
- 300 (4) "Adult" means an individual who is 18 years old or older.
- 301 (5) "Affiliate" means a person who controls, is controlled by, or is under common
- 302 control with, another person. A corporation is an affiliate of another corporation, regardless of
- 303 ownership, if substantially the same group of individuals manage the corporations.
- 304 (6) "Agency" means:

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

307 (b) an insurance organization licensed or required to be licensed under Section
308 [31A-23a-301](#), [31A-25-207](#), or [31A-26-209](#).

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

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

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

315 (10) "Application" means a document:

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

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

320 (A) insure the risk under:

321 (I) the coverage as originally offered; or

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

323 (B) decline to insure the risk; or

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

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

327 (a) the original articles;

328 (b) a special law;

329 (c) a charter;

330 (d) an amendment;

331 (e) restated articles;

332 (f) articles of merger or consolidation;

333 (g) a trust instrument;

334 (h) another constitutive document for a trust or other entity that is not a corporation;

335 and

- 336 (i) an amendment to an item listed in Subsections (11)(a) through (h).
337 (12) "Bail bond insurance" means a guarantee that a person will attend court when
338 required, up to and including surrender of the person in execution of a sentence imposed under
339 Subsection 77-20-501(1), as a condition to the release of that person from confinement.
340 (13) "Binder" means the same as that term is defined in Section 31A-21-102.
341 (14) "Blanket insurance policy" or "blanket contract" means a group insurance policy
342 covering a defined class of persons:
343 (a) without individual underwriting or application; and
344 (b) that is determined by definition without designating each person covered.
345 (15) "Board," "board of trustees," or "board of directors" means the group of persons
346 with responsibility over, or management of, a corporation, however designated.
347 (16) "Bona fide office" means a physical office in this state:
348 (a) that is open to the public;
349 (b) that is staffed during regular business hours on regular business days; and
350 (c) at which the public may appear in person to obtain services.
351 (17) "Business entity" means:
352 (a) a corporation;
353 (b) an association;
354 (c) a partnership;
355 (d) a limited liability company;
356 (e) a limited liability partnership; or
357 (f) another legal entity.
358 (18) "Business of insurance" means the same as that term is defined in Subsection
359 [~~95~~]; (98).
360 (19) "Business plan" means the information required to be supplied to the
361 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
362 when these subsections apply by reference under:
363 (a) Section 31A-8-205; or
364 (b) Subsection 31A-9-205(2).
365 (20) (a) "Bylaws" means the rules adopted for the regulation or management of a
366 corporation's affairs, however designated.

- 367 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
368 corporation.
- 369 (21) "Captive insurance company" means:
- 370 (a) an insurer:
- 371 (i) owned by a parent organization; and
- 372 (ii) whose purpose is to insure risks of the parent organization and other risks as
373 authorized under:
- 374 (A) Chapter 37, Captive Insurance Companies Act; and
- 375 (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or
- 376 (b) in the case of a group or association, an insurer:
- 377 (i) owned by the insureds; and
- 378 (ii) whose purpose is to insure risks of:
- 379 (A) a member organization;
- 380 (B) a group member; or
- 381 (C) an affiliate of:
- 382 (I) a member organization; or
- 383 (II) a group member.
- 384 (22) "Casualty insurance" means liability insurance.
- 385 (23) "Certificate" means evidence of insurance given to:
- 386 (a) an insured under a group insurance policy; or
- 387 (b) a third party.
- 388 (24) "Certificate of authority" is included within the term "license."
- 389 (25) "Claim," unless the context otherwise requires, means a request or demand on an
390 insurer for payment of a benefit according to the terms of an insurance policy.
- 391 (26) "Claims-made coverage" means an insurance contract or provision limiting
392 coverage under a policy insuring against legal liability to claims that are first made against the
393 insured while the policy is in force.
- 394 (27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance
395 commissioner.
- 396 (b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent
397 supervisory official of another jurisdiction.

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

399 (i) provides board and lodging;

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

401 (A) a personal service;

402 (B) a nursing service;

403 (C) a medical service; or

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

405 (iii) provides the coverage described in this Subsection (28)(a) under an agreement

406 effective:

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

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

409 (b) Insurance is continuing care insurance regardless of whether or not the board and

410 lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

411 (29) (a) "Control," "controlling," "controlled," or "under common control" means the

412 direct or indirect possession of the power to direct or cause the direction of the management

413 and policies of a person. This control may be:

414 (i) by contract;

415 (ii) by common management;

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

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

418 (b) There is no presumption that an individual holding an official position with another

419 person controls that person solely by reason of the position.

420 (c) A person having a contract or arrangement giving control is considered to have

421 control despite the illegality or invalidity of the contract or arrangement.

422 (d) There is a rebuttable presumption of control in a person who directly or indirectly

423 owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the

424 voting securities of another person.

425 (30) "Controlled insurer" means a licensed insurer that is either directly or indirectly

426 controlled by a producer.

427 (31) "Controlling person" means a person that directly or indirectly has the power to

428 direct or cause to be directed, the management, control, or activities of a reinsurance

429 intermediary.

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

432 (33) "Corporate governance annual disclosure" means a report an insurer or insurance
433 group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual
434 Disclosure Act.

435 (34) (a) "Corporation" means an insurance corporation, except when referring to:

436 (i) a corporation doing business:

437 (A) as:

438 (I) an insurance producer;

439 (II) a surplus lines producer;

440 (III) a limited line producer;

441 (IV) a consultant;

442 (V) a managing general agent;

443 (VI) a reinsurance intermediary;

444 (VII) a third party administrator; or

445 (VIII) an adjuster; and

446 (B) under:

447 (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
448 Reinsurance Intermediaries;

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

450 (III) Chapter 26, Insurance Adjusters; or

451 (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance
452 Holding Companies.

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

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

455 (35) (a) "Creditable coverage" has the same meaning as provided in federal regulations
456 adopted pursuant to the Health Insurance Portability and Accountability Act.

457 (b) "Creditable coverage" includes coverage that is offered through a public health plan
458 such as:

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

460 demonstration waiver obtained subject to Section 26B-3-108;

461 (ii) the Children's Health Insurance Program under Section 26B-3-904; or

462 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.

463 No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No.

464 109-415.

465 (36) "Credit accident and health insurance" means insurance on a debtor to provide

466 indemnity for payments coming due on a specific loan or other credit transaction while the

467 debtor has a disability.

468 (37) (a) "Credit insurance" means insurance offered in connection with an extension of

469 credit that is limited to partially or wholly extinguishing that credit obligation.

470 (b) "Credit insurance" includes:

471 (i) credit accident and health insurance;

472 (ii) credit life insurance;

473 (iii) credit property insurance;

474 (iv) credit unemployment insurance;

475 (v) guaranteed automobile protection insurance;

476 (vi) involuntary unemployment insurance;

477 (vii) mortgage accident and health insurance;

478 (viii) mortgage guaranty insurance; and

479 (ix) mortgage life insurance.

480 (38) "Credit life insurance" means insurance on the life of a debtor in connection with

481 an extension of credit that pays a person if the debtor dies.

482 (39) "Creditor" means a person, including an insured, having a claim, whether:

483 (a) matured;

484 (b) unmatured;

485 (c) liquidated;

486 (d) unliquidated;

487 (e) secured;

488 (f) unsecured;

489 (g) absolute;

490 (h) fixed; or

- 491 (i) contingent.
- 492 (40) "Credit property insurance" means insurance:
- 493 (a) offered in connection with an extension of credit; and
- 494 (b) that protects the property until the debt is paid.
- 495 (41) "Credit unemployment insurance" means insurance:
- 496 (a) offered in connection with an extension of credit; and
- 497 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:
- 498 (i) specific loan; or
- 499 (ii) credit transaction.
- 500 (42) (a) "Crop insurance" means insurance providing protection against damage to
- 501 crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation,
- 502 disease, or other yield-reducing conditions or perils that is:
- 503 (i) provided by the private insurance market; or
- 504 (ii) subsidized by the Federal Crop Insurance Corporation.
- 505 (b) "Crop insurance" includes multiperil crop insurance.
- 506 (43) (a) "Customer service representative" means a person that provides an insurance
- 507 service and insurance product information:
- 508 (i) for the customer service representative's:
- 509 (A) producer;
- 510 (B) surplus lines producer; or
- 511 (C) consultant employer; and
- 512 (ii) to the customer service representative's employer's:
- 513 (A) customer;
- 514 (B) client; or
- 515 (C) organization.
- 516 (b) A customer service representative may only operate within the scope of authority of
- 517 the customer service representative's producer, surplus lines producer, or consultant employer.
- 518 (44) "Deadline" means a final date or time:
- 519 (a) imposed by:
- 520 (i) statute;
- 521 (ii) rule; or

522 (iii) order; and
523 (b) by which a required filing or payment must be received by the department.
524 (45) "Deemer clause" means a provision under this title under which upon the
525 occurrence of a condition precedent, the commissioner is considered to have taken a specific
526 action. If the statute so provides, a condition precedent may be the commissioner's failure to
527 take a specific action.

528 (46) "Degree of relationship" means the number of steps between two persons
529 determined by counting the generations separating one person from a common ancestor and
530 then counting the generations to the other person.

531 (47) "Department" means the Insurance Department.

532 (48) (a) "Direct response solicitation" means an offer for life or accident and health
533 insurance coverage that allows the individual to apply for or enroll in the insurance coverage
534 on the basis of the offer.

535 (b) "Direct response solicitation" does not include an offer for:

536 (i) insurance through an employee benefit plan that is exempt from state regulation
537 under federal law; or

538 (ii) credit life insurance or credit accident and health insurance through a individual's
539 creditor.

540 (49) "Direct response insurance policy" means an insurance policy solicited and sold
541 without the policyholder having direct contact with a natural person intermediary.

542 [~~48~~] (50) "Director" means a member of the board of directors of a corporation.

543 [~~49~~] (51) "Disability" means a physiological or psychological condition that partially
544 or totally limits an individual's ability to:

545 (a) perform the duties of:

546 (i) that individual's occupation; or

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

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

550 (i) eating;

551 (ii) toileting;

552 (iii) transferring;

553 (iv) bathing; or

554 (v) dressing.

555 ~~[(50)]~~ (52) "Disability income insurance" means the same as that term is defined in
556 Subsection ~~[(86):]~~ (89).

557 ~~[(51)]~~ (53) "Domestic insurer" means an insurer organized under the laws of this state.

558 ~~[(52)]~~ (54) "Domiciliary state" means the state in which an insurer:

559 (a) is incorporated;

560 (b) is organized; or

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

562 ~~[(53)]~~ (55) (a) "Eligible employee" means:

563 (i) an employee who:

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

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

566 (ii) a person described in Subsection ~~[(53)(b):]~~ (55)(b).

567 (b) "Eligible employee" includes:

568 (i) an owner, sole proprietor, or partner who:

569 (A) works on a full-time basis;

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

571 (C) employs at least one common employee; and

572 (ii) an independent contractor if the individual is included under a health benefit plan
573 of a small employer.

574 (c) "Eligible employee" does not include, unless eligible under Subsection ~~[(53)(b):]~~
575 (55)(b):

576 (i) an individual who works on a temporary or substitute basis for a small employer;

577 (ii) an employer's spouse who does not meet the requirements of Subsection

578 ~~[(53)(a)(i):]~~ (55)(a)(i); or

579 (iii) a dependent of an employer who does not meet the requirements of Subsection
580 ~~[(53)(a)(i):]~~ (55)(a)(i).

581 ~~[(54)]~~ (56) "Emergency medical condition" means a medical condition that:

582 (a) manifests itself by acute symptoms, including severe pain; and

583 (b) would cause a prudent layperson possessing an average knowledge of medicine and

584 health to reasonably expect the absence of immediate medical attention through a hospital
585 emergency department to result in:

586 (i) placing the layperson's health or the layperson's unborn child's health in serious
587 jeopardy;

588 (ii) serious impairment to bodily functions; or

589 (iii) serious dysfunction of any bodily organ or part.

590 [~~55~~] (57) "Employee" means:

591 (a) an individual employed by an employer; or

592 (b) an individual who meets the requirements of Subsection [~~53~~(b).] (55)(b).

593 [~~56~~] (58) "Employee benefits" means one or more benefits or services provided to:

594 (a) an employee; or

595 (b) a dependent of an employee.

596 [~~57~~] (59) (a) "Employee welfare fund" means a fund:

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

598 (A) one or more employers;

599 (B) one or more labor organizations; or

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

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

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

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

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

607 [~~58~~] (60) "Endorsement" means a written agreement attached to a policy or certificate
608 to modify the policy or certificate coverage.

609 [~~59~~] (61) (a) "Enrollee" means:

610 (i) a policyholder;

611 (ii) a certificate holder;

612 (iii) a subscriber; or

613 (iv) a covered individual:

614 (A) who has entered into a contract with an organization for health care; or

615 (B) on whose behalf an arrangement for health care has been made.

616 (b) "Enrollee" includes an insured.

617 [~~(60)~~] (62) "Enrollment date," with respect to a health benefit plan, means:

618 (a) the first day of coverage; or

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

620 [~~(61)~~] (63) "Enterprise risk" means an activity, circumstance, event, or series of events

621 involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a

622 material adverse effect upon the financial condition or liquidity of the insurer or its insurance

623 holding company system as a whole, including anything that would cause:

624 (a) the insurer's risk-based capital to fall into an action or control level as set forth in

625 Sections 31A-17-601 through 31A-17-613; or

626 (b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

627 [~~(62)~~] (64) (a) "Escrow" means:

628 (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property,

629 when a person not a party to the transaction, and neither having nor acquiring an interest in the

630 title, performs, in accordance with the written instructions or terms of the written agreement

631 between the parties to the transaction, any of the following actions:

632 (A) the explanation, holding, or creation of a document; or

633 (B) the receipt, deposit, and disbursement of money; or

634 (ii) a settlement or closing involving:

635 (A) a mobile home;

636 (B) a grazing right;

637 (C) a water right; or

638 (D) other personal property authorized by the commissioner.

639 (b) "Escrow" does not include:

640 (i) the following notarial acts performed by a notary within the state:

641 (A) an acknowledgment;

642 (B) a copy certification;

643 (C) jurat; and

644 (D) an oath or affirmation;

645 (ii) the receipt or delivery of a document; or

646 (iii) the receipt of money for delivery to the escrow agent.

647 [~~(63)~~] (65) "Escrow agent" means an agency title insurance producer meeting the
648 requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an
649 individual title insurance producer licensed with an escrow subline of authority.

650 [~~(64)~~] (66) (a) "Excludes" is not exhaustive and does not mean that another thing is not
651 also excluded.

652 (b) The items listed in a list using the term "excludes" are representative examples for
653 use in interpretation of this title.

654 [~~(65)~~] (67) "Exclusion" means for the purposes of accident and health insurance that an
655 insurer does not provide insurance coverage, for whatever reason, for one of the following:

- 656 (a) a specific physical condition;
- 657 (b) a specific medical procedure;
- 658 (c) a specific disease or disorder; or
- 659 (d) a specific prescription drug or class of prescription drugs.

660 [~~(66)~~] (68) "Fidelity insurance" means insurance guaranteeing the fidelity of a person
661 holding a position of public or private trust.

662 [~~(67)~~] (69) (a) "Filed" means that a filing is:

- 663 (i) submitted to the department as required by and in accordance with applicable
664 statute, rule, or filing order;
- 665 (ii) received by the department within the time period provided in applicable statute,
666 rule, or filing order; and
- 667 (iii) accompanied by the appropriate fee in accordance with:

- 668 (A) Section 31A-3-103; or
- 669 (B) rule.

670 (b) "Filed" does not include a filing that is rejected by the department because it is not
671 submitted in accordance with Subsection [~~(67)(a):~~] (69)(a).

672 [~~(68)~~] (70) "Filing," when used as a noun, means an item required to be filed with the
673 department including:

- 674 (a) a policy;
- 675 (b) a rate;
- 676 (c) a form;

- 677 (d) a document;
- 678 (e) a plan;
- 679 (f) a manual;
- 680 (g) an application;
- 681 (h) a report;
- 682 (i) a certificate;
- 683 (j) an endorsement;
- 684 (k) an actuarial certification;
- 685 (l) a licensee annual statement;
- 686 (m) a licensee renewal application;
- 687 (n) an advertisement;
- 688 (o) a binder; or
- 689 (p) an outline of coverage.

690 [~~(69)~~] (71) "First party insurance" means an insurance policy or contract in which the
691 insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

692 [~~(70)~~] (72) (a) "Fixed indemnity insurance" means accident and health insurance
693 written to provide a fixed amount for a specified event relating to or resulting from an illness or
694 injury.

695 (b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

696 [~~(71)~~] (73) "Foreign insurer" means an insurer domiciled outside of this state, including
697 an alien insurer.

698 [~~(72)~~] (74) (a) "Form" means one of the following prepared for general use:

- 699 (i) a policy;
- 700 (ii) a certificate;
- 701 (iii) an application;
- 702 (iv) an outline of coverage; or
- 703 (v) an endorsement.

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

706 [~~(73)~~] (75) "Franchise insurance" means an individual insurance policy provided
707 through a mass marketing arrangement involving a defined class of persons related in some

708 way other than through the purchase of insurance.

709 [~~(74)~~] (76) "General lines of authority" include:

710 (a) the general lines of insurance in Subsection [~~(75)~~;] (77);

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

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

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

714 (iii) title marketing representative only;

715 (c) surplus lines;

716 (d) workers' compensation; and

717 (e) another line of insurance that the commissioner considers necessary to recognize in

718 the public interest.

719 [~~(75)~~] (77) "General lines of insurance" include:

720 (a) accident and health;

721 (b) casualty;

722 (c) life;

723 (d) personal lines;

724 (e) property; and

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

726 [~~(76)~~] (78) "Group health plan" means an employee welfare benefit plan to the extent

727 that the plan provides medical care:

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

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

730 (b) (i) directly;

731 (ii) through insurance reimbursement; or

732 (iii) through another method.

733 [~~(77)~~] (79) (a) "Group insurance policy" means a policy covering a group of persons

734 that is issued:

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

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

737 in:

738 (A) the policy; or

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

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

742 [~~(78)~~] (80) "Group-wide supervisor" means the commissioner or other regulatory
743 official designated as the group-wide supervisor for an internationally active insurance group
744 under Section 31A-16-108.6.

745 [~~(79)~~] (81) "Guaranteed automobile protection insurance" means insurance offered in
746 connection with an extension of credit that pays the difference in amount between the
747 insurance settlement and the balance of the loan if the insured automobile is a total loss.

748 [~~(80)~~] (82) (a) "Health benefit plan" means a policy, contract, certificate, or agreement
749 offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the
750 costs of health care, including major medical expense coverage.

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

752 (i) coverage only for accident or disability income insurance, or any combination
753 thereof;

754 (ii) coverage issued as a supplement to liability insurance;

755 (iii) liability insurance, including general liability insurance and automobile liability
756 insurance;

757 (iv) workers' compensation or similar insurance;

758 (v) automobile medical payment insurance;

759 (vi) credit-only insurance;

760 (vii) coverage for on-site medical clinics;

761 (viii) other similar insurance coverage, specified in federal regulations issued pursuant
762 to Pub. L. No. 104-191, under which benefits for health care services are secondary or
763 incidental to other insurance benefits;

764 (ix) the following benefits if they are provided under a separate policy, certificate, or
765 contract of insurance or are otherwise not an integral part of the plan:

766 (A) limited scope dental or vision benefits;

767 (B) benefits for long-term care, nursing home care, home health care,
768 community-based care, or any combination thereof; or

769 (C) other similar limited benefits, specified in federal regulations issued pursuant to

770 Pub. L. No. 104-191;

771 (x) the following benefits if the benefits are provided under a separate policy,
772 certificate, or contract of insurance, there is no coordination between the provision of benefits
773 and any exclusion of benefits under any health plan, and the benefits are paid with respect to an
774 event without regard to whether benefits are provided under any health plan:

775 (A) coverage only for specified disease or illness; or

776 (B) fixed indemnity insurance;

777 (xi) the following if offered as a separate policy, certificate, or contract of insurance:

778 (A) Medicare [~~supplemental health insurance as defined under the Social Security Act,~~
779 ~~42 U.S.C. Sec. 1395ss(g)(1);~~ supplement insurance;

780 (B) coverage supplemental to the coverage provided under United States Code,
781 Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services
782 (CHAMPUS); or

783 (C) similar supplemental coverage provided to coverage under a group health insurance
784 plan;

785 (xii) short-term limited duration health insurance; and

786 (xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

787 [~~(81)~~] (83) "Health care" means any of the following intended for use in the diagnosis,
788 treatment, mitigation, or prevention of a human ailment or impairment:

789 (a) a professional service;

790 (b) a personal service;

791 (c) a facility;

792 (d) equipment;

793 (e) a device;

794 (f) supplies; or

795 (g) medicine.

796 [~~(82)~~] (84) (a) "Health care insurance" or "health insurance" means insurance
797 providing:

798 (i) a health care benefit; or

799 (ii) payment of an incurred health care expense.

800 (b) "Health care insurance" or "health insurance" does not include accident and health

801 insurance providing a benefit for:

- 802 (i) replacement of income;
- 803 (ii) short-term accident;
- 804 (iii) fixed indemnity;
- 805 (iv) credit accident and health;
- 806 (v) supplements to liability;
- 807 (vi) workers' compensation;
- 808 (vii) automobile medical payment;
- 809 (viii) no-fault automobile;
- 810 (ix) equivalent self-insurance; or
- 811 (x) a type of accident and health insurance coverage that is a part of or attached to
- 812 another type of policy.

813 ~~[(83)]~~ (85) "Health care provider" means the same as that term is defined in Section
814 [78B-3-403](#).

815 (86) "Health care sharing ministry" means an entity that:

- 816 (a) is a tax-exempt nonprofit entity under the Internal Revenue Code;
- 817 (b) limits participants to those who are of a similar faith;
- 818 (c) facilitates the sharing of a participant's qualified expenses, as defined by the entity,
- 819 among other participants by:
 - 820 (i) matching a participant who has qualified expenses with one or more participants
 - 821 who are able to contribute to paying for the qualified expenses; and
 - 822 (ii) arranging, directly or indirectly, for each contributing participant's contribution to
 - 823 be used to pay for the qualified expenses;
 - 824 (d) provides that a participant make a contribution to pay another participant's qualified
 - 825 expenses with no assumption of risk or promise to pay;
 - 826 (e) requires an individual to make one or more minimum payments or contributions as
 - 827 a condition of one or more of the following:
 - 828 (i) becoming a participant;
 - 829 (ii) remaining a participant; or
 - 830 (iii) receiving a contribution to pay qualified expenses; and
 - 831 (f) in carrying out the functions described in this Subsection (86), makes no

832 assumption of risk or promise to pay any qualified expenses.

833 [~~84~~] (87) "Health insurance exchange" means an exchange as defined in 45 C.F.R.
834 Sec. 155.20.

835 [~~85~~] (88) "Health Insurance Portability and Accountability Act" means the Health
836 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as
837 amended.

838 [~~86~~] (89) "Income replacement insurance" or "disability income insurance" means
839 insurance written to provide payments to replace income lost from accident or sickness.

840 [~~87~~] (90) "Indemnity" means the payment of an amount to offset all or part of an
841 insured loss.

842 [~~88~~] (91) "Independent adjuster" means an insurance adjuster required to be licensed
843 under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

844 [~~89~~] (92) "Independently procured insurance" means insurance procured under
845 Section 31A-15-104.

846 [~~90~~] (93) "Individual" means a natural person.

847 [~~91~~] (94) "Inland marine insurance" includes insurance covering:

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

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

850 (c) bailee liability;

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

853 (e) personal and commercial property floaters.

854 [~~92~~] (95) "Insolvency" or "insolvent" means that:

855 (a) an insurer is unable to pay the insurer's obligations as the obligations are due;

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

858 (c) an insurer's admitted assets are less than the insurer's liabilities.

859 [~~93~~] (96) (a) "Insurance" means:

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

862 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a

863 group of persons that includes the person seeking to distribute that person's risk.

864 (b) "Insurance" includes:

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

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

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

871 ~~[(94)]~~ (97) "Insurance adjuster" means a person who directs or conducts the
872 investigation, negotiation, or settlement of a claim under an insurance policy other than life
873 insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance
874 policy.

875 ~~[(95)]~~ (98) "Insurance business" or "business of insurance" includes:

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

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

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

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

883 (c) providing an annuity:

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

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

886 and (3);

887 (d) providing the characteristic services of a motor club;

888 (e) providing another person with insurance;

889 (f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor,
890 or surety, a contract or policy offering title insurance;

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

892 (i) solicitation;

893 (ii) negotiation preliminary to execution;

894 (iii) execution of a contract of title insurance;
895 (iv) insuring; and
896 (v) transacting matters subsequent to the execution of the contract and arising out of
897 the contract, including reinsurance;
898 (h) transacting or proposing a life settlement; and
899 (i) doing, or proposing to do, any business in substance equivalent to Subsections
900 ~~[(95)(a)]~~ (98)(a) through (h) in a manner designed to evade this title.
901 ~~[(96)]~~ (99) "Insurance consultant" or "consultant" means a person who:
902 (a) advises another person about insurance needs and coverages;
903 (b) is compensated by the person advised on a basis not directly related to the insurance
904 placed; and
905 (c) except as provided in Section 31A-23a-501, is not compensated directly or
906 indirectly by an insurer or producer for advice given.
907 ~~[(97)]~~ (100) "Insurance group" means the persons that comprise an insurance holding
908 company system.
909 ~~[(98)]~~ (101) "Insurance holding company system" means a group of two or more
910 affiliated persons, at least one of whom is an insurer.
911 ~~[(99)]~~ (102) (a) "Insurance producer" or "producer" means a person licensed or
912 required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.
913 (b) (i) "Producer for the insurer" means a producer who is compensated directly or
914 indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that
915 insurer.
916 (ii) "Producer for the insurer" may be referred to as an "agent."
917 (c) (i) "Producer for the insured" means a producer who:
918 (A) is compensated directly and only by an insurance customer or an insured; and
919 (B) receives no compensation directly or indirectly from an insurer for selling,
920 soliciting, or negotiating an insurance product of that insurer to an insurance customer or
921 insured.
922 (ii) "Producer for the insured" may be referred to as a "broker."
923 ~~[(100)]~~ (103) (a) "Insured" means a person to whom or for whose benefit an insurer
924 makes a promise in an insurance policy and includes:

- 925 (i) a policyholder;
- 926 (ii) a subscriber;
- 927 (iii) a member; and
- 928 (iv) a beneficiary.
- 929 (b) The definition in Subsection [~~(100)(a):~~] (103)(a):
- 930 (i) applies only to this title;
- 931 (ii) does not define the meaning of "insured" as used in an insurance policy or
- 932 certificate; and
- 933 (iii) includes an enrollee.
- 934 [~~(101)~~] (104) (a) "Insurer," "carrier," "insurance carrier," or "insurance company"
- 935 means a person doing an insurance business as a principal including:
- 936 (i) a fraternal benefit society;
- 937 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
- 938 [31A-22-1305](#)(2) and (3);
- 939 (iii) a motor club;
- 940 (iv) an employee welfare plan;
- 941 (v) a person purporting or intending to do an insurance business as a principal on that
- 942 person's own account; and
- 943 (vi) a health maintenance organization.
- 944 (b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a
- 945 governmental entity.
- 946 [~~(102)~~] (105) "Interinsurance exchange" means the same as that term is defined in
- 947 Subsection [~~(163):~~] (168).
- 948 [~~(103)~~] (106) "Internationally active insurance group" means an insurance holding
- 949 company system:
- 950 (a) that includes an insurer registered under Section [31A-16-105](#);
- 951 (b) that has premiums written in at least three countries;
- 952 (c) whose percentage of gross premiums written outside the United States is at least
- 953 10% of its total gross written premiums; and
- 954 (d) that, based on a three-year rolling average, has:
- 955 (i) total assets of at least \$50,000,000,000; or

956 (ii) total gross written premiums of at least \$10,000,000,000.
957 [~~(104)~~] (107) "Involuntary unemployment insurance" means insurance:
958 (a) offered in connection with an extension of credit; and
959 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
960 coming due on a:
961 (i) specific loan; or
962 (ii) credit transaction.
963 [~~(105)~~] (108) "Large employer," in connection with a health benefit plan, means an
964 employer who, with respect to a calendar year and to a plan year:
965 (a) employed an average of at least 51 employees on business days during the
966 preceding calendar year; and
967 (b) employs at least one employee on the first day of the plan year.
968 [~~(106)~~] (109) "Late enrollee," with respect to an employer health benefit plan, means
969 an individual whose enrollment is a late enrollment.
970 [~~(107)~~] (110) "Late enrollment," with respect to an employer health benefit plan, means
971 enrollment of an individual other than:
972 (a) on the earliest date on which coverage can become effective for the individual
973 under the terms of the plan; or
974 (b) through special enrollment.
975 [~~(108)~~] (111) (a) Except for a retainer contract or legal assistance described in Section
976 [31A-1-103](#), "legal expense insurance" means insurance written to indemnify or pay for a
977 specified legal expense.
978 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
979 expectation of an enforceable right.
980 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,
981 legal services incidental to other insurance coverage.
982 [~~(109)~~] (112) (a) "Liability insurance" means insurance against liability:
983 (i) for death, injury, or disability of a human being, or for damage to property,
984 exclusive of the coverages under:
985 (A) medical malpractice insurance;
986 (B) professional liability insurance; and

- 987 (C) workers' compensation insurance;
- 988 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the
- 989 insured who is injured, irrespective of legal liability of the insured, when issued with or
- 990 supplemental to insurance against legal liability for the death, injury, or disability of a human
- 991 being, exclusive of the coverages under:
- 992 (A) medical malpractice insurance;
- 993 (B) professional liability insurance; and
- 994 (C) workers' compensation insurance;
- 995 (iii) for loss or damage to property resulting from an accident to or explosion of a
- 996 boiler, pipe, pressure container, machinery, or apparatus;
- 997 (iv) for loss or damage to property caused by:
- 998 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or
- 999 (B) water entering through a leak or opening in a building; or
- 1000 (v) for other loss or damage properly the subject of insurance not within another kind
- 1001 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.
- 1002 (b) "Liability insurance" includes:
- 1003 (i) vehicle liability insurance;
- 1004 (ii) residential dwelling liability insurance; and
- 1005 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,
- 1006 boiler, machinery, or apparatus of any kind when done in connection with insurance on the
- 1007 elevator, boiler, machinery, or apparatus.
- 1008 [~~HH~~] (113) (a) "License" means authorization issued by the commissioner to engage
- 1009 in an activity that is part of or related to the insurance business.
- 1010 (b) "License" includes a certificate of authority issued to an insurer.
- 1011 [~~HH~~] (114) (a) "Life insurance" means:
- 1012 (i) insurance on a human life; and
- 1013 (ii) insurance pertaining to or connected with human life.
- 1014 (b) The business of life insurance includes:
- 1015 (i) granting a death benefit;
- 1016 (ii) granting an annuity benefit;
- 1017 (iii) granting an endowment benefit;

- 1018 (iv) granting an additional benefit in the event of death by accident;
- 1019 (v) granting an additional benefit to safeguard the policy against lapse; and
- 1020 (vi) providing an optional method of settlement of proceeds.
- 1021 [~~(H2)~~] (115) "Limited license" means a license that:
- 1022 (a) is issued for a specific product of insurance; and
- 1023 (b) limits an individual or agency to transact only for that product or insurance.
- 1024 [~~(H3)~~] (116) "Limited line credit insurance" includes the following forms of
- 1025 insurance:
- 1026 (a) credit life;
- 1027 (b) credit accident and health;
- 1028 (c) credit property;
- 1029 (d) credit unemployment;
- 1030 (e) involuntary unemployment;
- 1031 (f) mortgage life;
- 1032 (g) mortgage guaranty;
- 1033 (h) mortgage accident and health;
- 1034 (i) guaranteed automobile protection; and
- 1035 (j) another form of insurance offered in connection with an extension of credit that:
- 1036 (i) is limited to partially or wholly extinguishing the credit obligation; and
- 1037 (ii) the commissioner determines by rule should be designated as a form of limited line
- 1038 credit insurance.
- 1039 [~~(H4)~~] (117) "Limited line credit insurance producer" means a person who sells,
- 1040 solicits, or negotiates one or more forms of limited line credit insurance coverage to an
- 1041 individual through a master, corporate, group, or individual policy.
- 1042 [~~(H5)~~] (118) "Limited line insurance" includes:
- 1043 (a) bail bond;
- 1044 (b) limited line credit insurance;
- 1045 (c) legal expense insurance;
- 1046 (d) motor club insurance;
- 1047 (e) car rental related insurance;
- 1048 (f) travel insurance;

- 1049 (g) crop insurance;
- 1050 (h) self-service storage insurance;
- 1051 (i) guaranteed asset protection waiver;
- 1052 (j) portable electronics insurance; and
- 1053 (k) another form of limited insurance that the commissioner determines by rule should
- 1054 be designated a form of limited line insurance.

1055 [~~(116)~~] (119) "Limited lines authority" includes the lines of insurance listed in

1056 Subsection [~~(115)~~] (118).

1057 [~~(117)~~] (120) "Limited lines producer" means a person who sells, solicits, or negotiates

1058 limited lines insurance.

1059 [~~(118)~~] (121) (a) "Long-term care insurance" means an insurance policy or rider

1060 advertised, marketed, offered, or designated to provide coverage:

- 1061 (i) in a setting other than an acute care unit of a hospital;
- 1062 (ii) for not less than 12 consecutive months for a covered person on the basis of:
 - 1063 (A) expenses incurred;
 - 1064 (B) indemnity;
 - 1065 (C) prepayment; or
 - 1066 (D) another method;
- 1067 (iii) for one or more necessary or medically necessary services that are:
 - 1068 (A) diagnostic;
 - 1069 (B) preventative;
 - 1070 (C) therapeutic;
 - 1071 (D) rehabilitative;
 - 1072 (E) maintenance; or
 - 1073 (F) personal care; and
- 1074 (iv) that may be issued by:
 - 1075 (A) an insurer;
 - 1076 (B) a fraternal benefit society;
 - 1077 (C) (I) a nonprofit health hospital; and
 - 1078 (II) a medical service corporation;
 - 1079 (D) a prepaid health plan;

- 1080 (E) a health maintenance organization; or
- 1081 (F) an entity similar to the entities described in Subsections [~~(118)(a)(iv)(A)~~
- 1082 (121)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or
- 1083 health care insurance.
- 1084 (b) "Long-term care insurance" includes:
- 1085 (i) any of the following that provide directly or supplement long-term care insurance:
- 1086 (A) a group or individual annuity or rider; or
- 1087 (B) a life insurance policy or rider;
- 1088 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 1089 (A) cognitive impairment; or
- 1090 (B) functional capacity; or
- 1091 (iii) a qualified long-term care insurance contract.
- 1092 (c) "Long-term care insurance" does not include:
- 1093 (i) a policy that is offered primarily to provide basic Medicare supplement [~~coverage~~
- 1094 insurance;
- 1095 (ii) basic hospital expense coverage;
- 1096 (iii) basic medical/surgical expense coverage;
- 1097 (iv) hospital confinement indemnity coverage;
- 1098 (v) major medical expense coverage;
- 1099 (vi) income replacement or related asset-protection coverage;
- 1100 (vii) accident only coverage;
- 1101 (viii) coverage for a specified:
- 1102 (A) disease; or
- 1103 (B) accident;
- 1104 (ix) limited benefit health coverage;
- 1105 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 1106 lump sum payment:
- 1107 (A) if the following are not conditioned on the receipt of long-term care:
- 1108 (I) benefits; or
- 1109 (II) eligibility; and
- 1110 (B) the coverage is for one or more the following qualifying events:

- 1111 (I) terminal illness;
- 1112 (II) medical conditions requiring extraordinary medical intervention; or
- 1113 (III) permanent institutional confinement; or
- 1114 (xi) limited long-term care as defined in Section [31A-22-2002](#).
- 1115 ~~[(119)]~~ (122) "Managed care organization" means a person:
- 1116 (a) licensed as a health maintenance organization under Chapter 8, Health Maintenance
- 1117 Organizations and Limited Health Plans; or
- 1118 (b) (i) licensed under:
- 1119 (A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 1120 (B) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 1121 (C) Chapter 14, Foreign Insurers; and
- 1122 (ii) that requires an enrollee to use, or offers incentives, including financial incentives,
- 1123 for an enrollee to use, network providers.
- 1124 ~~[(120)]~~ (123) "Medical malpractice insurance" means insurance against legal liability
- 1125 incident to the practice and provision of a medical service other than the practice and provision
- 1126 of a dental service.
- 1127 (124) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the
- 1128 federal Social Security Act, as then constituted or later amended.
- 1129 (125) (a) "Medicare supplement insurance" means health insurance coverage that is
- 1130 advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare
- 1131 for the hospital, medical, or surgical expenses of individuals eligible for Medicare.
- 1132 (b) "Medicare supplement insurance" does not include:
- 1133 (i) a policy issued pursuant to a contract under Section 1876 of the federal Social
- 1134 Security Act;
- 1135 (ii) a policy issued under a demonstration project specified in 42 U.S.C. Sec.
- 1136 1395ss(g)(1);
- 1137 (iii) a Medicare Advantage plan established under Medicare Part C;
- 1138 (iv) an outpatient prescription drug plan established under Medicare Part D; or
- 1139 (v) any health care prepayment plan that provides benefits pursuant to an agreement
- 1140 under Section 1833(a)(1)(A) of the Social Security Act.
- 1141 ~~[(121)]~~ (126) "Member" means a person having membership rights in an insurance

1142 corporation.

1143 ~~[(122)]~~ (127) "Minimum capital" or "minimum required capital" means the capital that
1144 must be constantly maintained by a stock insurance corporation as required by statute.

1145 ~~[(123)]~~ (128) "Mortgage accident and health insurance" means insurance offered in
1146 connection with an extension of credit that provides indemnity for payments coming due on a
1147 mortgage while the debtor has a disability.

1148 ~~[(124)]~~ (129) "Mortgage guaranty insurance" means surety insurance under which a
1149 mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

1150 ~~[(125)]~~ (130) "Mortgage life insurance" means insurance on the life of a debtor in
1151 connection with an extension of credit that pays if the debtor dies.

1152 ~~[(126)]~~ (131) "Motor club" means a person:

1153 (a) licensed under:

1154 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

1155 (ii) Chapter 11, Motor Clubs; or

1156 (iii) Chapter 14, Foreign Insurers; and

1157 (b) that promises for an advance consideration to provide for a stated period of time

1158 one or more:

1159 (i) legal services under Subsection [31A-11-102\(1\)\(b\)](#);

1160 (ii) bail services under Subsection [31A-11-102\(1\)\(c\)](#); or

1161 (iii) (A) trip reimbursement;

1162 (B) towing services;

1163 (C) emergency road services;

1164 (D) stolen automobile services;

1165 (E) a combination of the services listed in Subsections ~~[(126)(b)(iii)(A)]~~

1166 [\(131\)\(b\)\(iii\)\(A\)](#) through (D); or

1167 (F) other services given in Subsections [31A-11-102\(1\)\(b\)](#) through (f).

1168 ~~[(127)]~~ (132) "Mutual" means a mutual insurance corporation.

1169 ~~[(128)]~~ (133) "NAIC" means the National Association of Insurance Commissioners.

1170 ~~[(129)]~~ (134) "NAIC liquidity stress test framework" means a NAIC publication that
1171 includes:

1172 (a) a history of the NAIC's development of regulatory liquidity stress testing;

- 1173 (b) the scope criteria applicable for a specific data year; and
- 1174 (c) the liquidity stress test instructions and reporting templates for a specific data year,
1175 as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.
- 1176 ~~[(130)]~~ (135) "Network plan" means health care insurance:
- 1177 (a) that is issued by an insurer; and
- 1178 (b) under which the financing and delivery of medical care is provided, in whole or in
1179 part, through a defined set of providers under contract with the insurer, including the financing
1180 and delivery of an item paid for as medical care.
- 1181 ~~[(131)]~~ (136) "Network provider" means a health care provider who has an agreement
1182 with a managed care organization to provide health care services to an enrollee with an
1183 expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly
1184 from the managed care organization.
- 1185 ~~[(132)]~~ (137) "Nonparticipating" means a plan of insurance under which the insured is
1186 not entitled to receive a dividend representing a share of the surplus of the insurer.
- 1187 ~~[(133)]~~ (138) "Ocean marine insurance" means insurance against loss of or damage to:
- 1188 (a) ships or hulls of ships;
- 1189 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money,
1190 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
1191 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
- 1192 (c) earnings such as freight, passage money, commissions, or profits derived from
1193 transporting goods or people upon or across the oceans or inland waterways; or
- 1194 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
1195 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons
1196 in connection with maritime activity.
- 1197 ~~[(134)]~~ (139) "Order" means an order of the commissioner.
- 1198 ~~[(135)]~~ (140) "ORSA guidance manual" means the current version of the Own Risk
1199 and Solvency Assessment Guidance Manual developed and adopted by the National
1200 Association of Insurance Commissioners and as amended from time to time.
- 1201 ~~[(136)]~~ (141) "ORSA summary report" means a confidential high-level summary of an
1202 insurer or insurance group's own risk and solvency assessment.
- 1203 ~~[(137)]~~ (142) "Outline of coverage" means a summary that explains an accident and

1204 health insurance policy.

1205 ~~[(138)]~~ (143) "Own risk and solvency assessment" means an insurer or insurance
1206 group's confidential internal assessment:

1207 (a) (i) of each material and relevant risk associated with the insurer or insurance group;

1208 (ii) of the insurer or insurance group's current business plan to support each risk

1209 described in Subsection ~~[(138)(a)(i);]~~ (143)(a)(i); and

1210 (iii) of the sufficiency of capital resources to support each risk described in Subsection
1211 ~~[(138)(a)(i);]~~ (143)(a)(i); and

1212 (b) that is appropriate to the nature, scale, and complexity of an insurer or insurance
1213 group.

1214 ~~[(139)]~~ (144) "Participating" means a plan of insurance under which the insured is
1215 entitled to receive a dividend representing a share of the surplus of the insurer.

1216 ~~[(140)]~~ (145) "Participation," as used in a health benefit plan, means a requirement
1217 relating to the minimum percentage of eligible employees that must be enrolled in relation to
1218 the total number of eligible employees of an employer reduced by each eligible employee who
1219 voluntarily declines coverage under the plan because the employee:

1220 (a) has other group health care insurance coverage; or

1221 (b) receives:

1222 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social
1223 Security Amendments of 1965; or

1224 (ii) another government health benefit.

1225 ~~[(141)]~~ (146) "Person" includes:

1226 (a) an individual;

1227 (b) a partnership;

1228 (c) a corporation;

1229 (d) an incorporated or unincorporated association;

1230 (e) a joint stock company;

1231 (f) a trust;

1232 (g) a limited liability company;

1233 (h) a reciprocal;

1234 (i) a syndicate; or

- 1235 (j) another similar entity or combination of entities acting in concert.
- 1236 [~~(142)~~] (147) "Personal lines insurance" means property and casualty insurance
- 1237 coverage sold for primarily noncommercial purposes to:
- 1238 (a) an individual; or
- 1239 (b) a family.
- 1240 [~~(143)~~] (148) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec.
- 1241 1002(16)(B).
- 1242 [~~(144)~~] (149) "Plan year" means:
- 1243 (a) the year that is designated as the plan year in:
- 1244 (i) the plan document of a group health plan; or
- 1245 (ii) a summary plan description of a group health plan;
- 1246 (b) if the plan document or summary plan description does not designate a plan year or
- 1247 there is no plan document or summary plan description:
- 1248 (i) the year used to determine deductibles or limits;
- 1249 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 1250 or
- 1251 (iii) the employer's taxable year if:
- 1252 (A) the plan does not impose deductibles or limits on a yearly basis; and
- 1253 (B) (I) the plan is not insured; or
- 1254 (II) the insurance policy is not renewed on an annual basis; or
- 1255 (c) in a case not described in Subsection [~~(144)(a)~~] (149)(a) or (b), the calendar year.
- 1256 [~~(145)~~] (150) (a) "Policy" means a document, including an attached endorsement or
- 1257 application that:
- 1258 (i) purports to be an enforceable contract; and
- 1259 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 1260 (b) "Policy" includes a service contract issued by:
- 1261 (i) a motor club under Chapter 11, Motor Clubs;
- 1262 (ii) a service contract provided under Chapter 6a, Service Contracts; and
- 1263 (iii) a corporation licensed under:
- 1264 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
- 1265 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

- 1266 (c) "Policy" does not include:
- 1267 (i) a certificate under a group insurance contract; or
- 1268 (ii) a document that does not purport to have legal effect.
- 1269 ~~[(146)]~~ (151) "Policyholder" means a person who controls a policy, binder, or oral
- 1270 contract by ownership, premium payment, or otherwise.
- 1271 ~~[(147)]~~ (152) "Policy illustration" means a presentation or depiction that includes
- 1272 nonguaranteed elements of a policy offering life insurance over a period of years.
- 1273 ~~[(148)]~~ (153) "Policy summary" means a synopsis describing the elements of a life
- 1274 insurance policy.
- 1275 ~~[(149)]~~ (154) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L.
- 1276 No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152,
- 1277 and related federal regulations and guidance.
- 1278 ~~[(150)]~~ (155) "Preexisting condition," with respect to health care insurance:
- 1279 (a) means a condition that was present before the effective date of coverage, whether or
- 1280 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
- 1281 and
- 1282 (b) does not include a condition indicated by genetic information unless an actual
- 1283 diagnosis of the condition by a physician has been made.
- 1284 ~~[(151)]~~ (156) (a) "Premium" means the monetary consideration for an insurance policy.
- 1285 (b) "Premium" includes, however designated:
- 1286 (i) an assessment;
- 1287 (ii) a membership fee;
- 1288 (iii) a required contribution; or
- 1289 (iv) monetary consideration.
- 1290 (c) (i) "Premium" does not include consideration paid to a third party administrator for
- 1291 the third party administrator's services.
- 1292 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
- 1293 insurance on the risks administered by the third party administrator.
- 1294 ~~[(152)]~~ (157) "Principal officers" for a corporation means the officers designated under
- 1295 Subsection [31A-5-203\(3\)](#).
- 1296 ~~[(153)]~~ (158) "Proceeding" includes an action or special statutory proceeding.

1297 [~~(154)~~] (159) "Professional liability insurance" means insurance against legal liability
1298 incident to the practice of a profession and provision of a professional service.

1299 [~~(155)~~] (160) (a) "Property insurance" means insurance against loss or damage to real
1300 or personal property of every kind and any interest in that property:

1301 (i) from all hazards or causes; and

1302 (ii) against loss consequential upon the loss or damage including vehicle
1303 comprehensive and vehicle physical damage coverages.

1304 (b) "Property insurance" does not include:

1305 (i) inland marine insurance; and

1306 (ii) ocean marine insurance.

1307 [~~(156)~~] (161) "Qualified long-term care insurance contract" or "federally tax qualified
1308 long-term care insurance contract" means:

1309 (a) an individual or group insurance contract that meets the requirements of Section
1310 7702B(b), Internal Revenue Code; or

1311 (b) the portion of a life insurance contract that provides long-term care insurance:

1312 (i) (A) by rider; or

1313 (B) as a part of the contract; and

1314 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
1315 Code.

1316 [~~(157)~~] (162) "Qualified United States financial institution" means an institution that:

1317 (a) is:

1318 (i) organized under the laws of the United States or any state; or

1319 (ii) in the case of a United States office of a foreign banking organization, licensed
1320 under the laws of the United States or any state;

1321 (b) is regulated, supervised, and examined by a United States federal or state authority
1322 having regulatory authority over a bank or trust company; and

1323 (c) meets the standards of financial condition and standing that are considered
1324 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
1325 will be acceptable to the commissioner as determined by:

1326 (i) the commissioner by rule; or

1327 (ii) the Securities Valuation Office of the National Association of Insurance

1328 Commissioners.

1329 [~~158~~] (163) (a) "Rate" means:

1330 (i) the cost of a given unit of insurance; or

1331 (ii) for property or casualty insurance, that cost of insurance per exposure unit either

1332 expressed as:

1333 (A) a single number; or

1334 (B) a pure premium rate, adjusted before the application of individual risk variations

1335 based on loss or expense considerations to account for the treatment of:

1336 (I) expenses;

1337 (II) profit; and

1338 (III) individual insurer variation in loss experience.

1339 (b) "Rate" does not include a minimum premium.

1340 [~~159~~] (164) (a) "Rate service organization" means a person who assists an insurer in
1341 rate making or filing by:

1342 (i) collecting, compiling, and furnishing loss or expense statistics;

1343 (ii) recommending, making, or filing rates or supplementary rate information; or

1344 (iii) advising about rate questions, except as an attorney giving legal advice.

1345 (b) "Rate service organization" does not include:

1346 (i) an employee of an insurer;

1347 (ii) a single insurer or group of insurers under common control;

1348 (iii) a joint underwriting group; or

1349 (iv) an individual serving as an actuarial or legal consultant.

1350 [~~160~~] (165) "Rating manual" means any of the following used to determine initial and
1351 renewal policy premiums:

1352 (a) a manual of rates;

1353 (b) a classification;

1354 (c) a rate-related underwriting rule; and

1355 (d) a rating formula that describes steps, policies, and procedures for determining

1356 initial and renewal policy premiums.

1357 [~~161~~] (166) (a) "Rebate" means a licensee paying, allowing, giving, or offering to
1358 pay, allow, or give, directly or indirectly:

- 1359 (i) a refund of premium or portion of premium;
- 1360 (ii) a refund of commission or portion of commission;
- 1361 (iii) a refund of all or a portion of a consultant fee; or
- 1362 (iv) providing services or other benefits not specified in an insurance or annuity
- 1363 contract.
- 1364 (b) "Rebate" does not include:
- 1365 (i) a refund due to termination or changes in coverage;
- 1366 (ii) a refund due to overcharges made in error by the licensee; or
- 1367 (iii) savings or wellness benefits as provided in the contract by the licensee.
- 1368 [~~(162)~~] (167) "Received by the department" means:
- 1369 (a) the date delivered to and stamped received by the department, if delivered in
- 1370 person;
- 1371 (b) the post mark date, if delivered by mail;
- 1372 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 1373 (d) the received date recorded on an item delivered, if delivered by:
- 1374 (i) facsimile;
- 1375 (ii) email; or
- 1376 (iii) another electronic method; or
- 1377 (e) a date specified in:
- 1378 (i) a statute;
- 1379 (ii) a rule; or
- 1380 (iii) an order.
- 1381 [~~(163)~~] (168) "Reciprocal" or "interinsurance exchange" means an unincorporated
- 1382 association of persons:
- 1383 (a) operating through an attorney-in-fact common to all of the persons; and
- 1384 (b) exchanging insurance contracts with one another that provide insurance coverage
- 1385 on each other.
- 1386 [~~(164)~~] (169) "Reinsurance" means an insurance transaction where an insurer, for
- 1387 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to
- 1388 reinsurance transactions, this title sometimes refers to:
- 1389 (a) the insurer transferring the risk as the "ceding insurer"; and

1390 (b) the insurer assuming the risk as the:

1391 (i) "assuming insurer"; or

1392 (ii) "assuming reinsurer."

1393 [~~(165)~~] (170) "Reinsurer" means a person licensed in this state as an insurer with the

1394 authority to assume reinsurance.

1395 [~~(166)~~] (171) "Residential dwelling liability insurance" means insurance against

1396 liability resulting from or incident to the ownership, maintenance, or use of a residential

1397 dwelling that is a detached single family residence or multifamily residence up to four units.

1398 [~~(167)~~] (172) (a) "Retrocession" means reinsurance with another insurer of a liability

1399 assumed under a reinsurance contract.

1400 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a

1401 liability assumed under a reinsurance contract.

1402 [~~(168)~~] (173) "Rider" means an endorsement to:

1403 (a) an insurance policy; or

1404 (b) an insurance certificate.

1405 [~~(169)~~] (174) "Scope criteria" means the designated exposure bases and minimum

1406 magnitudes for a specified data year that are used to establish a preliminary list of insurers

1407 considered scoped into the NAIC liquidity stress test framework for that data year.

1408 [~~(170)~~] (175) "Secondary medical condition" means a complication related to an

1409 exclusion from coverage in accident and health insurance.

1410 [~~(171)~~] (176) (a) "Security" means a:

1411 (i) note;

1412 (ii) stock;

1413 (iii) bond;

1414 (iv) debenture;

1415 (v) evidence of indebtedness;

1416 (vi) certificate of interest or participation in a profit-sharing agreement;

1417 (vii) collateral-trust certificate;

1418 (viii) preorganization certificate or subscription;

1419 (ix) transferable share;

1420 (x) investment contract;

- 1421 (xi) voting trust certificate;
- 1422 (xii) certificate of deposit for a security;
- 1423 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
1424 payments out of production under such a title or lease;
- 1425 (xiv) commodity contract or commodity option;
- 1426 (xv) certificate of interest or participation in, temporary or interim certificate for,
1427 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
1428 in Subsections [~~(171)(a)(i)~~] (176)(a)(i) through (xiv); or
- 1429 (xvi) another interest or instrument commonly known as a security.
- 1430 (b) "Security" does not include:
- 1431 (i) any of the following under which an insurance company promises to pay money in a
1432 specific lump sum or periodically for life or some other specified period:
- 1433 (A) insurance;
- 1434 (B) an endowment policy; or
- 1435 (C) an annuity contract; or
- 1436 (ii) a burial certificate or burial contract.
- 1437 [~~(172)~~] (177) "Securityholder" means a specified person who owns a security of a
1438 person, including:
- 1439 (a) common stock;
- 1440 (b) preferred stock;
- 1441 (c) debt obligations; and
- 1442 (d) any other security convertible into or evidencing the right of any of the items listed
1443 in this Subsection [~~(172)~~] (177).
- 1444 [~~(173)~~] (178) (a) "Self-insurance" means an arrangement under which a person
1445 provides for spreading the person's own risks by a systematic plan.
- 1446 (b) "Self-insurance" includes:
- 1447 (i) an arrangement under which a governmental entity undertakes to indemnify an
1448 employee for liability arising out of the employee's employment; and
- 1449 (ii) an arrangement under which a person with a managed program of self-insurance
1450 and risk management undertakes to indemnify the person's affiliate, subsidiary, director,
1451 officer, or employee for liability or risk that arises out of the person's relationship with the

1452 affiliate, subsidiary, director, officer, or employee.

1453 (c) "Self-insurance" does not include:

1454 (i) an arrangement under which a number of persons spread their risks among
1455 themselves; or

1456 (ii) an arrangement with an independent contractor.

1457 ~~[(174)]~~ (179) "Sell" means to exchange a contract of insurance:

1458 (a) by any means;

1459 (b) for money or its equivalent; and

1460 (c) on behalf of an insurance company.

1461 ~~[(175)]~~ (180) "Short-term limited duration health insurance" means a health benefit
1462 product that:

1463 (a) after taking into account any renewals or extensions, has a total duration of no more
1464 than 36 months; and

1465 (b) has an expiration date specified in the contract that is less than 12 months after the
1466 original effective date of coverage under the health benefit product.

1467 ~~[(176)]~~ (181) "Significant break in coverage" means a period of 63 consecutive days
1468 during each of which an individual does not have creditable coverage.

1469 ~~[(177)]~~ (182) (a) "Small employer" means, in connection with a health benefit plan and
1470 with respect to a calendar year and to a plan year, an employer who:

1471 (i) (A) employed at least one but not more than 50 eligible employees on business days
1472 during the preceding calendar year; or

1473 (B) if the employer did not exist for the entirety of the preceding calendar year,
1474 reasonably expects to employ an average of at least one but not more than 50 eligible
1475 employees on business days during the current calendar year;

1476 (ii) employs at least one employee on the first day of the plan year; and

1477 (iii) for an employer who has common ownership with one or more other employers, is
1478 treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

1479 (b) "Small employer" does not include an owner or a sole proprietor that does not
1480 employ at least one employee.

1481 ~~[(178)]~~ (183) "Special enrollment period," in connection with a health benefit plan, has
1482 the same meaning as provided in federal regulations adopted pursuant to the Health Insurance

1483 Portability and Accountability Act.

1484 ~~[(179)]~~ (184) (a) "Subsidiary" of a person means an affiliate controlled by that person
1485 either directly or indirectly through one or more affiliates or intermediaries.

1486 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
1487 shares are owned by that person either alone or with its affiliates, except for the minimum
1488 number of shares the law of the subsidiary's domicile requires to be owned by directors or
1489 others.

1490 ~~[(180)]~~ (185) Subject to Subsection ~~[(92)(b);]~~ (95)(b), "surety insurance" includes:

1491 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1492 perform the principal's obligations to a creditor or other obligee;

1493 (b) bail bond insurance; and

1494 (c) fidelity insurance.

1495 ~~[(181)]~~ (186) (a) "Surplus" means the excess of assets over the sum of paid-in capital
1496 and liabilities.

1497 (b) (i) "Permanent surplus" means the surplus of an insurer or organization that is
1498 designated by the insurer or organization as permanent.

1499 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require
1500 that insurers or organizations doing business in this state maintain specified minimum levels of
1501 permanent surplus.

1502 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
1503 same as the minimum required capital requirement that applies to stock insurers.

1504 (c) "Excess surplus" means:

1505 (i) for a life insurer, accident and health insurer, health organization, or property and
1506 casualty insurer as defined in Section 31A-17-601, the lesser of:

1507 (A) that amount of an insurer's or health organization's total adjusted capital that
1508 exceeds the product of:

1509 (I) 2.5; and

1510 (II) the sum of the insurer's or health organization's minimum capital or permanent
1511 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1512 (B) that amount of an insurer's or health organization's total adjusted capital that
1513 exceeds the product of:

- 1514 (I) 3.0; and
1515 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and
1516 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
1517 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:
1518 (A) 1.5; and
1519 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).
- 1520 [~~182~~] (187) "Third party administrator" or "administrator" means a person who
1521 collects charges or premiums from, or who, for consideration, adjusts or settles claims of
1522 residents of the state in connection with insurance coverage, annuities, or service insurance
1523 coverage, except:
- 1524 (a) a union on behalf of its members;
1525 (b) a person administering a:
1526 (i) pension plan subject to the federal Employee Retirement Income Security Act of
1527 1974;
1528 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or
1529 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;
1530 (c) an employer on behalf of the employer's employees or the employees of one or
1531 more of the subsidiary or affiliated corporations of the employer;
1532 (d) an insurer licensed under the following, but only for a line of insurance for which
1533 the insurer holds a license in this state:
1534 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
1535 (ii) Chapter 7, Nonprofit Health Service Insurance Corporations;
1536 (iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
1537 (iv) Chapter 9, Insurance Fraternal; or
1538 (v) Chapter 14, Foreign Insurers;
1539 (e) a person:
1540 (i) licensed or exempt from licensing under:
1541 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1542 Reinsurance Intermediaries; or
1543 (B) Chapter 26, Insurance Adjusters; and
1544 (ii) whose activities are limited to those authorized under the license the person holds

1545 or for which the person is exempt; or

1546 (f) an institution, bank, or financial institution:

1547 (i) that is:

1548 (A) an institution whose deposits and accounts are to any extent insured by a federal
1549 deposit insurance agency, including the Federal Deposit Insurance Corporation or National
1550 Credit Union Administration; or

1551 (B) a bank or other financial institution that is subject to supervision or examination by
1552 a federal or state banking authority; and

1553 (ii) that does not adjust claims without a third party administrator license.

1554 [~~(183)~~] (188) "Title insurance" means the insuring, guaranteeing, or indemnifying of an
1555 owner of real or personal property or the holder of liens or encumbrances on that property, or
1556 others interested in the property against loss or damage suffered by reason of liens or
1557 encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity
1558 or unenforceability of any liens or encumbrances on the property.

1559 [~~(184)~~] (189) "Total adjusted capital" means the sum of an insurer's or health
1560 organization's statutory capital and surplus as determined in accordance with:

1561 (a) the statutory accounting applicable to the annual financial statements required to be
1562 filed under Section 31A-4-113; and

1563 (b) another item provided by the RBC instructions, as RBC instructions is defined in
1564 Section 31A-17-601.

1565 [~~(185)~~] (190) (a) "Trustee" means "director" when referring to the board of directors of
1566 a corporation.

1567 (b) "Trustee," when used in reference to an employee welfare fund, means an
1568 individual, firm, association, organization, joint stock company, or corporation, whether acting
1569 individually or jointly and whether designated by that name or any other, that is charged with
1570 or has the overall management of an employee welfare fund.

1571 [~~(186)~~] (191) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted
1572 insurer" means an insurer:

1573 (i) not holding a valid certificate of authority to do an insurance business in this state;

1574 or

1575 (ii) transacting business not authorized by a valid certificate.

- 1576 (b) "Admitted insurer" or "authorized insurer" means an insurer:
1577 (i) holding a valid certificate of authority to do an insurance business in this state; and
1578 (ii) transacting business as authorized by a valid certificate.
- 1579 ~~[(187)]~~ (192) "Underwrite" means the authority to accept or reject risk on behalf of the
1580 insurer.
- 1581 ~~[(188)]~~ (193) "Vehicle liability insurance" means insurance against liability resulting
1582 from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a
1583 vehicle comprehensive or vehicle physical damage coverage described in Subsection ~~[(155);]~~
1584 (160).
- 1585 ~~[(189)]~~ (194) "Voting security" means a security with voting rights, and includes a
1586 security convertible into a security with a voting right associated with the security.
- 1587 ~~[(190)]~~ (195) "Waiting period" for a health benefit plan means the period that must
1588 pass before coverage for an individual, who is otherwise eligible to enroll under the terms of
1589 the health benefit plan, can become effective.
- 1590 ~~[(191)]~~ (196) "Workers' compensation insurance" means:
1591 (a) insurance for indemnification of an employer against liability for compensation
1592 based on:
1593 (i) a compensable accidental injury; and
1594 (ii) occupational disease disability;
1595 (b) employer's liability insurance incidental to workers' compensation insurance and
1596 written in connection with workers' compensation insurance; and
1597 (c) insurance assuring to a person entitled to workers' compensation benefits the
1598 compensation provided by law.
- 1599 Section 3. Section **31A-2-201.2** is amended to read:
1600 **31A-2-201.2. Evaluation of health insurance market.**
1601 (1) (a) Each year the commissioner shall:
1602 ~~[(a)]~~ (i) conduct an evaluation of the state's health insurance market;
1603 ~~[(b)]~~ (ii) report the findings of the evaluation to the ~~[Health and Human Services~~
1604 ~~Interim Committee]~~ Office of Legislative Research and General Counsel before ~~[December 1]~~
1605 February 1 of each year; and
1606 ~~[(c)]~~ (iii) publish the findings of the evaluation on the department website.

1607 (b) After the president of the Senate and the speaker of the House of Representatives
1608 appoint members to the Health and Human Services Interim Committee for the year in which
1609 the Office of Legislative Research and General Counsel receives a report under this subsection,
1610 the Office of Legislative Research and General Counsel shall provide a copy of the report to
1611 each member of the committee.

1612 (2) The evaluation required by this section shall:

1613 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a
1614 healthy, competitive health insurance market that meets the needs of the state, and includes an
1615 analysis of:

1616 (i) the availability and marketing of individual and group products;

1617 (ii) rate changes;

1618 (iii) coverage and demographic changes;

1619 (iv) benefit trends;

1620 (v) market share changes; and

1621 (vi) accessibility;

1622 (b) assess complaint ratios and trends within the health insurance market, which
1623 assessment shall include complaint data from the Office of Consumer Health Assistance within
1624 the department;

1625 (c) contain recommendations for action to improve the overall effectiveness of the
1626 health insurance market, administrative rules, and statutes;

1627 (d) include claims loss ratio data for each health insurance company doing business in
1628 the state;

1629 (e) include information about pharmacy benefit managers collected under Section
1630 [31A-46-301](#); and

1631 (f) include information, for each health insurance company doing business in the state,
1632 regarding:

1633 (i) preauthorization determinations; and

1634 (ii) adverse benefit determinations.

1635 (3) When preparing the evaluation and report required by this section, the
1636 commissioner may seek the input of insurers, employers, insured persons, providers, and others
1637 with an interest in the health insurance market.

1638 (4) The commissioner may adopt administrative rules for the purpose of collecting the
1639 data required by this section, taking into account the business confidentiality of the insurers.

1640 (5) Records submitted to the commissioner under this section shall be maintained by
1641 the commissioner as protected records under Title 63G, Chapter 2, Government Records
1642 Access and Management Act.

1643 Section 4. Section **31A-2-211** is amended to read:

1644 **31A-2-211. Rules and forms during transition period.**

1645 (1) The commissioner's rules adopted under former Title 31 are rescinded unless
1646 continued under Subsection (3).

1647 (2) Between May 1, 1985, and July 1, 1986, the commissioner may prepare and adopt
1648 rules to implement or supplement provisions under Title 31A, Insurance Code. These rules are
1649 effective on July 1, 1986, or on the effective date of the particular provision, if that is later than
1650 July 1, 1986.

1651 ~~[(3) The commissioner may issue orders declaring that all or part of a rule in effect
1652 under former Title 31 remains in effect until a date specified under the order, which date may
1653 not be later than June 30, 1989. No rule continued under this subsection may be inconsistent
1654 with other provisions under Title 31A, Insurance Code. Notice of the order shall be given under
1655 Section [31A-2-303](#).]~~

1656 ~~[(4)]~~ (3) Every form used, issued, or required by the Insurance Department and
1657 approved by the commissioner or otherwise legitimately in use immediately prior to the
1658 effective date of this title may continue to be used until replaced in accordance with the
1659 provisions of this title.

1660 Section 5. Section **31A-2-215** is amended to read:

1661 **31A-2-215. Consumer education.**

1662 (1) In furtherance of the purposes in Section [31A-1-102](#), the commissioner may
1663 educate consumers about insurance and provide consumer assistance.

1664 (2) Consumer education may include:

1665 (a) outreach activities; and

1666 (b) the production or collection and dissemination of educational materials.

1667 (3) ~~[(a)]~~ Consumer assistance may include ~~[explaining]~~:

1668 (a) explaining:

- 1669 (i) the terms of a policy;
 1670 (ii) a policy's complaint, grievance, or adverse benefit determination procedure; and
 1671 (iii) the fundamentals of self-advocacy~~[-];~~ and

1672 (b) informal efforts to negotiate a resolution of a dispute between a consumer and a
 1673 licensee.

1674 (4) (a) Notwithstanding Subsection ~~[(3)(a);~~ (3) and Section [31A-2-216](#), consumer
 1675 assistance may not include:

1676 (i) commencing an administrative, judicial, or other proceeding against a licensee to
 1677 obtain specific relief from the licensee for a specific consumer; or

1678 (ii) ~~[testifying or representing a consumer in any grievance or adverse benefit~~
 1679 ~~determination, arbitration, judicial, or related proceeding, unless the proceeding is in~~
 1680 ~~connection with an enforcement action brought under Section [31A-2-308](#).]~~ otherwise
 1681 representing a consumer in any administrative, judicial, or other proceeding.

1682 (5) Nothing in this section prohibits the commissioner from taking enforcement action
 1683 for violations under Section [31A-2-308](#).

1684 ~~[(4)]~~ (6) The commissioner may adopt rules necessary to implement the requirements
 1685 of this section.

1686 Section 6. Section **31A-2-216** is amended to read:

1687 **31A-2-216. Office of Consumer Health Assistance.**

1688 (1) The commissioner shall establish~~[-(a)]~~ an Office of Consumer Health Assistance
 1689 before July 1, 1999~~[-and]~~.

1690 ~~[(b) a committee to advise the commissioner on consumer assistance rendered under~~
 1691 ~~this section.]~~

1692 (2) The office shall:

1693 (a) be a resource for health ~~[care]~~ insurance consumers concerning health ~~[care]~~
 1694 insurance coverage or the need for such coverage;

1695 (b) help health ~~[care]~~ insurance consumers understand:

1696 (i) contractual rights and responsibilities;

1697 (ii) statutory protections; and

1698 (iii) available remedies, including adverse benefit determination processes;

1699 (c) educate health ~~[care]~~ insurance consumers:

1700 (i) by producing or collecting and disseminating educational materials to consumers[~~;~~
1701 and health insurers~~[, and health benefit plans]~~; and

1702 (ii) through outreach and other educational activities;

1703 (d) for health [~~care~~] insurance consumers that have difficulty in accessing their health
1704 insurance policies because of language, disability, age, or ethnicity, provide information and
1705 services, directly or through referral~~[, such as:];~~

1706 [~~(i) information and referral; and~~]

1707 [~~(ii) adverse benefit determination process initiation;~~]

1708 (e) analyze and monitor federal and state consumer health~~[related]~~ insurance statutes,
1709 rules, and regulations; and

1710 (f) summarize information gathered under this section and make the summaries
1711 available to the public, government agencies, and the Legislature.

1712 (3) The office may:

1713 (a) obtain data from health [~~care~~] insurance consumers as necessary to further the
1714 office's duties under this section;

1715 (b) investigate complaints and attempt to resolve complaints at the lowest possible
1716 level; and

1717 (c) assist, but not testify or represent, a consumer in an adverse benefit determination,
1718 arbitration, judicial, or related proceeding, unless the proceeding is in connection with an
1719 enforcement action [~~brought~~] under Section [31A-2-308](#).

1720 (4) The commissioner may adopt rules necessary to implement the requirements of this
1721 section.

1722 Section 7. Section [31A-2-308](#) is amended to read:

1723 **[31A-2-308. Enforcement penalties and procedures.](#)**

1724 (1) (a) A person who violates any insurance statute or rule or any order issued under
1725 Subsection [31A-2-201](#)(4) shall forfeit to the state up to twice the amount of any profit gained
1726 from the violation, in addition to any other forfeiture or penalty imposed.

1727 (b) (i) The commissioner may order an individual producer, surplus line producer,
1728 limited line producer, managing general agent, reinsurance intermediary, adjuster, third party
1729 administrator, navigator, or insurance consultant who violates an insurance statute or rule to
1730 forfeit to the state not more than \$2,500 for each violation.

1731 (ii) The commissioner may order any other person who violates an insurance statute or
1732 rule to forfeit to the state not more than \$5,000 for each violation.

1733 (c) (i) The commissioner may order an individual producer, surplus line producer,
1734 limited line producer, managing general agent, reinsurance intermediary, adjuster, third party
1735 administrator, navigator, or insurance consultant who violates an order issued under Subsection
1736 31A-2-201(4) to forfeit to the state not more than \$2,500 for each violation. Each day the
1737 violation continues is a separate violation.

1738 (ii) The commissioner may order any other person who violates an order issued under
1739 Subsection 31A-2-201(4) to forfeit to the state not more than \$5,000 for each violation. Each
1740 day the violation continues is a separate violation.

1741 (d) The commissioner may accept or compromise any forfeiture [~~under this Subsection~~
1742 ~~(1) until after a complaint is filed under Subsection (2). After the filing of the complaint, only~~
1743 ~~the attorney general may compromise the forfeiture].~~

1744 (2) When a person fails to comply with an order issued under Subsection
1745 31A-2-201(4), including a forfeiture order, the commissioner may file an action in any court of
1746 competent jurisdiction or obtain a court order or judgment:

1747 (a) enforcing the commissioner's order;

1748 (b) (i) directing compliance with the commissioner's order and restraining further
1749 violation of the order; and

1750 (ii) subjecting the person ordered to the procedures and sanctions available to the court
1751 for punishing contempt if the failure to comply continues; or

1752 (c) imposing a forfeiture in an amount the court considers just, up to \$10,000 for each
1753 day the failure to comply continues after the filing of the complaint until judgment is rendered.

1754 (3) (a) The Utah Rules of Civil Procedure govern actions brought under Subsection (2),
1755 except that the commissioner may file a complaint seeking a court-ordered forfeiture under
1756 Subsection (2)(c) no sooner than two weeks after giving written notice of the commissioner's
1757 intention to proceed under Subsection (2)(c).

1758 (b) The commissioner's order issued under Subsection 31A-2-201(4) may contain a
1759 notice of intention to seek a court-ordered forfeiture if the commissioner's order is disobeyed.

1760 (4) If, after a court order is issued under Subsection (2), the person fails to comply with
1761 the commissioner's order or judgment:

1762 (a) the commissioner may certify the fact of the failure to the court by affidavit; and

1763 (b) the court may, after a hearing following at least five days written notice to the
1764 parties subject to the order or judgment, amend the order or judgment to add the forfeiture or
1765 forfeitures, as prescribed in Subsection (2)(c), until the person complies.

1766 (5) (a) The proceeds of the forfeitures under this section, including collection expenses,
1767 shall be paid into the General Fund.

1768 (b) The expenses of collection shall be credited to the department's budget.

1769 (c) The attorney general's budget shall be credited to the extent the department
1770 reimburses the attorney general's office for its collection expenses under this section.

1771 (6) (a) Forfeitures and judgments under this section bear interest at the rate charged by
1772 the United States Internal Revenue Service for past due taxes on the:

1773 (i) date of entry of the commissioner's order under Subsection (1); or

1774 (ii) date of judgment under Subsection (2).

1775 (b) Interest accrues from the later of the dates described in Subsection (6)(a) until the
1776 forfeiture and accrued interest are fully paid.

1777 (7) A forfeiture may not be imposed under Subsection (2)(c) if:

1778 (a) at the time the forfeiture action is commenced, the person was in compliance with
1779 the commissioner's order; or

1780 (b) the violation of the order occurred during the order's suspension.

1781 (8) The commissioner may seek an injunction as an alternative to issuing an order
1782 under Subsection 31A-2-201(4).

1783 (9) (a) A person is guilty of a class B misdemeanor if that person:

1784 (i) intentionally violates:

1785 (A) an insurance statute of this state; or

1786 (B) an order issued under Subsection 31A-2-201(4);

1787 (ii) intentionally permits a person over whom that person has authority to violate:

1788 (A) an insurance statute of this state; or

1789 (B) an order issued under Subsection 31A-2-201(4); or

1790 (iii) intentionally aids any person in violating:

1791 (A) an insurance statute of this state; or

1792 (B) an order issued under Subsection 31A-2-201(4).

1793 (b) Unless a specific criminal penalty is provided elsewhere in this title, the person may
1794 be fined not more than:

1795 (i) \$10,000 if a corporation; or

1796 (ii) \$5,000 if a person other than a corporation.

1797 (c) If the person is an individual, the person may, in addition, be imprisoned for up to
1798 one year.

1799 (d) As used in this Subsection (9), "intentionally" has the same meaning as under
1800 Subsection 76-2-103(1).

1801 (10) (a) A person who knowingly and intentionally violates Section 31A-4-102,
1802 31A-8a-208, 31A-15-105, 31A-23a-116, or 31A-31-111 is guilty of a felony as provided in this
1803 Subsection (10).

1804 (b) When the value of the property, money, or other things obtained or sought to be
1805 obtained in violation of Subsection (10)(a):

1806 (i) is less than \$5,000, a person is guilty of a third degree felony; or

1807 (ii) is or exceeds \$5,000, a person is guilty of a second degree felony.

1808 (11) (a) After a hearing, the commissioner may, in whole or in part, revoke, suspend,
1809 place on probation, limit, or refuse to renew the licensee's license or certificate of authority:

1810 (i) when a licensee of the department, other than a domestic insurer:

1811 (A) persistently or substantially violates the insurance law; or

1812 (B) violates an order of the commissioner under Subsection 31A-2-201(4);

1813 (ii) if there are grounds for delinquency proceedings against the licensee under Section
1814 31A-27a-207; or

1815 (iii) if the licensee's methods and practices in the conduct of the licensee's business
1816 endanger, or the licensee's financial resources are inadequate to safeguard, the legitimate
1817 interests of the licensee's customers and the public.

1818 (b) Additional license termination or probation provisions for licensees other than
1819 insurers are set forth in Sections 31A-19a-303, 31A-19a-304, 31A-23a-111, 31A-23a-112,
1820 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214, 31A-35-501, and 31A-35-503.

1821 (12) The enforcement penalties and procedures set forth in this section are not
1822 exclusive, but are cumulative of other rights and remedies the commissioner has pursuant to
1823 applicable law.

1824 Section 8. Section 31A-4-113.5 is amended to read:

1825 **31A-4-113.5. Filing requirements -- National Association of Insurance**

1826 **Commissioners.**

1827 (1) (a) Each domestic, foreign, and alien insurer who is authorized to transact insurance
1828 business in this state shall annually file with the NAIC a copy of the insurer's:

1829 (i) annual statement convention blank on or before March 1;

1830 (ii) market conduct annual statements[?] on or before the applicable date determined by
1831 the NAIC; and

1832 [~~(A) on or before April 30, for all lines of business except health; and]~~

1833 [~~(B) on or before June 30, for the health line of business; and]~~

1834 (iii) any additional filings required by the commissioner for the preceding year.

1835 (b) (i) The information filed with the NAIC under Subsection (1)(a)(i) shall:

1836 (A) be prepared in accordance with the NAIC's:

1837 (I) annual statement instructions; and

1838 (II) Accounting Practices and Procedures Manual; and

1839 (B) include:

1840 (I) the signed jurat page; and

1841 (II) the actuarial certification.

1842 (ii) An insurer shall file with the NAIC amendments and addenda to information filed
1843 with the commissioner under Subsection (1)(a)(i).

1844 (c) The information filed with the NAIC under Subsection (1)(a)(ii) shall be prepared
1845 in accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.

1846 (d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay
1847 any filing fees assessed by the NAIC.

1848 (e) A foreign insurer that is domiciled in a state that has a law substantially similar to
1849 this section shall be considered to be in compliance with this section.

1850 (2) All financial analysis ratios and examination synopses concerning insurance
1851 companies that are submitted to the department by the Insurance Regulatory Information
1852 System are confidential and may not be disclosed by the department.

1853 (3) The commissioner may suspend, revoke, or refuse to renew the certificate of
1854 authority of any insurer failing to:

1855 (a) submit the filings under Subsection (1)(a) when due or within any extension of time
 1856 granted for good cause by:

1857 (i) the commissioner; or

1858 (ii) the NAIC; or

1859 (b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay
 1860 under this section to:

1861 (i) the commissioner; or

1862 (ii) the NAIC.

1863 Section 9. Section **31A-6a-109** is amended to read:

1864 **31A-6a-109. Enforcement provisions.**

1865 [~~Anyone violating of any of the provisions of this chapter or any rule made pursuant to~~
 1866 ~~the grant of rulemaking authority under this title may be assessed an administrative forfeiture~~
 1867 ~~equal to two times the amount of any profit gained from the violation. In addition an~~
 1868 ~~administrative forfeiture may be assessed for each violation not to exceed \$1,000 per~~
 1869 ~~violation.]~~

1870 (1) If the commissioner finds, as part of an adjudicative proceeding under Title 63G,
 1871 Chapter 4, Administrative Procedures Act, that a person has violated any provision of this
 1872 chapter, the commissioner may take one or more of the following actions:

1873 (a) revoke a registration issued under this chapter;

1874 (b) suspend, for a specified period of 12 months or less, a registration issued under this
 1875 chapter;

1876 (c) deny an application for a registration under this chapter;

1877 (d) assess a forfeiture equal to two times the amount of any profit gained from the
 1878 violation; or

1879 (e) assess an additional forfeiture not to exceed \$1,000 per violation.

1880 (2) If the violations are continuing, or are of a serious nature, or a person's business
 1881 practices in connection with the solicitation, sale, offering for sale, or performance under a
 1882 service contract subject to this chapter, constitute a danger to the legitimate interests of
 1883 consumers or the public, the commissioner may enjoin the person from soliciting, selling, or
 1884 offering to sell service contracts in this state either permanently or for a stated period of time.

1885 Section 10. Section **31A-16-102.6** is amended to read:

1886 **31A-16-102.6. Mutual insurance holding companies.**

1887 (1) As used in this section:

1888 (a) "Intermediate holding company" means a holding company that:

1889 (i) is a subsidiary of a mutual insurance holding company;

1890 (ii) directly or through a subsidiary of the holding company, holds one or more

1891 subsidiary insurers, including a reorganized mutual insurer; and

1892 (iii) if the subsidiary insurers were not held by the holding company, a majority of the

1893 voting shares of the subsidiary insurers' capital stock would be required under this section to be

1894 owned by the mutual insurance holding company.

1895 (b) "Majority of the voting shares" means the shares of a reorganized mutual insurer's

1896 capital stock that carry the right to cast a majority of the votes entitled to be cast by all of the

1897 outstanding shares of the reorganized mutual insurer's capital stock for the election of directors

1898 and other matters submitted to a vote of the reorganized mutual insurer's shareholders.

1899 (2) (a) With the commissioner's approval, a domestic mutual insurer may reorganize by

1900 forming a mutual insurance holding company in which:

1901 (i) in accordance with the mutual insurance holding company's articles of incorporation

1902 and bylaws, the membership interests of the domestic mutual insurer's policyholders become

1903 membership interests in the mutual insurance holding company; and

1904 (ii) the domestic mutual insurer is reorganized as a domestic stock insurance company.

1905 (b) The commissioner may approve a domestic mutual insurer's reorganization under

1906 this Subsection (2) if:

1907 (i) the domestic mutual insurer's reorganization plan:

1908 (A) properly protects the interests of the domestic mutual insurer's policyholders;

1909 (B) is fair and equitable to the domestic mutual insurer's policyholders; [~~and~~]

1910 (C) is approved by a majority of the domestic mutual insurer's policyholders present at

1911 any regular or special meeting of the policyholders at which a quorum is present; and

1912 [~~(C)~~] (D) satisfies the requirements of Subsections 31A-16-103(8) through (10);

1913 (ii) the initial shares of the reorganized domestic mutual insurer's capital stock are

1914 issued to the mutual insurance holding company or intermediate holding company; and

1915 (iii) at all times, the mutual insurance holding company or intermediate holding

1916 company owns a majority of the voting shares of the reorganized domestic mutual insurer's

1917 capital stock.

1918 (c) With the commissioner's approval, the mutual insurance holding company may
1919 allow in the mutual insurance holding company's articles and bylaws that a policyholder of a
1920 stock insurer that is or becomes a subsidiary of the mutual insurance holding company to be a
1921 member of the mutual insurance holding company.

1922 (d) The domestic mutual insurer:

1923 (i) shall provide the domestic mutual insurer's policyholders notice of the
1924 reorganization plan and the related member meeting by first-class mail;

1925 (ii) shall include in a notice described in Subsection (2)(d)(i), a copy of the full
1926 reorganization plan and all related plan materials;

1927 (iii) may satisfy the requirement in Subsection (2)(d)(ii) by including with the notice of
1928 reorganization a URL link at which the policyholders can access the full reorganization plan
1929 and any related materials electronically; and

1930 (iv) shall provide a physical copy of the reorganization plan and all related plan
1931 materials to a policyholder upon request.

1932 (3) (a) With the commissioner's approval, a domestic mutual insurer may reorganize by
1933 merging the domestic mutual insurer's policyholders' membership interests into an existing
1934 domestic mutual insurance holding company formed under Subsection (2), if:

1935 (i) in accordance with the mutual insurance holding company's articles of incorporation
1936 and bylaws, the membership interests of the domestic mutual insurer's policyholders become
1937 membership interests in the mutual insurance holding company; and

1938 (ii) the domestic mutual insurer is reorganized as a domestic stock insurance company
1939 subsidiary of the existing domestic mutual insurance holding company or intermediate holding
1940 company.

1941 (b) The commissioner may approve a domestic mutual insurance company's
1942 reorganization under this Subsection (3) if:

1943 (i) the domestic mutual insurer's reorganization plan:

1944 (A) properly protects the interests of the domestic mutual insurer's policyholders;

1945 (B) is fair and equitable to the domestic mutual insurer's policyholders; and

1946 (C) satisfies the requirements of Subsections [31A-16-103](#)(8) through (10);

1947 (ii) all of the initial shares of the capital stock of the reorganized insurance company

1948 are issued to the mutual insurance holding company or intermediate holding company; and
1949 (iii) at all times, the mutual insurance holding company or intermediate holding
1950 company owns a majority of the voting shares of the reorganized domestic mutual insurer's
1951 capital stock.

1952 (c) The commissioner may require, as a condition of approval, any modifications to the
1953 proposed merger the commissioner finds necessary for the protection of the policyholders'
1954 interests.

1955 ~~[(3)]~~ (4) (a) With the commissioner's approval, a foreign mutual insurer organized
1956 under the laws of any other state that would qualify to become a domestic insurer organized
1957 under the laws of this state may reorganize by ~~[forming a]~~ merging the foreign mutual insurer's
1958 policyholders' membership interests into an existing domestic mutual insurance holding
1959 company [system] formed under Subsection (2) in which:

1960 (i) in accordance with the mutual insurance holding company's articles of incorporation
1961 and bylaws, the membership interests of the foreign mutual insurer's policyholders become
1962 membership interests in the mutual insurance holding company; and

1963 (ii) the foreign mutual insurer is reorganized as a foreign stock insurance company
1964 subsidiary of the existing domestic mutual insurance holding company or intermediate holding
1965 company.

1966 (b) The commissioner may approve a foreign mutual insurer's reorganization under this
1967 Subsection (4) if:

1968 (i) the foreign mutual insurer's reorganization plan:

1969 (A) complies with any other law or rule applicable to the foreign mutual insurer;

1970 (B) properly protects the interests of the foreign mutual insurer's policyholders;

1971 (C) is fair and equitable to the foreign mutual insurer's policyholders; and

1972 (D) satisfies the requirements of Subsections 31A-16-103(8) through (10);

1973 (ii) all of the initial shares of the reorganized foreign mutual insurer's capital stock are
1974 issued to the mutual insurance holding company or intermediate holding company; and

1975 (iii) at all times, the mutual insurance holding company or intermediate holding
1976 company owns a majority of the voting shares of the reorganized foreign mutual insurer's
1977 capital stock.

1978 (c) After a ~~[merger]~~ reorganization contemplated by this Subsection (4), the

1979 reorganized foreign mutual insurer may:

1980 (i) remain a foreign corporation; and

1981 (ii) with the commissioner's approval, be admitted to conduct business in this state.

1982 (d) A foreign mutual insurer that is a party to a reorganization plan may redomesticate
1983 in this state by complying with the applicable requirements of this state and the foreign mutual
1984 insurer's state of domicile.

1985 [~~(4)~~] (5) (a) As a condition of approval, the commissioner may require a mutual insurer
1986 to modify the mutual insurer's reorganization plan to protect the interests of the mutual insurer's
1987 policyholders.

1988 (b) If the commissioner determines reasonably necessary, at the reorganizing mutual
1989 insurer's expense, the commissioner may retain a third-party consultant to assist the
1990 commissioner in reviewing the mutual insurer's reorganization plan.

1991 (c) The commissioner has jurisdiction over a mutual insurance holding company or
1992 intermediate holding company organized in accordance with this section.

1993 (d) Subject to the commissioner's approval, a reorganized mutual insurer or a stock
1994 insurance subsidiary within a mutual insurance company may issue a dividend or distribution
1995 to the mutual insurance holding company or intermediate holding company.

1996 [~~(5)~~] (6) (a) Subject to the provisions of this section, a mutual insurance holding
1997 company resulting from the reorganization of a domestic mutual insurer shall be incorporated
1998 in accordance with and is subject to the provisions of Chapter 5, Domestic Stock and Mutual
1999 Insurance Corporations as if it were a mutual insurer.

2000 (b) A mutual insurance holding company's articles of incorporation and bylaws are
2001 subject to commissioner's approval in the same manner as an insurance company's articles of
2002 incorporation and bylaws.

2003 [~~(6)~~] (7) (a) A mutual insurance holding company is:

2004 (i) subject to Chapter 27a, Insurer Receivership Act; and

2005 (ii) a party to any proceeding under Chapter 27a, Insurer Receivership Act, involving
2006 an insurer that is a subsidiary of the mutual insurance holding company as a result of a
2007 reorganization in accordance with this section.

2008 (b) In a proceeding under Chapter 27a, Insurer Receivership Act, involving a
2009 reorganized mutual insurer, the assets of the mutual insurance holding company are assets of

2010 the estate of the reorganized mutual insurer for the purpose of satisfying the claims of the
2011 reorganized mutual insurer's policyholders.

2012 (c) A mutual insurance holding company may be dissolved or liquidated only by:

2013 (i) prior approval of the commissioner; or

2014 (ii) court order in accordance with Chapter 27a, Insurer Receivership Act.

2015 ~~[(7)]~~ (8) (a) Section 31A-5-506 does not apply to a mutual insurer's reorganization or
2016 merger under this section.

2017 (b) Section 31A-5-506 applies to demutualization of a mutual insurance holding
2018 company.

2019 (c) The following sections do not apply to a mutual insurance holding company:

2020 (i) Sections 31A-5-204 through 31A-5-217.5;

2021 (ii) Sections 31A-5-301 through 31A-5-307;

2022 (iii) Section 31A-5-505; and

2023 (iv) Section 31A-5-509.

2024 (d) Notwithstanding Section 31A-5-203, a mutual insurance holding company is not
2025 required to include "insurance" in the mutual insurance holding company's name.

2026 ~~[(8)]~~ (9) A membership interest in a domestic mutual insurance holding company is not
2027 a security under Utah law.

2028 ~~[(9)]~~ (10) (a) The ownership of a majority of the voting shares of a reorganized mutual
2029 insurer's capital stock includes indirect ownership through one or more intermediate holding
2030 companies in a corporate structure approved by the commissioner.

2031 (b) The indirect ownership described in ~~[Subsection (9)(a)]~~ Subsection (10)(a) may not
2032 result in the mutual insurance holding company owning less than the equivalent of the majority
2033 of the voting shares of the reorganized mutual insurer's capital stock.

2034 ~~[(10)]~~ (11) (a) A mutual insurance holding company or intermediate holding company
2035 may not sell, transfer, assign, pledge, encumber, hypothecate, alienate, or subject to a security
2036 interest or lien the majority of the voting shares of the reorganized mutual insurer's capital
2037 stock.

2038 (b) An act that violates ~~[Subsection (10)(a)]~~ Subsection (11)(a) is void in reverse
2039 chronological order of the date the act occurred.

2040 (c) The majority of the voting shares of the reorganized mutual insurer's capital stock

2041 are not subject to execution and levy under Utah law.

2042 (d) The shares of the capital stock of the surviving or new company resulting from a
2043 merger or consolidation of two or more reorganized mutual insurers, or two or more
2044 intermediate holding companies that were subsidiaries of the same mutual insurance holding
2045 company, are subject to the same requirements, restrictions, and limitations described in this
2046 section that applied to the shares of the merging or consolidating reorganized mutual insurers
2047 or intermediate holding companies before the merger or consolidation.

2048 [(H)] (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2049 Act, the commissioner may make rules to implement the provisions of this section.

2050 Section 11. Section **31A-19a-203** is amended to read:

2051 **31A-19a-203. Rate filings.**

2052 (1) (a) Except as provided in Subsections (4) and (5), every authorized insurer and
2053 every rate service organization licensed under Section **31A-19a-301** that has been designated
2054 by any insurer for the filing of pure premium rates under Subsection **31A-19a-205**(2) shall file
2055 with the commissioner the following for use in this state:

2056 (i) all rates;

2057 (ii) all supplementary information; and

2058 (iii) all changes and amendments to rates and supplementary information.

2059 (b) An insurer shall file its rates by filing:

2060 (i) its final rates; or

2061 (ii) either of the following to be applied to pure premium rates that have been filed by a
2062 rate service organization on behalf of the insurer as permitted by Section **31A-19a-205**:

2063 (A) a multiplier; or

2064 (B) (I) a multiplier; and

2065 (II) an expense constant adjustment.

2066 (c) Every filing under this Subsection (1) shall state:

2067 (i) the effective date of the rates; and

2068 (ii) the character and extent of the coverage contemplated.

2069 (d) Except for workers' compensation rates filed under Sections **31A-19a-405** and
2070 **31A-19a-406**, each filing shall be within 30 days after the rates and supplementary information,
2071 changes, and amendments are effective.

2072 (e) A rate filing is considered filed when it has been received[~~:(i) with the applicable~~
2073 ~~filing fee as prescribed under Section 31A-3-103; and (ii)] pursuant to procedures established~~
2074 by the commissioner.

2075 (f) The commissioner may by rule prescribe procedures for submitting rate filings by
2076 electronic means.

2077 (2) (a) To show compliance with Section 31A-19a-201, at the same time as the filing
2078 of the rate and supplementary rate information, an insurer shall file all supporting information
2079 to be used in support of or in conjunction with a rate.

2080 (b) If the rate filing provides for a modification or revision of a previously filed rate,
2081 the insurer is required to file only the supporting information that supports the modification or
2082 revision.

2083 (c) If the commissioner determines that the insurer did not file sufficient supporting
2084 information, the commissioner shall inform the insurer in writing of the lack of sufficient
2085 supporting information.

2086 (d) If the insurer does not provide the necessary supporting information within 45
2087 calendar days of the date on which the commissioner mailed notice under Subsection (2)(c), the
2088 rate filing may be:

2089 (i) considered incomplete and unfiled; and

2090 (ii) returned to the insurer as:

2091 (A) not filed; and

2092 (B) not available for use.

2093 (e) Notwithstanding Subsection (2)(d), the commissioner may extend the time period
2094 for filing supporting information.

2095 (f) If a rate filing is returned to an insurer as not filed and not available for use under
2096 Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or
2097 after 60 calendar days from the date the rate filing was returned.

2098 (3) At the request of the commissioner, an insurer using the services of a rate service
2099 organization shall provide a description of the rationale for using the services of the rate service
2100 organization, including the insurer's:

2101 (a) own information; and

2102 (b) method of use of the rate service organization's information.

2103 (4) (a) An insurer may not make or issue a contract or policy except in accordance with
2104 the rate filings that are in effect for the insurer as provided in this chapter.

2105 (b) Subsection (4)(a) does not apply to contracts or policies for inland marine risks for
2106 which filings are not required.

2107 (5) Subsection (1) does not apply to inland marine risks, which, by general custom, are
2108 not written according to standardized manual rules or rating plans.

2109 (6) (a) The insurer may file a written application, stating the insurer's reasons for using
2110 a higher rate than that otherwise applicable to a specific risk.

2111 (b) If the application described in Subsection (6)(a) is filed with and not disapproved
2112 by the commissioner within 10 days after filing, the higher rate may be applied to the specific
2113 risk.

2114 (c) The rate described in this Subsection (6) may be disapproved without a hearing.

2115 (d) If disapproved, the rate otherwise applicable applies from the effective date of the
2116 policy, but the insurer may cancel the policy pro rata on 10 days' notice to the policyholder.

2117 (e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall
2118 refund any excess premium from the effective date of the policy.

2119 (7) (a) Agreements may be made between insurers on the use of reasonable rate
2120 modifications for insurance provided under Section [31A-22-310](#).

2121 (b) The rate modifications described in Subsection (7)(a) shall be filed immediately
2122 upon agreement by the insurers.

2123 Section 12. Section **31A-19a-209** is amended to read:

2124 **31A-19a-209. Special provisions for title insurance.**

2125 (1) (a) (i) The Title and Escrow Commission may make rules, in accordance with Title
2126 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Section [31A-2-404](#),
2127 establishing rate standards and rating methods.

2128 (ii) The commissioner shall determine compliance with rate standards and rating
2129 methods for title insurers, individual title insurance producers, and agency title insurance
2130 producers.

2131 (b) In addition to the considerations in determining compliance with rate standards and
2132 rating methods as set forth in Sections [31A-19a-201](#) and [31A-19a-202](#), including for title
2133 insurers, the commissioner and the Title and Escrow Commission shall consider the costs and

2134 expenses incurred by title insurers, individual title insurance producers, and agency title
2135 insurance producers pertaining to the business of title insurance including:
2136 (i) the maintenance of title plants; and
2137 (ii) the examining of public records to determine insurability of title to real property.
2138 (2) A title insurer~~[, individual title insurance producer, or agency title insurance~~
2139 ~~producer]~~ may not use any rate or other charge relating to the business of title insurance~~;~~
2140 ~~including rates or charges for escrow]~~ that would cause the title ~~[insurance company, individual~~
2141 ~~title insurance producer, or agency title insurance producer to: (a) operate at less than the cost~~
2142 ~~of doing the insurance business; or (b)] insurer to~~ fail to adequately underwrite a title insurance
2143 policy.

2144 Section 13. Section **31A-20-108** is amended to read:

2145 **31A-20-108. Single risk limitation.**

2146 (1) This section applies to all lines of insurance, including ocean marine and
2147 reinsurance, except:

- 2148 (a) title insurance;
- 2149 (b) workers' compensation insurance;
- 2150 (c) occupational disease insurance;
- 2151 (d) employers' liability insurance; and
- 2152 (e) health insurance.

2153 (2) (a) Except as provided under Subsections (3) and (4) and under Section
2154 **31A-20-109**, an insurer authorized to do an insurance business in Utah may not expose itself to
2155 loss on a single risk in an amount exceeding 10% of its capital and surplus.

2156 (b) The commissioner may adopt rules to calculate surplus under this section.

2157 (c) An insurer may deduct the portion of a risk reinsured by a reinsurance contract
2158 worthy of a reserve credit under Sections **31A-17-404** through **31A-17-404.4** in determining
2159 the limitation of risk under this section.

2160 (3) (a) The commissioner may adopt rules, after hearings held with notice ~~[provided~~
2161 ~~under Section **31A-2-303**]~~ as required by law, to specify the maximum exposure to which an
2162 assessable mutual may subject itself.

2163 (b) The rules described in Subsection (3)(a) may provide for classifications of
2164 insurance and insurers to preserve the solidity of insurers.

2165 (4) As used in this section, a "single risk" includes all losses reasonably expected as a
2166 result of the same event.

2167 (5) A company transacting fidelity or surety insurance may expose itself to a risk or
2168 hazard in excess of the amount prescribed in Subsection (2), if the commissioner, after
2169 considering all the facts and circumstances, approves the risk.

2170 Section 14. Section **31A-21-402** is amended to read:

2171 **31A-21-402. Definitions.**

2172 [~~As used in this part:~~]

2173 [~~(1)(a) "Direct response solicitation" means any offer an insurer makes to persons in
2174 this state, either directly or through a third party, to effect life or accident and health insurance
2175 coverage which enables the individual to apply or enroll for the insurance on the basis of the
2176 offer;~~]

2177 [~~(b) "Direct response solicitation" does not include:~~]

2178 [~~(i) solicitations for insurance through an employee benefit plan exempt from state
2179 regulation under preemptive federal law; or]~~

2180 [~~(ii) solicitations through an individual's creditor with respect to credit life or credit
2181 accident and health insurance. (2) "Mass] As used in this part, "mass marketed life or accident
2182 and health insurance" means the insurance under any individual, franchise, group, or blanket
2183 insurance policy offering life or accident and health insurance:~~

2184 [~~(a)] (1) that is offered by means of direct response solicitation through:~~

2185 [~~(i)] (a) a sponsoring organization; or~~

2186 [~~(ii)] (b) the mails or other mass communications media; and~~

2187 [~~(b)] (2) under which the person insured pays all or substantially all of the cost of the
2188 person's insurance.~~

2189 Section 15. Section **31A-22-432** is enacted to read:

2190 **31A-22-432. Renewal, cancellation, and modification.**

2191 (1) Except as provided in this section, a life insurance policy is renewable and
2192 continues in force at the option of the policyholder.

2193 (2) An insurer may:

2194 (a) decline to renew the policy on the date the policy term expires for a reason stated in
2195 the policy; or

2196 (b) cancel the policy at any time for:
2197 (i) nonpayment of a premium when due; or
2198 (ii) intentional misrepresentation of a material fact in connection with the coverage.
2199 (3) (a) Except for a modification required by law, an insurer may only modify a policy

2200 at renewal.

2201 (b) This subsection does not apply to an endorsement by which the insurer:

2202 (i) effectuates a request the policyholder made in writing; or

2203 (ii) exercises a specifically reserved right under the policy.

2204 Section 16. Section **31A-22-523** is enacted to read:

2205 **31A-22-523. Renewal, cancellation, and modification.**

2206 (1) Except as provided in this section, a life insurance policy is renewable and
2207 continues in force at the option of the policyholder.

2208 (2) An insurer may:

2209 (a) decline to renew the policy on the date the policy term expires for a reason stated in
2210 the policy; or

2211 (b) cancel the policy at any time for:

2212 (i) nonpayment of a premium when due;

2213 (ii) intentional misrepresentation of a material fact in connection with the coverage; or

2214 (iii) noncompliance with an employer eligibility provision.

2215 (3) (a) Except for a modification required by law, an insurer may only modify a policy
2216 at renewal.

2217 (b) This subsection does not apply to an endorsement by which the insurer:

2218 (i) effectuates a request the policyholder made in writing; or

2219 (ii) exercises a specifically reserved right under the policy.

2220 Section 17. Section **31A-22-605** is amended to read:

2221 **31A-22-605. Accident and health insurance standards.**

2222 (1) The purposes of this section include:

2223 (a) reasonable standardization and simplification of terms and coverages of individual
2224 and franchise accident and health insurance policies, including accident and health insurance
2225 contracts of insurers licensed under Chapter 7, Nonprofit Health Service Insurance
2226 Corporations, and Chapter 8, Health Maintenance Organizations and Limited Health Plans, to

2227 facilitate public understanding and comparison in purchasing;

2228 (b) elimination of provisions contained in individual and franchise accident and health
2229 insurance contracts that may be misleading or confusing in connection with either the purchase
2230 of those types of coverages or the settlement of claims; and

2231 (c) full disclosure in the sale of individual and franchise accident and health insurance
2232 contracts.

2233 [~~(2) As used in this section:~~]

2234 [~~(a) "Direct response insurance policy" means an individual insurance policy solicited
2235 and sold without the policyholder having direct contact with a natural person intermediary.]~~]

2236 [~~(b) "Medicare" means the same as that term is defined in Subsection
2237 31A-22-620(1)(e):]~~]

2238 [~~(c) "Medicare supplement policy" means the same as that term is defined in
2239 Subsection 31A-22-620(1)(f):]~~]

2240 [~~(3)~~] (2) This section applies to all individual and franchise accident and health
2241 policies.

2242 [~~(4)~~] (3) The commissioner shall adopt rules, made in accordance with Title 63G,
2243 Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:

2244 (a) standards for the manner and content of policy provisions, and disclosures to be
2245 made in connection with the sale of policies covered by this section, dealing with at least the
2246 following matters:

2247 (i) terms of renewability;

2248 (ii) initial and subsequent conditions of eligibility;

2249 (iii) nonduplication of coverage provisions;

2250 (iv) coverage of dependents;

2251 (v) preexisting conditions;

2252 (vi) termination of insurance;

2253 (vii) probationary periods;

2254 (viii) limitations;

2255 (ix) exceptions;

2256 (x) reductions;

2257 (xi) elimination periods;

2258 (xii) requirements for replacement;
2259 (xiii) recurrent conditions;
2260 (xiv) coverage of persons eligible for Medicare; and
2261 (xv) definition of terms;
2262 (b) minimum standards for benefits under each of the following categories of coverage
2263 in policies covered in this section:
2264 (i) basic hospital expense coverage;
2265 (ii) basic medical-surgical expense coverage;
2266 (iii) hospital confinement indemnity coverage;
2267 (iv) major medical expense coverage;
2268 (v) income replacement coverage;
2269 (vi) accident only coverage;
2270 (vii) specified disease or specified accident coverage;
2271 (viii) limited benefit health coverage; and
2272 (ix) nursing home and long-term care coverage;
2273 (c) the content and format of the outline of coverage, in addition to that required under
2274 Subsection ~~[(6)];~~ (5);
2275 (d) the method of identification of policies and contracts based upon coverages
2276 provided; and
2277 (e) rating practices.
2278 ~~[(5)]~~ (4) Nothing in Subsection ~~[(4)(b)]~~ (3)(b) precludes the issuance of policies that
2279 combine categories of coverage in Subsection ~~[(4)(b)]~~ (3)(b) provided that any combination of
2280 categories meets the standards of a component category of coverage.
2281 ~~[(6)]~~ (5) The commissioner may adopt rules, made in accordance with Title 63G,
2282 Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:
2283 (a) establishing disclosure requirements for insurance policies covered in this section,
2284 designed to adequately inform the prospective insured of the need for and extent of the
2285 coverage offered, and requiring that this disclosure be furnished to the prospective insured with
2286 the application form, unless it is a direct response insurance policy;
2287 (b) (i) prescribing caption or notice requirements designed to inform prospective
2288 insureds that particular insurance coverages are not ~~[Medicare Supplement coverages]~~

2289 Medicare supplement insurance; and

2290 (ii) applying the requirements of Subsection [~~(6)(b)(i) apply~~] (5)(b)(i) to all insurance
2291 policies and certificates sold to persons eligible for Medicare; and

2292 (c) requiring the disclosures or information brochures to be furnished to the
2293 prospective insured on direct response insurance policies, upon his request or, in any event, no
2294 later than the time of the policy delivery.

2295 [~~(7)~~] (6) A policy covered by this section may be issued only if it meets the minimum
2296 standards established by the commissioner under Subsection [~~(4);~~] (3), an outline of coverage
2297 accompanies the policy or is delivered to the applicant at the time of the application, and,
2298 except with respect to direct response insurance policies, an acknowledged receipt is provided
2299 to the insurer. The outline of coverage shall include:

2300 (a) a statement identifying the applicable categories of coverage provided by the policy
2301 as prescribed under Subsection [~~(4);~~] (3);

2302 (b) a description of the principal benefits and coverage;

2303 (c) a statement of the exceptions, reductions, and limitations contained in the policy;

2304 (d) a statement of the renewal provisions, including any reservation by the insurer of a
2305 right to change premiums;

2306 (e) a statement that the outline is a summary of the policy issued or applied for and that
2307 the policy should be consulted to determine governing contractual provisions; and

2308 (f) any other contents the commissioner prescribes.

2309 [~~(8)~~] (7) If a policy is issued on a basis other than that applied for, the outline of
2310 coverage shall accompany the policy when it is delivered and it shall clearly state that it is not
2311 the policy for which application was made.

2312 [~~(9)~~] (8) (a) Notwithstanding Subsection [31A-22-606\(1\)](#), limited accident and health
2313 policies or certificates issued to persons eligible for Medicare shall contain a notice
2314 prominently printed on or attached to the cover or front page which states that the policyholder
2315 or certificate holder has the right to return the policy for any reason within 30 days after its
2316 delivery and to have the premium refunded.

2317 (b) This Subsection [~~(9)~~] (8) does not apply to a policy issued to an employer group.

2318 Section 18. Section [31A-22-620](#) is amended to read:

2319 **[31A-22-620. Medicare Supplement Insurance Minimum Standards Act.](#)**

2320 (1) As used in this section:

2321 (a) "Applicant" means:

2322 (i) in the case of an individual Medicare supplement insurance policy, the person who
2323 seeks to contract for insurance benefits; and

2324 (ii) in the case of a group Medicare supplement insurance policy, the proposed
2325 certificate holder.

2326 (b) "Certificate" means any certificate delivered or issued for delivery in this state
2327 under a group Medicare supplement insurance policy.

2328 (c) "Certificate form" means the form on which the certificate is delivered or issued for
2329 delivery by the issuer.

2330 (d) "Issuer" includes insurance companies, fraternal benefit societies, health care
2331 service plans, health maintenance organizations, and any other entity delivering, or issuing for
2332 delivery in this state, Medicare supplement insurance policies or certificates.

2333 ~~[(e) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the
2334 Social Security Amendments of 1965, as then constituted or later amended.]~~

2335 ~~[(f) "Medicare Supplement Policy":]~~

2336 ~~[(i) means a group or individual policy of health insurance, other than a policy issued
2337 pursuant to a contract under Section 1876 of the federal Social Security Act, 42 U.S.C. Sec.
2338 1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C. Sec.
2339 1395ss(g)(1), that is advertised, marketed, or designed primarily as a supplement to
2340 reimbursements under Medicare for the hospital, medical, or surgical expenses of persons
2341 eligible for Medicare; and]~~

2342 ~~[(ii) does not include Medicare Advantage plans established under Medicare Part C,
2343 outpatient prescription drug plans established under Medicare Part D, or any health care
2344 prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A)
2345 of the Social Security Act.]~~

2346 ~~[(g)]~~ (e) "Policy form" means the form on which the policy is delivered or issued for
2347 delivery by the issuer.

2348 (2) (a) Except as otherwise specifically provided, this section applies to:

2349 (i) all Medicare supplement insurance policies delivered or issued for delivery in this
2350 state on or after the effective date of this section;

2351 (ii) all certificates issued under group Medicare supplement insurance policies, that
2352 have been delivered or issued for delivery in this state on or after the effective date of this
2353 section; and

2354 (iii) policies or certificates that were in force prior to the effective date of this section,
2355 with respect to requirements for benefits, claims payment, and policy reporting practice under
2356 Subsection (3)(d), and loss ratios under Subsection (4).

2357 (b) This section does not apply to a policy of one or more employers or labor
2358 organizations, or of the trustees of a fund established by one or more employers or labor
2359 organizations, or a combination of employers and labor unions, for employees or former
2360 employees or a combination of employees and former employees, or for members or former
2361 members of the labor organizations, or a combination of members and former members of
2362 labor organizations.

2363 (c) This section does not prohibit, nor does it apply to insurance policies or health care
2364 benefit plans, including group conversion policies, provided to Medicare eligible persons that
2365 are not marketed or held out to be Medicare supplement insurance policies or benefit plans.

2366 (3) (a) A Medicare supplement insurance policy or certificate in force in the state may
2367 not contain benefits that duplicate benefits provided by Medicare.

2368 (b) Notwithstanding any other provision of law of this state, a Medicare supplement
2369 policy or certificate may not exclude or limit benefits for loss incurred more than six months
2370 from the effective date of coverage because it involved a preexisting condition. The policy or
2371 certificate may not define a preexisting condition more restrictively than: "A condition for
2372 which medical advice was given or treatment was recommended by or received from a
2373 physician within six months before the effective date of coverage."

2374 (c) The commissioner shall adopt rules to establish specific standards for policy
2375 provisions of Medicare supplement insurance policies and certificates. The standards adopted
2376 shall be in addition to and in accordance with applicable laws of this state. A requirement of
2377 this title relating to minimum required policy benefits, other than the minimum standards
2378 contained in this section, may not apply to Medicare supplement insurance policies and
2379 certificates. The standards may include:

2380 (i) terms of renewability;

2381 (ii) initial and subsequent conditions of eligibility;

- 2382 (iii) nonduplication of coverage;
- 2383 (iv) probationary periods;
- 2384 (v) benefit limitations, exceptions, and reductions;
- 2385 (vi) elimination periods;
- 2386 (vii) requirements for replacement;
- 2387 (viii) recurrent conditions; and
- 2388 (ix) definitions of terms.
- 2389 (d) The commissioner shall adopt rules establishing minimum standards for benefits,
- 2390 claims payment, marketing practices, compensation arrangements, and reporting practices for
- 2391 Medicare supplement insurance policies and certificates.
- 2392 (e) The commissioner may adopt rules to conform Medicare supplement insurance
- 2393 policies and certificates to the requirements of federal law and regulations, including:
- 2394 (i) requiring refunds or credits if the policies do not meet loss ratio requirements;
- 2395 (ii) establishing a uniform methodology for calculating and reporting loss ratios;
- 2396 (iii) assuring public access to policies, premiums, and loss ratio information of issuers
- 2397 of Medicare supplement insurance;
- 2398 (iv) establishing a process for approving or disapproving policy forms and certificate
- 2399 forms and proposed premium increases;
- 2400 (v) establishing a policy for holding public hearings prior to approval of premium
- 2401 increases;
- 2402 (vi) establishing standards for Medicare select policies and certificates; and
- 2403 (vii) nondiscrimination for genetic testing or genetic information.
- 2404 (f) The commissioner may adopt rules that prohibit policy provisions not otherwise
- 2405 specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or
- 2406 unfairly discriminatory to any person insured or proposed to be insured under a Medicare
- 2407 supplement insurance policy or certificate.
- 2408 (4) Medicare supplement insurance policies shall return to policyholders benefits that
- 2409 are reasonable in relation to the premium charged. The commissioner shall make rules to
- 2410 establish minimum standards for loss ratios of Medicare supplement insurance policies on the
- 2411 basis of incurred claims experience, or incurred health care expenses where coverage is
- 2412 provided by a health maintenance organization on a service basis rather than on a

2413 reimbursement basis, and earned premiums in accordance with accepted actuarial principles
2414 and practices.

2415 (5) (a) To provide for full and fair disclosure in the sale of [~~Medicare supplement~~
2416 ~~policies, a Medicare supplement policy~~] Medicare supplement insurance, a Medicare
2417 supplement insurance policy or certificate may not be delivered in this state unless an outline of
2418 coverage is delivered to the applicant at the time application is made.

2419 (b) The commissioner shall prescribe the format and content of the outline of coverage
2420 required by Subsection (5)(a).

2421 (c) For purposes of this section, "format" means style arrangements and overall
2422 appearance, including such items as the size, color, and prominence of type and arrangement of
2423 text and captions. The outline of coverage shall include:

2424 (i) a description of the principal benefits and coverage provided in the policy;

2425 (ii) a statement of the renewal provisions, including any reservation by the issuer of a
2426 right to change premiums; and disclosure of the existence of any automatic renewal premium
2427 increases based on the policyholder's age; and

2428 (iii) a statement that the outline of coverage is a summary of the policy issued or
2429 applied for and that the policy should be consulted to determine governing contractual
2430 provisions.

2431 (d) The commissioner may make rules for captions or notice if the commissioner finds
2432 that the rules are:

2433 (i) in the public interest; and

2434 (ii) designed to inform prospective insureds that particular insurance coverages are not
2435 Medicare supplement coverages, for all accident and health insurance policies sold to persons
2436 eligible for Medicare, other than:

2437 (A) a [~~medicare~~] Medicare supplement insurance policy; or

2438 (B) a disability income policy.

2439 (e) The commissioner may prescribe by rule a standard form and the contents of an
2440 informational brochure for persons eligible for Medicare, that is intended to improve the
2441 buyer's ability to select the most appropriate coverage and improve the buyer's understanding of
2442 Medicare. Except in the case of direct response insurance policies, the commissioner may
2443 require by rule that the informational brochure be provided concurrently with delivery of the

2444 outline of coverage to any prospective insureds eligible for Medicare. With respect to direct
2445 response insurance policies, the commissioner may require by rule that the prescribed brochure
2446 be provided upon request to any prospective insureds eligible for Medicare, but in no event
2447 later than the time of policy delivery.

2448 (f) The commissioner may adopt reasonable rules to govern the full and fair disclosure
2449 of the information in connection with the replacement of accident and health policies,
2450 subscriber contracts, or certificates by persons eligible for Medicare.

2451 (6) Notwithstanding Subsection (1), Medicare supplement insurance policies and
2452 certificates shall have a notice prominently printed on the first page of the policy or certificate,
2453 or attached to the front page, stating in substance that the applicant has the right to return the
2454 policy or certificate within 30 days of its delivery and to have the premium refunded if, after
2455 examination of the policy or certificate, the applicant is not satisfied for any reason. Any
2456 refund made pursuant to this section shall be paid directly to the applicant by the issuer in a
2457 timely manner.

2458 (7) Every issuer of Medicare supplement insurance policies or certificates in this state
2459 shall provide a copy of any Medicare supplement insurance advertisement intended for use in
2460 this state, whether through written or broadcast medium, to the commissioner for review.

2461 (8) The commissioner may adopt rules to conform Medicare and Medicare supplement
2462 insurance policies and certificates to the marketing requirements of federal law and regulation.

2463 Section 19. Section **31A-22-802** is amended to read:

2464 **31A-22-802. Definitions.**

2465 As used in this part:

2466 [~~(1) "Credit accident and health insurance" means insurance on a debtor to provide~~
2467 ~~indemnity for payments coming due on a specific loan or other credit transaction while the~~
2468 ~~debtor has a disability.]~~

2469 [~~(2) "Credit life insurance" means life insurance on the life of a debtor in connection~~
2470 ~~with a specific loan or credit transaction.]~~

2471 [~~(3)~~] (1) "Credit transaction" means any transaction under which the payment for
2472 money loaned or for goods, services, or properties sold or leased is to be made on future dates.

2473 [~~(4)~~] (2) "Creditor" means the lender of money or the vendor or lessor of goods,
2474 services, or property, for which payment is arranged through a credit transaction, or any

2475 successor to the right, title, or interest of any lender or vendor.

2476 ~~[(5)]~~ (3) "Debtor" means a borrower of money or a purchaser, including a lessee under
2477 a lease intended as security, of goods, services, or property, for which payment is arranged
2478 through a credit transaction.

2479 ~~[(6)]~~ (4) "Indebtedness" means the total amount payable by a debtor to a creditor in
2480 connection with a credit transaction, including principal finance charges and interest.

2481 ~~[(7)]~~ (5) "Net indebtedness" means the total amount required to liquidate the
2482 indebtedness, exclusive of any unearned interest, any insurance on the monthly outstanding
2483 balance coverage, or any finance charge.

2484 ~~[(8)]~~ (6) "Net written premiums" means gross written premiums minus refunds on
2485 termination.

2486 Section 20. Section **31A-22-2002** is amended to read:

2487 **31A-22-2002. Definitions.**

2488 As used in this part:

2489 (1) "Applicant" means:

2490 (a) when referring to an individual limited long-term care insurance policy, the person
2491 who seeks to contract for benefits; and

2492 (b) when referring to a group limited long-term care insurance policy, the proposed
2493 certificate holder.

2494 (2) "Elimination period" means the length of time between meeting the eligibility for
2495 benefit payment and receiving benefit payments from an insurer.

2496 (3) "Group limited long-term care insurance" means a limited long-term care insurance
2497 policy that is delivered or issued for delivery:

2498 (a) in this state; and

2499 (b) to an eligible group, as described under Subsection [~~31A-22-701(2)]~~
2500 [31A-22-701\(1\)](#).

2501 (4) (a) "Limited long-term care insurance" means an insurance policy, endorsement, or
2502 rider that is advertised, marketed, offered, or designed to provide coverage:

2503 (i) for less than 12 consecutive months for each covered person;

2504 (ii) on an expense-incurred, indemnity, prepaid or other basis; and

2505 (iii) for one or more necessary or medically necessary diagnostic, preventative,

2506 therapeutic, rehabilitative, maintenance, or personal care services that is provided in a setting
2507 other than an acute care unit of a hospital.

2508 (b) "Limited long-term care insurance" includes a policy or rider described in
2509 Subsection (4)(a) that provides for payment of benefits based on cognitive impairment or the
2510 loss of functional capacity.

2511 (c) "Limited long-term care insurance" does not include an insurance policy that is
2512 offered primarily to provide:

- 2513 (i) basic Medicare supplement insurance coverage;
- 2514 (ii) basic hospital expense coverage;
- 2515 (iii) basic medical-surgical expense coverage;
- 2516 (iv) hospital confinement indemnity coverage;
- 2517 (v) major medical expense coverage;
- 2518 (vi) disability income or related asset-protection coverage;
- 2519 (vii) accidental only coverage;
- 2520 (viii) specified disease or specified accident coverage; or
- 2521 (ix) limited benefit health coverage.

2522 (5) "Preexisting condition" means a condition for which medical advice or treatment is
2523 recommended:

- 2524 (a) by, or received from, a provider of health care services; and
- 2525 (b) within six months before the day on which the coverage of an insured person
2526 becomes effective.

2527 (6) "Waiting period" means the time an insured waits before some or all of the
2528 insured's coverage becomes effective.

2529 Section 21. Section **31A-23a-105** is amended to read:

2530 **31A-23a-105. General requirements for individual and agency license issuance**
2531 **and renewal.**

2532 (1) (a) The commissioner shall issue or renew a license to a person described in
2533 Subsection (1)(b) to act as:

- 2534 (i) a producer;
- 2535 (ii) a surplus lines producer;
- 2536 (iii) a limited line producer;

- 2537 (iv) a consultant;
- 2538 (v) a managing general agent; or
- 2539 (vi) a reinsurance intermediary.
- 2540 (b) The commissioner shall issue or renew a license under Subsection (1)(a) to a
- 2541 person who, as to the license type and line of authority classification applied for under Section
- 2542 [31A-23a-106](#):
- 2543 (i) satisfies the application requirements under Section [31A-23a-104](#);
- 2544 (ii) satisfies the character requirements under Section [31A-23a-107](#);
- 2545 (iii) satisfies applicable continuing education requirements under Section
- 2546 [31A-23a-202](#);
- 2547 (iv) satisfies applicable examination requirements under Section [31A-23a-108](#);
- 2548 (v) satisfies applicable training period requirements under Section [31A-23a-203](#);
- 2549 (vi) if an applicant for a resident individual producer license, certifies that, to the extent
- 2550 applicable, the applicant:
- 2551 (A) is in compliance with Section [31A-23a-203.5](#); and
- 2552 (B) will maintain compliance with Section [31A-23a-203.5](#) during the period for which
- 2553 the license is issued or renewed;
- 2554 (vii) has not committed an act that is a ground for denial, suspension, or revocation as
- 2555 provided in Section [31A-23a-111](#);
- 2556 (viii) if a nonresident:
- 2557 (A) complies with Section [31A-23a-109](#); and
- 2558 (B) holds an active similar license in that person's home state;
- 2559 (ix) if an applicant for an individual title insurance producer or agency title insurance
- 2560 producer license, satisfies the requirements of Section [31A-23a-204](#);
- 2561 (x) if an applicant for a license to act as a life settlement provider or life settlement
- 2562 producer, satisfies the requirements of Section [31A-23a-117](#); and
- 2563 (xi) pays the applicable fees under Section [31A-3-103](#).
- 2564 (2) (a) This Subsection (2) applies to the following persons:
- 2565 (i) an applicant for a pending:
- 2566 (A) individual or agency producer license;
- 2567 (B) surplus lines producer license;

- 2568 (C) limited line producer license;
- 2569 (D) consultant license;
- 2570 (E) managing general agent license; or
- 2571 (F) reinsurance intermediary license; or
- 2572 (ii) a licensed:
- 2573 (A) individual or agency producer;
- 2574 (B) surplus lines producer;
- 2575 (C) limited line producer;
- 2576 (D) consultant;
- 2577 (E) managing general agent; or
- 2578 (F) reinsurance intermediary.
- 2579 (b) A person described in Subsection (2)(a) shall report to the commissioner:
- 2580 (i) an administrative action taken against the person, including a denial of a new or
- 2581 renewal license application:
- 2582 (A) in another jurisdiction; or
- 2583 (B) by another regulatory agency in this state; [~~and~~]
- 2584 (ii) a criminal prosecution taken against the person in any jurisdiction[-]; and
- 2585 (iii) a civil action filed against the person in any jurisdiction if the action involves
- 2586 conduct related to a professional or occupational license, certification, authorization, or
- 2587 registration, regardless of whether the person held the license, certification, authorization, or
- 2588 registration.
- 2589 (c) The report required by Subsection (2)(b) shall:
- 2590 (i) be filed:
- 2591 (A) at the time the person files the application for an individual or agency license; and
- 2592 (B) for an action or prosecution that occurs on or after the day on which the person
- 2593 files the application:
- 2594 (I) for an administrative action, within 30 days of the final disposition of the
- 2595 administrative action; or
- 2596 (II) for a criminal prosecution or civil action, within 30 days of the initial appearance
- 2597 before a court; and
- 2598 (ii) include a copy of the complaint or other relevant legal documents related to the

2599 action or prosecution described in Subsection (2)(b).

2600 (3) (a) The department may require a person applying for a license or for consent to
2601 engage in the business of insurance to submit to a criminal background check as a condition of
2602 receiving a license or consent.

2603 (b) A person, if required to submit to a criminal background check under Subsection
2604 (3)(a), shall:

2605 (i) submit a fingerprint card in a form acceptable to the department; and

2606 (ii) consent to a fingerprint background check by:

2607 (A) the Utah Bureau of Criminal Identification; and

2608 (B) the Federal Bureau of Investigation.

2609 (c) For a person who submits a fingerprint card and consents to a fingerprint
2610 background check under Subsection (3)(b), the department may request:

2611 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
2612 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

2613 (ii) complete Federal Bureau of Investigation criminal background checks through the
2614 national criminal history system.

2615 (d) Information obtained by the department from the review of criminal history records
2616 received under this Subsection (3) shall be used by the department for the purposes of:

2617 (i) determining if a person satisfies the character requirements under Section
2618 [31A-23a-107](#) for issuance or renewal of a license;

2619 (ii) determining if a person has failed to maintain the character requirements under
2620 Section [31A-23a-107](#); and

2621 (iii) preventing a person who violates the federal Violent Crime Control and Law
2622 Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in
2623 the state.

2624 (e) If the department requests the criminal background information, the department
2625 shall:

2626 (i) pay to the Department of Public Safety the costs incurred by the Department of
2627 Public Safety in providing the department criminal background information under Subsection
2628 (3)(c)(i);

2629 (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau

2630 of Investigation in providing the department criminal background information under
2631 Subsection (3)(c)(ii); and
2632 (iii) charge the person applying for a license or for consent to engage in the business of
2633 insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).
2634 (4) To become a resident licensee in accordance with Section [31A-23a-104](#) and this
2635 section, a person licensed as one of the following in another state who moves to this state shall
2636 apply within 90 days of establishing legal residence in this state:
2637 (a) insurance producer;
2638 (b) surplus lines producer;
2639 (c) limited line producer;
2640 (d) consultant;
2641 (e) managing general agent; or
2642 (f) reinsurance intermediary.
2643 (5) (a) The commissioner may deny a license application for a license listed in
2644 Subsection (5)(b) if the person applying for the license, as to the license type and line of
2645 authority classification applied for under Section [31A-23a-106](#):
2646 (i) fails to satisfy the requirements as set forth in this section; or
2647 (ii) commits an act that is grounds for denial, suspension, or revocation as set forth in
2648 Section [31A-23a-111](#).
2649 (b) This Subsection (5) applies to the following licenses:
2650 (i) producer;
2651 (ii) surplus lines producer;
2652 (iii) limited line producer;
2653 (iv) consultant;
2654 (v) managing general agent; or
2655 (vi) reinsurance intermediary.
2656 (6) Notwithstanding the other provisions of this section, the commissioner may:
2657 (a) issue a license to an applicant for a license for a title insurance line of authority only
2658 with the concurrence of the Title and Escrow Commission; and
2659 (b) renew a license for a title insurance line of authority only with the concurrence of
2660 the Title and Escrow Commission.

2661 Section 22. Section 31A-23a-111 is amended to read:

2662 **31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise**
2663 **terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.**

2664 (1) A license type issued under this chapter remains in force until:

2665 (a) revoked or suspended under Subsection (5);

2666 (b) surrendered to the commissioner and accepted by the commissioner in lieu of
2667 administrative action;

2668 (c) the licensee dies or is adjudicated incompetent as defined under:

2669 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

2670 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
2671 Minors;

2672 (d) lapsed under Section 31A-23a-113; or

2673 (e) voluntarily surrendered.

2674 (2) The following may be reinstated within one year after the day on which the license
2675 is no longer in force:

2676 (a) a lapsed license; or

2677 (b) a voluntarily surrendered license, except that a voluntarily surrendered license may
2678 not be reinstated after the license period in which the license is voluntarily surrendered.

2679 (3) Unless otherwise stated in a written agreement for the voluntary surrender of a
2680 license, submission and acceptance of a voluntary surrender of a license does not prevent the
2681 department from pursuing additional disciplinary or other action authorized under:

2682 (a) this title; or

2683 (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah
2684 Administrative Rulemaking Act.

2685 (4) A line of authority issued under this chapter remains in force until:

2686 (a) the qualifications pertaining to a line of authority are no longer met by the licensee;

2687 (b) the supporting license type:

2688 (i) is revoked or suspended under Subsection (5);

2689 (ii) is surrendered to the commissioner and accepted by the commissioner in lieu of
2690 administrative action;

2691 (iii) lapses under Section 31A-23a-113; or

2692 (iv) is voluntarily surrendered; or
2693 (c) the licensee dies or is adjudicated incompetent as defined under:
2694 (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
2695 (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and
2696 Minors.
2697 (5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an
2698 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the
2699 commissioner may:
2700 (i) revoke:
2701 (A) a license; or
2702 (B) a line of authority;
2703 (ii) suspend for a specified period of 12 months or less:
2704 (A) a license; or
2705 (B) a line of authority;
2706 (iii) limit in whole or in part:
2707 (A) a license; or
2708 (B) a line of authority;
2709 (iv) deny a license application;
2710 (v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or
2711 (vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and
2712 Subsection (5)(a)(v).
2713 (b) The commissioner may take an action described in Subsection (5)(a) if the
2714 commissioner finds that the licensee or license applicant:
2715 (i) is unqualified for a license or line of authority under Section 31A-23a-104,
2716 31A-23a-105, or 31A-23a-107;
2717 (ii) violates:
2718 (A) an insurance statute;
2719 (B) a rule that is valid under Subsection 31A-2-201(3); or
2720 (C) an order that is valid under Subsection 31A-2-201(4);
2721 (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other
2722 delinquency proceedings in any state;

2723 (iv) [~~fails to pay a final judgment rendered against the person within 60 days after the~~
2724 ~~day on which the judgment became final~~] is more than 60 days past due on an enforceable final
2725 judgment;

2726 (v) fails to meet the same good faith obligations in claims settlement that is required of
2727 admitted insurers;

2728 (vi) is affiliated with and under the same general management or interlocking
2729 directorate or ownership as another insurance producer that transacts business in this state
2730 without a license;

2731 (vii) refuses:

2732 (A) to be examined; or

2733 (B) to produce its accounts, records, and files for examination;

2734 (viii) has an officer who refuses to:

2735 (A) give information with respect to the insurance producer's affairs; or

2736 (B) perform any other legal obligation as to an examination;

2737 (ix) provides information in the license application that is:

2738 (A) incorrect;

2739 (B) misleading;

2740 (C) incomplete; or

2741 (D) materially untrue;

2742 (x) violates an insurance law, valid rule, or valid order of another regulatory agency in
2743 any jurisdiction;

2744 (xi) obtains or attempts to obtain a license through misrepresentation or fraud;

2745 (xii) improperly withholds, misappropriates, or converts money or properties received
2746 in the course of doing insurance business;

2747 (xiii) intentionally misrepresents the terms of an actual or proposed:

2748 (A) insurance contract;

2749 (B) application for insurance; or

2750 (C) life settlement;

2751 (xiv) has been convicted of, or has entered a plea in abeyance as defined in Section

2752 [77-2a-1](#) to:

2753 (A) a felony; or

2754 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
2755 (xv) admits or is found to have committed an insurance unfair trade practice or fraud;
2756 (xvi) in the conduct of business in this state or elsewhere:
2757 (A) uses fraudulent, coercive, or dishonest practices; or
2758 (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;
2759 (xvii) has had an insurance license or other professional or occupational license, or an
2760 equivalent to an insurance license or registration, or other professional or occupational license
2761 or registration:
2762 (A) denied;
2763 (B) suspended;
2764 (C) revoked; or
2765 (D) surrendered to resolve an administrative action;
2766 (xviii) forges another's name to:
2767 (A) an application for insurance; or
2768 (B) a document related to an insurance transaction;
2769 (xix) improperly uses notes or another reference material to complete an examination
2770 for an insurance license;
2771 (xx) knowingly accepts insurance business from an individual who is not licensed;
2772 (xxi) fails to comply with an administrative or court order imposing a child support
2773 obligation;
2774 (xxii) fails to:
2775 (A) pay state income tax; or
2776 (B) comply with an administrative or court order directing payment of state income
2777 tax;
2778 (xxiii) has been convicted of violating the federal Violent Crime Control and Law
2779 Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage
2780 in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;
2781 (xxiv) engages in a method or practice in the conduct of business that endangers the
2782 legitimate interests of customers and the public; or
2783 (xxv) has been convicted of any criminal felony involving dishonesty or breach of trust
2784 and has not obtained written consent to engage in the business of insurance or participate in

2785 such business as required by 18 U.S.C. Sec. 1033.

2786 (c) For purposes of this section, if a license is held by an agency, both the agency itself
2787 and any individual designated under the license are considered to be the holders of the license.

2788 (d) If an individual designated under the agency license commits an act or fails to
2789 perform a duty that is a ground for suspending, revoking, or limiting the individual's license,
2790 the commissioner may suspend, revoke, or limit the license of:

2791 (i) the individual;

2792 (ii) the agency, if the agency:

2793 (A) is reckless or negligent in its supervision of the individual; or

2794 (B) knowingly participates in the act or failure to act that is the ground for suspending,
2795 revoking, or limiting the license; or

2796 (iii) (A) the individual; and

2797 (B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

2798 (6) A licensee under this chapter is subject to the penalties for acting as a licensee
2799 without a license if:

2800 (a) the licensee's license is:

2801 (i) revoked;

2802 (ii) suspended;

2803 (iii) limited;

2804 (iv) surrendered in lieu of administrative action;

2805 (v) lapsed; or

2806 (vi) voluntarily surrendered; and

2807 (b) the licensee:

2808 (i) continues to act as a licensee; or

2809 (ii) violates the terms of the license limitation.

2810 (7) A licensee under this chapter shall immediately report to the commissioner:

2811 (a) a revocation, suspension, or limitation of the person's license in another state, the
2812 District of Columbia, or a territory of the United States;

2813 (b) the imposition of a disciplinary sanction imposed on that person by another state,
2814 the District of Columbia, or a territory of the United States; or

2815 (c) a judgment or injunction entered against that person on the basis of conduct

2816 involving:

2817 (i) fraud;

2818 (ii) deceit;

2819 (iii) misrepresentation; or

2820 (iv) a violation of an insurance law or rule.

2821 (8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a
2822 license in lieu of administrative action may specify a time, not to exceed five years, within
2823 which the former licensee may not apply for a new license.

2824 (b) If no time is specified in an order or agreement described in Subsection (8)(a), the
2825 former licensee may not apply for a new license for five years from the day on which the order
2826 or agreement is made without the express approval by the commissioner.

2827 (9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of
2828 a license issued under this part if so ordered by a court.

2829 (10) The commissioner shall by rule prescribe the license renewal and reinstatement
2830 procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2831 Section 23. Section **31A-23a-119** is enacted to read:

2832 **31A-23a-119. Special requirements for agency title insurance producers.**

2833 (1) As used in this section:

2834 (a) "Applicable percentage" means:

2835 (i) on February 1, 2024, through January 31, 2025, 2.5%;

2836 (ii) on February 1, 2025, through January 31, 2026, 3%;

2837 (iii) on February 1, 2026, through January 31, 2027, 3.5%;

2838 (iv) on February 1, 2027, through January 31, 2028, 4%; and

2839 (v) on February 1, 2028, through January 31, 2029, 4.5%.

2840 (b) "Sufficient capital and net worth" means:

2841 (i) for a new title entity:

2842 (A) \$100,000 for the first five years after becoming a new agency title insurance
2843 producer; or

2844 (B) after the first five years after becoming a new agency title insurance producer, the
2845 greater of \$50,000, or on February 1 of each year, an amount equal to 5% of the title entity's
2846 average annual gross revenue over the preceding two calendar years, up to \$150,000; or

2847 (ii) for a title entity licensed before May 14, 2019:

2848 (A) for the time period beginning on February 1, 2020, and ending on January 31,
2849 2029, the lesser of an amount equal to the applicable percentage of the title entity's average
2850 annual gross revenue over the two calendar years immediately preceding the February 1 on
2851 which the applicable percentage applies or \$150,000; and

2852 (B) beginning on February 1, 2029, the greater of \$50,000 or an amount equal to 5% of
2853 the title entity's average annual gross revenue over the preceding two calendar years, up to
2854 \$150,000.

2855 (2) Before May 1 of each year, each agency title insurance producer shall submit a
2856 report to the commissioner containing proof satisfactory to the commissioner that the agency
2857 title insurance producer had sufficient capital and net worth for the preceding calendar year.

2858 Section 24. Section **31A-23a-406** is amended to read:

2859 **31A-23a-406. Title insurance producer's business.**

2860 (1) As used in this section:

2861 (a) "Automated clearing house network" or "ACH network" means a national
2862 electronic funds transfer system regulated by the Federal Reserve and the Office of the
2863 Comptroller of the Currency.

2864 (b) "Depository institution" means the same as that term is defined in Section [7-1-103](#).

2865 (c) "Funds transfer system" means the same as that term is defined in Section
2866 [~~7-1-103~~]; [70A-4a-105](#).

2867 (2) An individual title insurance producer or agency title insurance producer may do
2868 escrow involving real property transactions if all of the following exist:

2869 (a) the individual title insurance producer or agency title insurance producer is licensed
2870 with:

2871 (i) the title line of authority; and

2872 (ii) the escrow subline of authority;

2873 (b) the individual title insurance producer or agency title insurance producer is
2874 appointed by a title insurer authorized to do business in the state;

2875 (c) except as provided in Subsection (4), the individual title insurance producer or
2876 agency title insurance producer issues one or more of the following as part of the transaction:

2877 (i) an owner's policy offering title insurance;

2878 (ii) a lender's policy offering title insurance; or
2879 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an
2880 owner's or a lender's policy offering title insurance;
2881 (d) money deposited with the individual title insurance producer or agency title
2882 insurance producer in connection with any escrow is deposited:
2883 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
2884 (A) has a branch in this state, if the individual title insurance producer or agency title
2885 insurance producer depositing the money is a resident licensee; and
2886 (B) is authorized by the depository institution's primary regulator to engage in trust
2887 business, as defined in Section 7-5-1, in this state; and
2888 (ii) in a trust account that is separate from all other trust account money that is not
2889 related to real estate transactions;
2890 (e) money deposited with the individual title insurance producer or agency title
2891 insurance producer in connection with any escrow is the property of the one or more persons
2892 entitled to the money under the provisions of the escrow;
2893 (f) money deposited with the individual title insurance producer or agency title
2894 insurance producer in connection with an escrow is segregated escrow by escrow in the records
2895 of the individual title insurance producer or agency title insurance producer;
2896 (g) earnings on money held in escrow may be paid out of the [escrow] trust account to
2897 any person in accordance with the conditions of the escrow;
2898 (h) the escrow does not require the individual title insurance producer or agency title
2899 insurance producer to hold:
2900 (i) construction money; or
2901 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
2902 (i) the individual title insurance producer or agency title insurance producer shall
2903 maintain a physical office in Utah staffed by a person with an escrow subline of authority who
2904 processes the escrow.
2905 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency
2906 title insurance producer may engage in the escrow business if:
2907 (a) the escrow involves:
2908 (i) a mobile home;

2909 (ii) a grazing right;
2910 (iii) a water right; or
2911 (iv) other personal property authorized by the commissioner; and
2912 (b) the individual title insurance producer or agency title insurance producer complies
2913 with this section except for Subsection (2)(c).
2914 (4) (a) Subsection (2)(c) does not apply if the transaction is for the transfer of real
2915 property from the School and Institutional Trust Lands Administration.
2916 (b) This subsection does not prohibit an individual title insurance producer or agency
2917 title insurance producer from issuing a policy described in Subsection (2)(c) as part of a
2918 transaction described in Subsection (4)(a).
2919 (5) Money held in escrow:
2920 (a) is not subject to any debts of the individual title insurance producer or agency title
2921 insurance producer;
2922 (b) may only be used to fulfill the terms of the individual escrow under which the
2923 money is accepted; and
2924 (c) may not be used until the conditions of the escrow are met.
2925 (6) Assets or property other than escrow money received by an individual title
2926 insurance producer or agency title insurance producer in accordance with an escrow shall be
2927 maintained in a manner that will:
2928 (a) reasonably preserve and protect the asset or property from loss, theft, or damages;
2929 and
2930 (b) otherwise comply with the general duties and responsibilities of a fiduciary or
2931 bailee.
2932 (7) (a) A check from the trust account described in Subsection (2)(d) may not be
2933 drawn, executed, or dated, or money otherwise disbursed unless the segregated [~~escrow~~] trust
2934 account from which money is to be disbursed contains a sufficient credit balance consisting of
2935 collected and cleared money at the time the check is drawn, executed, or dated, or money is
2936 otherwise disbursed.
2937 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"
2938 and may be disbursed as follows:
2939 (i) cash may be disbursed on the same day the cash is deposited;

2940 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

2941 (iii) the proceeds of one or more of the following financial instruments may be
2942 disbursed on the same day the financial instruments are deposited if received from a single
2943 party to the real estate transaction and if the aggregate of the financial instruments for the real
2944 estate transaction is less than \$10,000:

2945 (A) a cashier's check, certified check, or official check that is drawn on an existing
2946 account at a federally insured financial institution;

2947 (B) a check drawn on the trust account of a principal broker or associate broker
2948 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual
2949 title insurance producer or agency title insurance producer has reasonable and prudent grounds
2950 to believe sufficient money will be available from the trust account on which the check is
2951 drawn at the time of disbursement of proceeds from the individual title insurance producer or
2952 agency title insurance producer's [escrow] trust account;

2953 (C) a personal check not to exceed \$500 per closing; or

2954 (D) a check drawn on the [escrow] trust account of another individual title insurance
2955 producer or agency title insurance producer, if the individual title insurance producer or agency
2956 title insurance producer in the escrow transaction has reasonable and prudent grounds to
2957 believe that sufficient money will be available for withdrawal from the account upon which the
2958 check is drawn at the time of disbursement of money from the [escrow] trust account of the
2959 individual title insurance producer or agency title insurance producer in the escrow transaction;

2960 (iv) deposits made through the ACH network may be disbursed on the same day the
2961 deposit is made if:

2962 (A) the transferred funds remain uniquely designated and traceable throughout the
2963 entire ACH network transfer process;

2964 (B) except as a function of the ACH network process, the transferred funds are not
2965 subject to comingling or third party access during the transfer process;

2966 (C) the transferred funds are deposited into the title insurance producer's [escrow] trust
2967 account and are available for disbursement; and

2968 (D) either the ACH network payment type or the title insurance producer's systems
2969 prevent the transaction from being unilaterally canceled or reversed by the consumer once the
2970 transferred funds are deposited to the individual title insurance producer or agency title

2971 producer; or

2972 (v) deposits may be disbursed on the same day the deposit is made if the deposit is
2973 made via:

2974 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer
2975 system; or

2976 (B) a funds transfer system provided by an association of [~~banks~~] federally insured
2977 depository institutions.

2978 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:

2979 (i) within the time limits provided under the Expedited Funds Availability Act, 12
2980 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

2981 (ii) upon notification from the financial institution to which the money has been
2982 deposited that final settlement has occurred on the deposited financial instrument.

2983 (8) An individual title insurance producer or agency title insurance producer shall
2984 maintain a record of a receipt or disbursement of escrow money.

2985 (9) An individual title insurance producer or agency title insurance producer shall
2986 comply with:

2987 (a) Section [31A-23a-409](#);

2988 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

2989 (c) any rules adopted by the Title and Escrow Commission, subject to Section
2990 [31A-2-404](#), that govern escrows.

2991 (10) If an individual title insurance producer or agency title insurance producer
2992 conducts a search for real estate located in the state, the individual title insurance producer or
2993 agency title insurance producer shall conduct a reasonable search of the public records.

2994 Section 25. Section **31A-23a-413** is amended to read:

2995 **31A-23a-413. Title insurance producer's annual report.**

2996 An agency title insurance producer [~~and an individual title insurance producer who is~~
2997 ~~not an employee of a title insurer or who has not been designated by an agency title insurance~~
2998 ~~producer~~] shall annually file with the commissioner, by a date and in a form the commissioner
2999 specifies by rule, a verified statement of the agency title insurance producer's [~~or individual~~
3000 ~~title insurance producer's~~] financial condition, transactions, and affairs as of the end of the
3001 preceding calendar year.

3002 Section 26. Section ~~31A-26-301.6~~ is amended to read:

3003 **31A-26-301.6. Health care claims practices.**

3004 (1) As used in this section:

3005 [~~(a) "Health care provider" means a person licensed to provide health care under:~~]

3006 [~~(i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or~~]

3007 [~~(ii) Title 58, Occupations and Professions.]~~]

3008 [~~(b)~~] (a) "Insurer" means an admitted or authorized insurer, as defined in Section

3009 [31A-1-301](#), and includes:

3010 (i) a health maintenance organization; and

3011 (ii) a third party administrator that is subject to this title, provided that nothing in this
3012 section may be construed as requiring a third party administrator to use its own funds to pay
3013 claims that have not been funded by the entity for which the third party administrator is paying
3014 claims.

3015 [~~(c)~~] (b) "Provider" means a health care provider to whom an insurer is obligated to pay
3016 directly in connection with a claim by virtue of:

3017 (i) an agreement between the insurer and the provider;

3018 (ii) [~~a~~] an accident and health insurance policy or contract of the insurer; or

3019 (iii) state or federal law.

3020 (2) An insurer shall timely pay every valid insurance claim submitted by a provider in
3021 accordance with this section.

3022 (3) (a) Except as provided in Subsection (4), within 30 days of the day on which the
3023 insurer receives a written claim, an insurer shall:

3024 (i) pay the claim; or

3025 (ii) deny the claim and provide a written explanation for the denial.

3026 (b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)
3027 may be extended by 15 days if the insurer:

3028 (A) determines that the extension is necessary due to matters beyond the control of the
3029 insurer; and

3030 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the
3031 provider and insured in writing of:

3032 (I) the circumstances requiring the extension of time; and

3033 (II) the date by which the insurer expects to pay the claim or deny the claim with a
3034 written explanation for the denial.

3035 (ii) If an extension is necessary due to a failure of the provider or insured to submit the
3036 information necessary to decide the claim:

3037 (A) the notice of extension required by this Subsection (3)(b) shall specifically describe
3038 the required information; and

3039 (B) the insurer shall give the provider or insured at least 45 days from the day on which
3040 the provider or insured receives the notice before the insurer denies the claim for failure to
3041 provide the information requested in Subsection (3)(b)(ii)(A).

3042 (4) (a) In the case of a claim for income replacement benefits, within 45 days of the day
3043 on which the insurer receives a written claim, an insurer shall:

3044 (i) pay the claim; or

3045 (ii) deny the claim and provide a written explanation of the denial.

3046 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)
3047 may be extended for 30 days if the insurer:

3048 (i) determines that the extension is necessary due to matters beyond the control of the
3049 insurer; and

3050 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies
3051 the insured of:

3052 (A) the circumstances requiring the extension of time; and

3053 (B) the date by which the insurer expects to pay the claim or deny the claim with a
3054 written explanation for the denial.

3055 (c) Subject to Subsections (4)(d) and (e), the time period for complying with
3056 Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the
3057 30-day extension period provided in Subsection (4)(b) ends if before the day on which the
3058 30-day extension period ends, the insurer:

3059 (i) determines that due to matters beyond the control of the insurer a decision cannot be
3060 rendered within the 30-day extension period; and

3061 (ii) notifies the insured of:

3062 (A) the circumstances requiring the extension; and

3063 (B) the date as of which the insurer expects to pay the claim or deny the claim with a

3064 written explanation for the denial.

3065 (d) A notice of extension under this Subsection (4) shall specifically explain:

3066 (i) the standards on which entitlement to a benefit is based; and

3067 (ii) the unresolved issues that prevent a decision on the claim.

3068 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of
3069 the insured to submit the information necessary to decide the claim:

3070 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically
3071 describe the necessary information; and

3072 (ii) the insurer shall give the insured at least 45 days from the day on which the insured
3073 receives the notice before the insurer denies the claim for failure to provide the information
3074 requested in Subsection (4)(b) or (c).

3075 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or
3076 (4)(c), due to an insured or provider failing to submit information necessary to decide a claim,
3077 the period for making the benefit determination shall be tolled from the date on which the
3078 notification of the extension is sent to the insured or provider until the date on which the
3079 insured or provider responds to the request for additional information.

3080 (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated
3081 to pay on the claim, and provide a written explanation of the insurer's decision regarding any
3082 part of the claim that is denied within 20 days of receiving the information requested under
3083 Subsection (3)(b), (4)(b), or (4)(c).

3084 (7) (a) Whenever an insurer makes a payment to a provider on any part of a claim
3085 under this section, the insurer shall also send to the insured an explanation of benefits paid.

3086 (b) Whenever an insurer denies any part of a claim under this section, the insurer shall
3087 also send to the insured:

3088 (i) a written explanation of the part of the claim that was denied; and

3089 (ii) notice of the adverse benefit determination review process established under
3090 Section [31A-22-629](#).

3091 (c) This Subsection (7) does not apply to a person receiving benefits under the state
3092 Medicaid program as defined in Section [26B-3-101](#), unless required by the Department of
3093 Health and Human Services or federal law.

3094 (8) (a) A late fee shall be imposed on:

3095 (i) an insurer that fails to timely pay a claim in accordance with this section; and
3096 (ii) a provider that fails to timely provide information on a claim in accordance with
3097 this section.

3098 (b) The late fee described in Subsection (8)(a) shall be determined by multiplying
3099 together:

- 3100 (i) the total amount of the claim the insurer is obliged to pay;
- 3101 (ii) the total number of days the response or the payment is late; and
- 3102 (iii) 0.033% daily interest rate.

3103 (c) Any late fee paid or collected under this Subsection (8) shall be separately
3104 identified on the documentation used by the insurer to pay the claim.

3105 (d) For purposes of this Subsection (8), "late fee" does not include an amount that is
3106 less than \$1.

3107 (9) Each insurer shall establish a review process to resolve claims-related disputes
3108 between the insurer and providers.

3109 (10) An insurer or person representing an insurer may not engage in any unfair claim
3110 settlement practice with respect to a provider. Unfair claim settlement practices include:

3111 (a) knowingly misrepresenting a material fact or the contents of an insurance policy in
3112 connection with a claim;

3113 (b) failing to acknowledge and substantively respond within 15 days to any written
3114 communication from a provider relating to a pending claim;

3115 (c) denying or threatening to deny the payment of a claim for any reason that is not
3116 clearly described in the insured's policy;

3117 (d) failing to maintain a payment process sufficient to comply with this section;

3118 (e) failing to maintain claims documentation sufficient to demonstrate compliance with
3119 this section;

3120 (f) failing, upon request, to give to the provider written information regarding the
3121 specific rate and terms under which the provider will be paid for health care services;

3122 (g) failing to timely pay a valid claim in accordance with this section as a means of
3123 influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to
3124 an unrelated claim, an undisputed part of a pending claim, or some other aspect of the
3125 contractual relationship;

3126 (h) failing to pay the sum when required and as required under Subsection (8) when a
3127 violation has occurred;

3128 (i) threatening to retaliate or actual retaliation against a provider for the provider
3129 applying this section;

3130 (j) any material violation of this section; and

3131 (k) any other unfair claim settlement practice established in rule or law.

3132 (11) (a) The provisions of this section shall apply to each contract between an insurer
3133 and a provider for the duration of the contract.

3134 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad
3135 faith insurance claim.

3136 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer
3137 and a provider from including provisions in their contract that are more stringent than the
3138 provisions of this section.

3139 (12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the
3140 commissioner may conduct examinations to determine an insurer's level of compliance with
3141 this section and impose sanctions for each violation.

3142 (b) The commissioner may adopt rules only as necessary to implement this section.

3143 (c) The commissioner may establish rules to facilitate the exchange of electronic
3144 confirmations when claims-related information has been received.

3145 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules
3146 regarding the review process required by Subsection (9).

3147 (13) Nothing in this section may be construed as limiting the collection rights of a
3148 provider under Section [31A-26-301.5](#).

3149 (14) Nothing in this section may be construed as limiting the ability of an insurer to:

3150 (a) recover any amount improperly paid to a provider or an insured:

3151 (i) in accordance with Section [31A-31-103](#) or any other provision of state or federal
3152 law;

3153 (ii) within 24 months of the amount improperly paid for a coordination of benefits
3154 error;

3155 (iii) within 12 months of the amount improperly paid for any other reason not
3156 identified in Subsection (14)(a)(i) or (ii); or

3157 (iv) within 36 months of the amount improperly paid when the improper payment was
 3158 due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any
 3159 other state or federal health care program;

3160 (b) take any action against a provider that is permitted under the terms of the provider
 3161 contract and not prohibited by this section;

3162 (c) report the provider to a state or federal agency with regulatory authority over the
 3163 provider for unprofessional, unlawful, or fraudulent conduct; or

3164 (d) enter into a mutual agreement with a provider to resolve alleged violations of this
 3165 section through mediation or binding arbitration.

3166 (15) A ~~[health care]~~ provider may only seek recovery from the insurer for an amount
 3167 improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

3168 (16) (a) An insurer may offer the remittance of payment through a credit card or other
 3169 similar arrangement.

3170 (b) (i) A ~~[health care]~~ provider may elect not to receive remittance through a credit card
 3171 or other similar arrangement.

3172 (ii) An insurer:

3173 (A) shall permit a ~~[health care]~~ provider's election described in Subsection (16)(b)(i) to
 3174 apply to the ~~[health care]~~ provider's entire practice; and

3175 (B) may not require a ~~[health care]~~ provider's election described in Subsection
 3176 (16)(b)(i) to be made on a patient-by-patient basis.

3177 (c) An insurer may not require a ~~[health care]~~ provider or insured to accept remittance
 3178 through a credit card or other similar arrangement.

3179 Section 27. Section **31A-27a-108.1** is enacted to read:

3180 **31A-27a-108.1. Injunctions and orders applicable to a federal home loan bank.**

3181 (1) As used in this section:

3182 (a) "Federal home loan bank" means the same as that term is defined in 12 U.S.C. Sec.
 3183 1422.

3184 (b) "Insurer-member" means an insurer that is a member as defined in 12 U.S.C. Sec.
 3185 1422.

3186 (2) (a) Notwithstanding any other provision of this chapter, after the seventh day
 3187 following the filing of a delinquency proceeding, a state court may not stay or prohibit a federal

3188 home loan bank from exercising its rights regarding collateral pledged by an insurer-member.

3189 (b) A federal home loan bank may repurchase any outstanding capital stock that is in
3190 excess of the amount of federal home loan bank stock that the federal loan bank requires the
3191 insurer-member to hold as a minimum investment if:

3192 (i) the insurer-member is subject to a delinquency proceeding;

3193 (ii) the federal home loan bank exercises the federal home loan bank's rights regarding
3194 collateral pledged by the insurer-member;

3195 (iii) the federal home loan bank, in good faith, determines the repurchase is permissible
3196 under applicable laws, regulations, regulatory obligations, and the federal home loan bank's
3197 capital plan; and

3198 (iv) the repurchase is consistent with the federal home loan bank's current capital stock
3199 practices that apply to the federal home loan bank's entire membership.

3200 (c) Subject to Subsection (2)(c)(ii), after a court appoints a receiver for an
3201 insurer-member, a federal home loan bank shall provide the receiver a process, and establish a
3202 timeline, for the following:

3203 (i) the release of collateral that exceeds the amount required to support secured
3204 obligations remaining after any repayment of loans as determined in accordance with the
3205 applicable agreements between the federal home loan bank and the insurer-member;

3206 (ii) the release of any of the insurer-member's collateral remaining in the federal home
3207 loan bank's possession following full repayment of all outstanding secured obligations of the
3208 insurer-member;

3209 (iii) the payment of fees owed by the insurer-member and the operation of deposits and
3210 other accounts of the insurer-member with the federal home loan bank; and

3211 (iv) the possible redemption or repurchase of federal home loan bank stock or excess
3212 stock of any class that an insurer-member is required to own.

3213 (d) An insurer-member shall provide the information described in Subsection (2)(c)(i)
3214 within 10 business days after the day on which the receiver requests the information.

3215 (e) Upon request from a receiver, a federal home loan bank shall provide any available
3216 options for an insurer-member subject to a delinquency proceeding to renew or restructure a
3217 loan to defer associated prepayment fees, subject to:

3218 (i) market conditions;

- 3219 (ii) the terms of any loan outstanding to the insurer-member;
3220 (iii) the applicable policies of the federal home loan bank; and
3221 (iv) the federal home loan bank's compliance with federal laws and regulations.
3222 (3) (a) Notwithstanding any other provision of this chapter, the receiver for an
3223 insurer-member may not void any transfer of, or any obligation to transfer, money or any other
3224 property arising under or in connection with:
3225 (i) any federal home loan bank security agreement;
3226 (ii) any pledge, security, collateral, or guarantee agreement; or
3227 (iii) any other similar arrangement or credit enhancement relating to a federal home
3228 loan bank security agreement made in the ordinary course of business and in compliance with
3229 the applicable federal home loan bank agreement.
3230 (b) Notwithstanding Subsection (3)(a), an insurer-member may avoid a transfer if a
3231 party to the transfer made the transfer with intent to hinder, delay, or defraud the
3232 insurer-member, the receiver for the insurer-member, or an existing or future creditor.
3233 (c) This subsection shall not affect a receiver's rights regarding advances to an
3234 insurer-member in a delinquency proceeding pursuant to 12 C.F.R. Sec. 1266.4.
3235 Section 28. Section **31A-28-113** is amended to read:
3236 **31A-28-113. Credit for assessments paid.**
3237 (1) (a) A member insurer may offset against its premium tax, income tax, or franchise
3238 tax liability to this state an assessment described in Subsection **31A-28-109**(2)(b) to the extent
3239 of 20% of the amount of the assessment for each of the five calendar years following the year
3240 in which the assessment was paid.
3241 (b) To the extent that the offsets described in Subsection (1)(a) exceed [premium] tax
3242 liability, the offsets may be carried forward and used to offset [premium] tax liability in future
3243 years.
3244 (c) If a member insurer ceases doing business, all uncredited assessments may be
3245 credited against its [premium] tax liability for the year it ceases doing business.
3246 (2) (a) A member insurer that is exempt from taxes described in Subsection (1) may
3247 recoup the member insurer's assessment by a surcharge on premiums in a sum reasonably
3248 calculated to recoup the assessments over a reasonable period of time, as approved by the
3249 commissioner.

3250 (b) Amounts recouped shall not be considered premiums for any other purpose,
3251 including the computation of gross premium tax, income tax, franchise tax, producer
3252 commission, or, to the extent allowed under federal law, medical loss ratio.

3253 (c) If a member insurer collects excess surcharges, the member insurer shall remit the
3254 excess amount to the association, and the excess amount shall be applied to reduce future
3255 assessments in the appropriate account.

3256 (3) (a) Money shall be paid by the member insurers to the state in a manner required by
3257 the State Tax Commission if the money:

3258 (i) is acquired by refund in accordance with Subsection 31A-28-109(6) from the
3259 association by member insurers; and

3260 (ii) has been offset against [premium] taxes as provided in Subsection (1).

3261 (b) The association shall notify the commissioner that the refunds described in
3262 Subsection (3)(a) have been made.

3263 Section 29. Section 31A-31-108 is amended to read:

3264 **31A-31-108. Assessment of insurers.**

3265 (1) For purposes of this section:

3266 (a) The commissioner shall by rule made in accordance with Title 63G, Chapter 3,
3267 Utah Administrative Rulemaking Act, define:

3268 (i) "annuity consideration";

3269 (ii) "membership fees";

3270 (iii) "other fees";

3271 (iv) "deposit-type contract funds"; and

3272 (v) "other considerations in Utah."

3273 (b) "Insurance fraud provisions" means:

3274 (i) this chapter;

3275 (ii) Section 34A-2-110; and

3276 (iii) Section 76-6-521.

3277 (c) "Utah consideration" means:

3278 (i) the total premiums written for Utah risks;

3279 (ii) annuity consideration;

3280 (iii) membership fees collected by the insurer;

3281 (iv) other fees collected by the insurer;

3282 (v) deposit-type contract funds; and

3283 (vi) other considerations in Utah.

3284 (d) "Utah risks" means insurance coverage on the lives, health, or against the liability
3285 of persons residing in Utah, or on property located in Utah, other than property temporarily in
3286 transit through Utah.

3287 (2) To implement insurance fraud provisions, the commissioner may assess an
3288 admitted insurer and a nonadmitted insurer transacting insurance under Chapter 15, Part 1,
3289 Unauthorized Insurers and Surplus Lines, and Chapter 15, Part 2, Risk Retention Groups Act,
3290 an annual fee as follows:

3291 (a) [~~\$200~~] \$225 for an insurer for which the sum of the Utah consideration is less than
3292 or equal to \$1,000,000;

3293 (b) [~~\$450~~] \$525 for an insurer for which the sum of the Utah consideration is greater
3294 than \$1,000,000 but is less than or equal to \$2,500,000;

3295 (c) [~~\$800~~] \$925 for an insurer for which the sum of the Utah consideration is greater
3296 than \$2,500,000 but is less than or equal to \$5,000,000;

3297 (d) [~~\$1,600~~] \$1,850 for an insurer for which the sum of the Utah consideration is
3298 greater than \$5,000,000 but less than or equal to \$10,000,000;

3299 (e) [~~\$6,100~~] \$7,000 for an insurer for which the sum of the Utah consideration is
3300 greater than \$10,000,000 but less than \$50,000,000; and

3301 (f) [~~\$15,000~~] \$17,250 for an insurer for which the sum of the Utah consideration equals
3302 or exceeds \$50,000,000.

3303 (3) Money received by the state under this section shall be deposited into the Insurance
3304 Fraud Investigation Restricted Account created in Subsection (4).

3305 (4) (a) There is created in the General Fund a restricted account known as the
3306 "Insurance Fraud Investigation Restricted Account."

3307 (b) The Insurance Fraud Investigation Restricted Account shall consist of the money
3308 received by the commissioner under this section and Subsections [31A-31-109\(1\)\(a\)\(ii\)](#), [\(1\)\(b\)](#),
3309 [\(2\)\(b\)\(i\)](#), [\(2\)\(c\)](#), and [\(3\)\(a\)](#). Money ordered paid under Subsections [31A-31-109\(1\)\(a\)\(i\)](#) and
3310 [\(2\)\(a\)](#) shall be deposited in the Insurance Fraud Victim Restitution Fund pursuant to Section
3311 [31A-31-108.5](#).

3312 (c) The commissioner shall administer the Insurance Fraud Investigation Restricted
3313 Account. Subject to appropriations by the Legislature, the commissioner shall use the money
3314 deposited into the Insurance Fraud Investigation Restricted Account to pay for a cost or
3315 expense incurred by the commissioner in the administration, investigation, and enforcement of
3316 insurance fraud provisions.

3317 Section 30. Section **31A-35-202** is amended to read:

3318 **31A-35-202. Board responsibilities.**

3319 (1) The board shall:

3320 (a) meet:

3321 (i) at least quarterly; and

3322 (ii) at the call of the chair;

3323 (b) make written recommendations to the commissioner for rules governing the

3324 following aspects of the bail bond insurance business:

3325 (i) qualifications, applications, and fees for obtaining:

3326 (A) a license required by this Section [31A-35-401](#); or

3327 (B) a certificate;

3328 (ii) limits on the aggregate amounts of bail bonds;

3329 (iii) unprofessional conduct;

3330 (iv) procedures for hearing and resolving allegations of unprofessional conduct; and

3331 (v) sanctions for unprofessional conduct;

3332 (c) screen:

3333 (i) bail bond agency license applications; and

3334 (ii) persons applying for a bail bond agency license; and

3335 (d) recommend to the commissioner action regarding the granting, ~~renewing,~~

3336 suspending, revoking, and reinstating of bail bond agency license.

3337 (2) Nothing in Subsection (1)(d) precludes the commissioner from suspending a license

3338 under Section [31A-35-504](#).

3339 ~~(2)~~ (3) The board may:

3340 (a) conduct investigations of allegations of unprofessional conduct on the part of
3341 persons or bail bond agencies involved in the business of bail bond insurance; and

3342 (b) provide the results of the investigations described in Subsection ~~[(2)(a)]~~ (3)(a) to

3343 the commissioner with recommendations for:

3344 (i) action; and

3345 (ii) any appropriate sanctions.

3346 Section 31. Section **31A-35-406** is amended to read:

3347 **31A-35-406. Initial licensing, license renewal, and license reinstatement.**

3348 (1) An applicant for an initial bail bond agency license shall:

3349 (a) complete and submit to the department an application;

3350 (b) submit to the department, as applicable, a copy of the applicant's:

3351 (i) irrevocable letter of credit, as required under Subsection **31A-35-404(1)**;

3352 (ii) verified financial statement, as required under Subsection **31A-35-404(2)**; or

3353 (iii) qualifying power of attorney, as required under Subsection **31A-35-404(3)**; and

3354 (c) pay the department the applicable renewal fee established in accordance with

3355 Section **31A-3-103**.

3356 (2) (a) A license under this chapter expires annually effective at midnight on August

3357 [~~14~~] 31.

3358 (b) To renew a bail bond agency license issued under this chapter, on or before [~~July~~

3359 ~~15~~] August 31, the bail bond agency shall:

3360 (i) complete and submit to the department a renewal application that includes

3361 certification that:

3362 (A) a principal of the agency attended or participated by telephone in at least one entire

3363 board meeting during the 12-month period before [~~July 15~~] August 31; and

3364 (B) as of May 1, the agency complies with aggregate bond limits established by rule
3365 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

3366 (ii) submit to the department, as applicable, a copy of the applicant's:

3367 (A) irrevocable letter of credit, as required under Subsection **31A-35-404(1)**;

3368 (B) verified financial statement, as required under Subsection **31A-35-404(2)**; or

3369 (C) qualifying power of attorney, as required under Subsection **31A-35-404(3)**; and

3370 (iii) pay the department the applicable renewal fee established in accordance with

3371 Section **31A-3-103**.

3372 (c) A bail bond agency shall renew the bail bond agency's license under this chapter

3373 annually as established by department rule, regardless of when the license is issued.

3374 (3) (a) A bail bond agency may apply for reinstatement of an expired bail bond agency
3375 license within one year after the day on which the license expires by complying with the
3376 renewal requirements described in Subsection (2).

3377 (b) If a bail bond agency license has been expired for more than one year, the person
3378 applying for reinstatement of the bail bond agency license shall comply with the initial
3379 licensing requirements described in Subsection (1).

3380 (4) If a bail bond agency license is suspended, the applicant may not submit an
3381 application for a bail bond agency license until after the day on which the period of suspension
3382 ends.

3383 (5) The department shall deposit a fee collected under this section in the restricted
3384 account created in Section [31A-35-407](#).

3385 Section 32. Section **31A-37-202** is amended to read:

3386 **31A-37-202. Permissive areas of insurance.**

3387 (1) Except as provided in Subsections (2) and (3), a captive insurance company may
3388 not directly insure a risk other than the risk of the captive insurance company's parent or
3389 affiliated company.

3390 (2) In addition to the risks described in Subsection (1), an association captive insurance
3391 company may insure the risk of:

3392 (a) a member organization of the association captive insurance company's association;
3393 or

3394 (b) an affiliate of a member organization of the association captive insurance
3395 company's association.

3396 (3) The following may insure a risk of a controlled unaffiliated business:

3397 (a) an industrial insured captive insurance company;

3398 (b) a protected cell;

3399 (c) a pure captive insurance company; or

3400 (d) a sponsored captive insurance company.

3401 (4) To the extent allowed by a captive insurance company's organizational charter, a
3402 captive insurance company may provide any type of insurance described in this title, except:

3403 (a) workers' compensation insurance;

3404 (b) personal motor vehicle insurance;

3405 (c) homeowners' insurance; and
3406 (d) any component of the types of insurance described in Subsections (4)(a) through
3407 (c).

3408 (5) A captive insurance company may not provide coverage for:

- 3409 (a) a wager or gaming risk;
- 3410 (b) loss of an election; or
- 3411 (c) the penal consequences of a crime.

3412 (6) Unless the punitive damages award arises out of a criminal act of an insured, a
3413 captive insurance company may provide coverage for punitive damages awarded, including
3414 through adjudication or compromise, against the captive insurance company's:

- 3415 (a) parent; or
- 3416 (b) affiliated company.

3417 (7) Notwithstanding Subsection (4), if approved by the commissioner[-];

3418 (a) a captive insurance company may insure as a reimbursement a limited layer or
3419 deductible of workers' compensation coverage[-]; and

3420 (b) an association captive insurance company that satisfies the requirements of this
3421 chapter may provide homeowners' insurance.

3422 Section 33. Section **31A-37-204** is amended to read:

3423 **31A-37-204. Paid-in capital -- Other capital.**

3424 (1) (a) The commissioner may not issue a certificate of authority to a company
3425 described in Subsection (1)(c) unless the company possesses and thereafter maintains
3426 unimpaired paid-in capital and unimpaired paid-in surplus of:

- 3427 (i) in the case of a pure captive insurance company:
 - 3428 (A) except as provided in Subsection (1)(a)(i)(B), not less than \$250,000; or
 - 3429 (B) if the pure captive insurance company is not acting as a pool that facilitates risk
3430 distribution for other captive insurers, an amount that is the greater of:
 - 3431 (I) not less than 20% of the company's total aggregate risk; or
 - 3432 (II) \$50,000;
- 3433 (ii) in the case of an association captive insurance company, not less than \$750,000;
- 3434 (iii) in the case of an industrial insured captive insurance company incorporated as a
3435 stock insurer, not less than \$700,000;

3436 (iv) in the case of a sponsored captive insurance company, not less than [~~\$500,000~~,]
3437 \$250,000 of which a minimum of [~~\$200,000~~] \$50,000 is provided by the sponsor; or

3438 (v) in the case of a special purpose captive insurance company, an amount determined
3439 by the commissioner after giving due consideration to the company's business plan, feasibility
3440 study, and pro-formas, including the nature of the risks to be insured.

3441 (b) The paid-in capital and surplus required under this Subsection (1) may be in the
3442 form of:

3443 (i) (A) cash; or

3444 (B) cash equivalent;

3445 (ii) an irrevocable letter of credit:

3446 (A) issued by:

3447 (I) a bank chartered by this state;

3448 (II) a member bank of the Federal Reserve System; or

3449 (III) a member bank of the Federal Deposit Insurance Corporation;

3450 (B) approved by the commissioner;

3451 (iii) marketable securities as determined by Subsection (5); or

3452 (iv) some other thing of value approved by the commissioner, for a period not to
3453 exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant
3454 to an approved plan of liquidation and reorganization of another captive insurance company or
3455 alien captive insurance company in another jurisdiction.

3456 (c) This Subsection (1) applies to:

3457 (i) a pure captive insurance company;

3458 (ii) a sponsored captive insurance company;

3459 (iii) a special purpose captive insurance company;

3460 (iv) an association captive insurance company; or

3461 (v) an industrial insured captive insurance company.

3462 (2) (a) The commissioner may, under Section [31A-37-106](#), prescribe additional capital
3463 based on the type, volume, and nature of insurance business transacted.

3464 (b) The capital prescribed by the commissioner under this Subsection (2) may be in the
3465 form of:

3466 (i) cash;

- 3467 (ii) an irrevocable letter of credit issued by:
- 3468 (A) a bank chartered by this state; or
- 3469 (B) a member bank of the Federal Reserve System; or
- 3470 (iii) marketable securities as determined by Subsection (5).
- 3471 (3) (a) Except as provided in Subsection (3)(c), a branch captive insurance company, as
- 3472 security for the payment of liabilities attributable to branch operations, shall, through its branch
- 3473 operations, establish and maintain a trust fund:
- 3474 (i) funded by an irrevocable letter of credit or other acceptable asset; and
- 3475 (ii) in the United States for the benefit of:
- 3476 (A) United States policyholders; and
- 3477 (B) United States ceding insurers under:
- 3478 (I) insurance policies issued; or
- 3479 (II) reinsurance contracts issued or assumed.
- 3480 (b) The amount of the security required under this Subsection (3) shall be no less than:
- 3481 (i) the capital and surplus required by this chapter; and
- 3482 (ii) the reserves on the insurance policies or reinsurance contracts, including:
- 3483 (A) reserves for losses;
- 3484 (B) allocated loss adjustment expenses;
- 3485 (C) incurred but not reported losses; and
- 3486 (D) unearned premiums with regard to business written through branch operations.
- 3487 (c) Notwithstanding the other provisions of this Subsection (3):
- 3488 (i) the commissioner may permit a branch captive insurance company that is required
- 3489 to post security for loss reserves on branch business by its reinsurer to reduce the funds in the
- 3490 trust account required by this section by the same amount as the security posted if the security
- 3491 remains posted with the reinsurer; and
- 3492 (ii) a branch captive insurance company that is the result of the licensure of an alien
- 3493 captive insurance company that is not formed in an alien jurisdiction is not subject to the
- 3494 requirements of this Subsection (3).
- 3495 (4) (a) A captive insurance company may not pay the following without the prior
- 3496 approval of the commissioner:
- 3497 (i) a dividend out of capital or surplus in excess of the limits under Section

3498 16-10a-640; or

3499 (ii) a distribution with respect to capital or surplus in excess of the limits under Section
3500 16-10a-640.

3501 (b) The commissioner shall condition approval of an ongoing plan for the payment of
3502 dividends or other distributions on the retention, at the time of each payment, of capital or
3503 surplus in excess of:

3504 (i) amounts specified by the commissioner under Section 31A-37-106; or

3505 (ii) determined in accordance with formulas approved by the commissioner under
3506 Section 31A-37-106.

3507 (5) For purposes of this section, marketable securities means:

3508 (a) a bond or other evidence of indebtedness of a governmental unit in the United
3509 States or Canada or any instrumentality of the United States or Canada; or

3510 (b) securities:

3511 (i) traded on one or more of the following exchanges in the United States:

3512 (A) New York;

3513 (B) American; or

3514 (C) NASDAQ;

3515 (ii) when no particular security, or a substantially related security, applied toward the
3516 required minimum capital and surplus requirement of Subsection (1) represents more than 50%
3517 of the minimum capital and surplus requirement; and

3518 (iii) when no group of up to four particular securities, consolidating substantially
3519 related securities, applied toward the required minimum capital and surplus requirement of
3520 Subsection (1) represents more than 90% of the minimum capital and surplus requirement.

3521 (6) Notwithstanding Subsection (5), to protect the solvency and liquidity of a captive
3522 insurance company, the commissioner may reject the application of specific assets or amounts
3523 of specific assets to satisfying the requirement of Subsection (1).

3524 Section 34. Section 31A-37-502 is amended to read:

3525 **31A-37-502. Examination.**

3526 (1) (a) As provided in this section, the commissioner, or a person appointed by the
3527 commissioner, ~~[shall]~~ may examine each captive insurance company ~~[in each five-year period.]~~
3528 at least once every five years, or more frequently if the commissioner determines a more

3529 frequent examination is prudent.

3530 (b) The five-year period described in Subsection (1)(a) shall be determined on the basis
3531 of five full annual accounting periods of operation.

3532 (c) The examination is to be made as of:

3533 (i) December 31 of the full five-year period; or

3534 (ii) the last day of the month of an annual accounting period authorized for a captive
3535 insurance company under this section.

3536 [~~(d) In addition to an examination required under this Subsection (1), the~~
3537 ~~commissioner, or a person appointed by the commissioner may examine a captive insurance~~
3538 ~~company whenever the commissioner determines it to be prudent.]~~

3539 (2) During an examination under this section the commissioner, or a person appointed
3540 by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance
3541 company to ascertain all or any combination of the following:

3542 (a) the financial condition of the captive insurance company;

3543 (b) the ability of the captive insurance company to fulfill the insurance policy
3544 obligations of the captive insurance company; and

3545 (c) whether the captive insurance company has complied with this chapter.

3546 [~~(3) The commissioner may accept a comprehensive annual independent audit in lieu~~
3547 ~~of an examination:]~~

3548 [~~(a) of a scope satisfactory to the commissioner; and]~~

3549 [~~(b) performed by an independent auditor approved by the commissioner.]~~

3550 [~~(4)~~] (3) A captive insurance company that is inspected and examined under this
3551 section shall pay, as provided in Subsection 31A-37-201(6)(b), the expenses and charges of an
3552 inspection and examination.

3553 Section 35. **Repealer.**

3554 This bill repeals:

3555 Section 31A-2-303, **Notice.**

3556 Section 36. **Effective date.**

3557 This bill takes effect on May 1, 2024.