

Insurance Code Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Evan J. Vickers

LONG TITLE**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 9 absent

General Description:

This bill amends provisions relating to insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes an insurance fraud investigator that the Insurance Department (department) employs to investigate crimes committed by a department licensee;
- ▶ provides the type of experts the Insurance Commissioner (commissioner) may hire to conduct an examination of a licensee;
- ▶ provides that an entity that is subject to examination (examinee) shall pay the costs of an examination;
- ▶ provides that the commissioner may use a deposit an examinee makes to pay an examination cost an examinee fails to pay;
- ▶ requires that a deposit an examinee makes shall first be used to pay for an unpaid examination cost;
- ▶ amends provisions relating to the service of process through a state officer;
- ▶ authorizes the commissioner to make rules governing the process for winding down the business of a resident agency title insurance producer;
- ▶ exempts a risk retention group from paying an annual fee with the department;
- ▶ amends provisions relating to money appropriated from the Captive Insurance Restricted Account;
- ▶ requires that an insurer file with the commissioner and the National Association of Insurance Commissioners a quarterly statement of the insurer's financial condition;
- ▶ amends provisions relating to the payment of dividends to include domestic mutual

- 31 insurance holding companies;
- 32 ▶ requires that a mutual insurer or mutual insurance company provide the commissioner
33 with a notification before a dividend distribution;
- 34 ▶ removes a civil penalty for a director or officer of a insurance holding company that
35 commits certain violations;
- 36 ▶ provides that an insurer may exclude personal injury protection coverage if a person uses
37 a vehicle to provide network transportation services;
- 38 ▶ provides that an insurer may issue a group insurance policy offering life insurance to the
39 trustees of a fund established, created, and maintained for the benefit of members of an
40 association group;
- 41 ▶ changes the day on which an insurer shall make an annual report;
- 42 ▶ increases the liability coverage a title insurance producer shall maintain;
- 43 ▶ amends provisions relating to the type of policies an individual title insurance producer
44 and agency title insurance producer shall maintain;
- 45 ▶ increases the amount of coverage an individual title insurance producer or agency title
46 insurance producer shall maintain;
- 47 ▶ provides that if an agency title insurance producer becomes aware of facts that indicate an
48 electronic wire funds transfer did not reach the electronic wire funds transfer's intended
49 recipient, the agency title insurance producer make a report of the facts;
- 50 ▶ requires that a title insurer report to the commissioner the termination of an appointment
51 of a title insurance producer;
- 52 ▶ requires that a nonresident title insurance agency deposit a Utah home buyer's escrow in a
53 depository institution's Utah branch;
- 54 ▶ provides that an individual title insurance producer or agency title insurance producer
55 notify the parties to a real estate transaction of availability, cost, and protections from a
56 closing protection letter;
- 57 ▶ provides that a title insurance licensee is not required to deposit money in a depository
58 institution under certain circumstances;
- 59 ▶ repeals certain reporting requirements relating to licensee compensation;
- 60 ▶ provides that an insurer shall pay each claim submitted by an insured and a provider;
- 61 ▶ amends provisions relating to required contracts involving a public adjuster;
- 62 ▶ amends provisions relating to the compensation of a public adjuster;
- 63 ▶ enacts provisions that authorize a property insurance policy to prohibit the assignment of

- 64 property insurance policy rights and benefits;
- 65 ▶ provides requirements for the funds a public adjuster holds;
- 66 ▶ establishes public adjuster standards of conduct;
- 67 ▶ establishes record retention requirements for a public adjuster;
- 68 ▶ provides additional grounds for the commissioner taking an administrative action against
- 69 an insurer;
- 70 ▶ amends the process by which the commissioner takes an administrative action against an
- 71 insurer;
- 72 ▶ provides that the commissioner may appoint a supervisor of an insurer that the
- 73 commissioner places under administrative supervision;
- 74 ▶ amends the standards for the conduct of a hearing the commissioner undertakes while
- 75 engaging in an administrative action against an insurer;
- 76 ▶ provides for the applicability of certain statutes to a risk retention group;
- 77 ▶ amends the definition of the excess surplus of a captive insurance company;
- 78 ▶ expands the authority of the commissioner to suspend or revoke the certificate of
- 79 authority of a captive insurance company to conduct business in this state;
- 80 ▶ changes the day on which an agency title insurance producer is required to pay an
- 81 assessment; and
- 82 ▶ makes technical and conforming changes.

83 **Money Appropriated in this Bill:**

84 None

85 **Other Special Clauses:**

86 None

87 **Utah Code Sections Affected:**

88 AMENDS:

- 89 **31A-2-104**, as last amended by Laws of Utah 2020, Chapter 32
- 90 **31A-2-203**, as last amended by Laws of Utah 2009, Chapter 349
- 91 **31A-2-205**, as last amended by Laws of Utah 2009, Chapter 355
- 92 **31A-2-206**, as last amended by Laws of Utah 2007, Chapter 309
- 93 **31A-2-207**, as last amended by Laws of Utah 2019, Chapter 254
- 94 **31A-2-310**, as last amended by Laws of Utah 2023, Chapter 194
- 95 **31A-2-404**, as last amended by Laws of Utah 2025, Chapter 175
- 96 **31A-3-102**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
- 97 **31A-3-304**, as last amended by Laws of Utah 2025, Chapter 175

98 **31A-4-113**, as last amended by Laws of Utah 2004, Chapter 2
99 **31A-4-113.5**, as last amended by Laws of Utah 2024, Chapter 120
100 **31A-5-420**, as enacted by Laws of Utah 1985, Chapter 242
101 **31A-11-104**, as last amended by Laws of Utah 2007, Chapter 309
102 **31A-14-206**, as last amended by Laws of Utah 2007, Chapter 309
103 **31A-16-111**, as last amended by Laws of Utah 2023, Chapter 401 and last amended by
104 Coordination Clause, Laws of Utah 2023, Chapter 401
105 **31A-18-117**, as enacted by Laws of Utah 2025, Chapter 368
106 **31A-21-310**, as last amended by Laws of Utah 2025, Chapter 302
107 **31A-22-309**, as last amended by Laws of Utah 2020, Chapter 130
108 **31A-22-505**, as last amended by Laws of Utah 2021, Chapter 252
109 **31A-22-650**, as last amended by Laws of Utah 2025, Chapter 473
110 **31A-22-701**, as last amended by Laws of Utah 2025, Chapter 175
111 **31A-23a-203.5**, as last amended by Laws of Utah 2015, Chapter 312
112 **31A-23a-204**, as last amended by Laws of Utah 2024, Chapter 196
113 **31A-23a-401**, as last amended by Laws of Utah 2009, Chapter 12
114 **31A-23a-406**, as last amended by Laws of Utah 2024, Chapter 120
115 **31A-23a-409**, as last amended by Laws of Utah 2023, Chapters 111, 194
116 **31A-23a-501**, as last amended by Laws of Utah 2023, Chapter 16
117 **31A-26-301.6**, as last amended by Laws of Utah 2025, Chapter 276
118 **31A-26-401**, as enacted by Laws of Utah 2017, Chapter 168
119 **31A-26-402**, as enacted by Laws of Utah 2017, Chapter 168
120 **31A-27-501**, as renumbered and amended by Laws of Utah 2007, Chapter 309
121 **31A-27-503**, as last amended by Laws of Utah 2012, Chapter 253
122 **31A-27-504**, as renumbered and amended by Laws of Utah 2007, Chapter 309
123 **31A-28-203**, as last amended by Laws of Utah 2002, Chapter 308
124 **31A-35-103**, as last amended by Laws of Utah 2021, Chapter 64
125 **31A-37-102**, as last amended by Laws of Utah 2025, Chapter 175
126 **31A-37-103**, as last amended by Laws of Utah 2019, Chapter 193
127 **31A-37-201**, as last amended by Laws of Utah 2025, Chapter 175
128 **31A-37-204**, as last amended by Laws of Utah 2025, Chapter 175
129 **31A-37-302**, as last amended by Laws of Utah 2025, Chapter 175
130 **31A-37-501**, as last amended by Laws of Utah 2025, Chapter 175
131 **31A-37-505**, as last amended by Laws of Utah 2025, Chapter 175

132 **31A-37-701**, as last amended by Laws of Utah 2025, Chapter 175
 133 **31A-41-202**, as last amended by Laws of Utah 2016, Chapter 138
 134 **63G-2-305**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

135 ENACTS:

136 **31A-26-403.1**, Utah Code Annotated 1953
 137 **31A-26-404**, Utah Code Annotated 1953
 138 **31A-26-405**, Utah Code Annotated 1953
 139 **31A-26-406**, Utah Code Annotated 1953

140 RENUMBERS AND AMENDS:

141 **31A-26-407**, (Renumbered from 31A-26-403, as enacted by Laws of Utah 2017,
 142 Chapter 168)

143

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

145 Section 1. Section **31A-2-104** is amended to read:

146 **31A-2-104 . Other employees -- Insurance fraud investigators.**

- 147 (1) The department shall employ professional, technical, and clerical employees as
 148 necessary to carry out the duties of the department.
 149 (2) An insurance fraud investigator employed in accordance with Subsection (1) may as the
 150 commissioner approves:
 151 (a) be designated a law enforcement officer, as defined in Section 53-13-103;~~and~~
 152 (b) be eligible for retirement benefits under the Public Safety Employee's Retirement
 153 System[-] ; and
 154 (c) investigate crimes a department licensee commits while performing an activity
 155 regulated under this title.

156 Section 2. Section **31A-2-203** is amended to read:

157 **31A-2-203 . Examinations and alternatives.**

- 158 (1)(a) When the commissioner determines that information is needed about a matter
 159 related to the enforcement of this title, the commissioner may examine the affairs and
 160 condition of:
 161 (i) a licensee under this title;
 162 (ii) an applicant for a license under this title;
 163 (iii) a person or organization of persons doing or in process of organizing to do an
 164 insurance business in this state; or
 165 (iv) a person who is not, but is required to be, licensed under this title.

- 166 (b) When reasonably necessary for an examination under Subsection (1)(a), the
167 commissioner may examine:
- 168 (i) so far as it relates to the examinee, an account, record, document, or evidence of a
169 transaction of:
- 170 (A) the insurer or other licensee;
- 171 (B) an officer or other person who has executive authority over or is in charge of
172 any segment of the examinee's affairs; or
- 173 (C) an affiliate of the examinee; or
- 174 (ii) a third party model or product used by the examinee.
- 175 (c)(i) On demand, an examinee under Subsection (1)(a) shall make available to the
176 commissioner for examination:
- 177 (A) the examinee's own account, record, file, document, or evidence of a
178 transaction; and
- 179 (B) to the extent reasonably necessary for an examination, an account, record, file,
180 document, or evidence of a transaction of a person described under Subsection
181 (1)(b).
- 182 (ii) Except as provided in Subsection (1)(c)(iii), failure to make an item described in
183 Subsection (1)(c)(i) available is concealment of records under Subsection
184 31A-27a-207(1)(e).
- 185 (iii) If an examinee is unable to obtain an account, record, file, document, or evidence
186 of a transaction from a person described under Subsection (1)(b), that failure is not
187 concealment of records if the examinee immediately terminates the relationship
188 with the other person.
- 189 (d)(i) The commissioner or an examiner may not remove an account, record, file,
190 document, evidence of a transaction, or other property of an examinee from the
191 examinee's offices unless:
- 192 (A) the examinee consents in writing; or
- 193 (B) a court grants permission.
- 194 (ii) The commissioner may make and remove a copy or abstract of the following
195 described in Subsection (1)(d)(i):
- 196 (A) an account;
- 197 (B) a record;
- 198 (C) a file;
- 199 (D) a document;

- 200 (E) evidence of a transaction; or
201 (F) other property.
- 202 (2)(a) Subject to the other provisions of this section, the commissioner shall examine as
203 needed and as otherwise provided by law:
- 204 (i) every insurer, both domestic and nondomestic;
 - 205 (ii) every licensed rate service organization; and
 - 206 (iii) any other licensee.
- 207 (b) The commissioner shall examine an insurer, both domestic and nondomestic, no less
208 frequently than once every five years, but the commissioner may use in lieu an
209 examination under Subsection (4) to satisfy this requirement.
- 210 (c) The commissioner shall revoke the certificate of authority of an insurer or the license
211 of a rate service organization that has not been examined, or submitted an acceptable
212 in lieu report under Subsection (4), within the past five years.
- 213 (d)(i) Any 25 persons who are policyholders, shareholders, or creditors of a domestic
214 insurer may by verified petition demand a hearing under Section 31A-2-301 to
215 determine whether the commissioner should conduct an unscheduled examination
216 of the insurer.
- 217 (ii) Persons demanding the hearing under this Subsection (2)(d) shall be given an
218 opportunity in the hearing to present evidence that an examination of the insurer is
219 necessary.
 - 220 (iii) If the evidence justifies an examination, the commissioner shall order an
221 examination.
- 222 (e)(i) If the board of directors of a domestic insurer requests that the commissioner
223 examine the insurer, the commissioner shall examine the insurer as soon as
224 reasonably possible.
- 225 (ii) If the examination requested under this Subsection (2)(e) is conducted within two
226 years after completion of a comprehensive examination by the commissioner,
227 costs of the requested examination may not be deducted from premium taxes
228 under Section 59-9-102 unless the commissioner's order specifically provides for
229 the deduction.
- 230 (f) A bail bond surety company, as defined in Section 31A-35-102, is exempt from:
- 231 (i) the five-year examination requirement in Subsection (2)(b);
 - 232 (ii) the revocation under Subsection (2)(c); and
 - 233 (iii) Subsections (2)(d) and (2)(e).

- 234 (3)(a) The commissioner may order an independent audit or examination by one or more [
235 technical experts, including a certified public accountant or actuary] independent
236 contractors, including certified public accountants, investment specialists, and
237 information technology specialists:
- 238 (i) in lieu of all or part of an examination under Subsection (1) or (2); or
 - 239 (ii) in addition to an examination under Subsection (1) or (2).
- 240 (b) The commissioner may employ one or more independent contractors who are
241 qualified by knowledge, skill, experience, training, or education to provide
242 specialized assistance in an examination.
- 243 ~~[(b)]~~ (c) ~~[An audit or evaluation under]~~ A service performed in accordance with this
244 Subsection (3) is subject to Subsection (5), Section 31A-2-204, and Subsection
245 31A-2-205(4).
- 246 (4)(a) In lieu of all or a part of an examination under this section, the commissioner may
247 accept the report of an examination made by:
- 248 (i) the insurance department of another state; or
 - 249 (ii) another government agency in:
 - 250 (A) this state;
 - 251 (B) the federal government; or
 - 252 (C) another state.
- 253 (b) An examination by the commissioner under Subsection (1) or (2) or accepted by the
254 commissioner under this Subsection (4) may use:
- 255 (i) an audit completed by a certified public accountant; or
 - 256 (ii) an actuarial evaluation made by an actuary approved by the commissioner.
- 257 (5)(a) An examination may be comprehensive or limited with respect to the examinee's
258 affairs and condition. The commissioner shall determine the nature and scope of an
259 examination, taking into account all relevant factors, including:
- 260 (i) the length of time the examinee has been licensed in this state;
 - 261 (ii) the nature of the business being examined;
 - 262 (iii) the nature of the accounting or other records available;
 - 263 (iv) one or more reports from:
 - 264 (A) independent auditors; and
 - 265 (B) self-certification entities; and
 - 266 (v) the nature of examinations performed elsewhere.
- 267 (b) The examination of an alien insurer is limited to one or more insurance transactions

- 268 and assets in the United States, unless the commissioner orders otherwise after
 269 finding that extraordinary circumstances necessitate a broader examination.
- 270 (6) To effectively administer this section, the commissioner:
- 271 (a) shall:
- 272 (i) maintain one or more effective financial condition and market regulation
 273 surveillance systems including:
- 274 (A) financial and market analysis; and
 275 (B) a review of insurance regulatory information system reports;
- 276 (ii) employ a priority scheduling method that focuses on insurers and other licensees
 277 most in need of examination; and
- 278 (iii) use examination management techniques similar to those outlined in the
 279 Financial Condition Examination Handbook of the National Association of
 280 Insurance Commissioners; and
- 281 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may
 282 make rules pertaining to:
- 283 (i) a financial condition and market regulation surveillance system; and
 284 (ii) annual financial reporting requirements similar to those outlined in the Annual
 285 Financial Reporting Model Regulation of the National Association of Insurance
 286 Commissioners.

287 Section 3. Section **31A-2-205** is amended to read:

288 **31A-2-205 . Examination costs.**

- 289 (1)~~[(a)]~~ Except as provided in [~~Subsection (3)]~~ Subsection (7), an examinee that is one of
 290 the following shall [~~reimburse the department]~~ pay for the reasonable costs of [~~examinations]~~ an examination made under Sections 31A-2-203 and 31A-2-204:
- 291 ~~[(i)]~~ (a) an insurer;
- 292 ~~[(ii)]~~ (b) a rate service organization;
- 293 ~~[(iii)]~~ (c) a subsidiary of an insurer or rate service organization; or
- 294 ~~[(iv)]~~ (d) a life settlement provider.
- 295
- 296 ~~[(b)]~~ (2) [~~The following costs shall be reimbursed under this-~~] An examinee shall pay the
 297 following costs of the department under Subsection (1):
- 298 ~~[(i)]~~ (a) an examiner's actual travel [expenses] expenses;
- 299 ~~[(ii)]~~ (b) an examiner's reasonable living expense allowance;
- 300 ~~[(iii)]~~ (c) [~~compensation at reasonable rates for all professionals reasonably employed for~~
 301 ~~the examination under Subsection (4);]~~ an examiner's actual rate of compensation;

- 302 ~~[(iv) the administration and supervisory expense of:]~~
 303 ~~[(A) the department; and]~~
 304 ~~[(B) the attorney general's office; and]~~
 305 (d) each administration expense, support expense, and supervisory expense of the
 306 department for the examination; and
 307 ~~[(v) (e) an amount necessary to cover fringe benefits [authorized by-] that the~~
 308 ~~commissioner authorizes or as provided by law.~~
- 309 (3) An examinee shall pay the following costs of an independent contractor that the
 310 commissioner employs in accordance with Subsection 31A-2-203(3):
 311 (a) the independent contractor's actual travel expenses;
 312 (b) the independent contractor's reasonable living expense;
 313 (c) the independent contractor's compensation; and
 314 (d) an expense that the independent contractor necessarily incurs that the commissioner
 315 approves.
- 316 ~~[(e)] (4) In determining rates, the commissioner shall consider the rates recommended and~~
 317 ~~outlined in the examination manual sponsored by the National Association of Insurance~~
 318 ~~Commissioners.~~
- 319 ~~[(d)] (5) [This Subsection (1) applies] Subsections (1) through (4) apply to a surplus lines~~
 320 ~~producer to the extent that the examinations are of the surplus line producer's surplus~~
 321 ~~lines business.~~
- 322 ~~[(2)] (6)(a) An insurer requesting the examination of one of [its] the insurer's producers~~
 323 ~~shall pay the cost of the examination to the extent described in Subsections (2)~~
 324 ~~through (4).[-]~~
 325 ~~(b) [Otherwise] If an insurer does not request the examination of one of the insurer's~~
 326 ~~producers as described in Subsection (6)(a), the department shall pay the cost of~~
 327 ~~examining a licensee [other than those specified under] except for a licensee listed in~~
 328 ~~Subsection (1).~~
- 329 ~~[(3)] (7)(a) On the examinee's request or at the commissioner's discretion, the department~~
 330 ~~may pay all or part of the costs of an examination whenever the commissioner finds~~
 331 ~~that [because of] based on the frequency of examinations or the examinee's financial~~
 332 ~~condition[-of the examinee,-] :~~
 333 (i) the imposition of the costs of an examination would place an unreasonable burden
 334 on the examinee; and
 335 (ii) the department has sufficient funds to pay the costs of an examination.

336 (b) The commissioner shall include in the commissioner's annual report information
 337 about any instance in which the commissioner has applied this Subsection ~~[(3)]~~ (7).
 338 ~~[(4)]~~ (8)(a) ~~[A technical expert employed]~~ An independent contractor the commissioner
 339 employs under Subsection 31A-2-203(3) shall present to the commissioner [a
 340 statement of all expenses incurred by the technical expert in conjunction with an
 341 examination] an invoice for each cost described in Subsection (3).

342 (b) The ~~[examined insurer]~~ examinee shall ~~[-, at the commissioner's direction, pay to a~~
 343 ~~technical expert]~~ pay the invoice described in Subsection (8)(a) after the
 344 commissioner:

345 (i) reviews the invoice;
 346 (ii) approves the invoice for payment; and
 347 (iii) delivers the invoice to the examinee with a direction to pay the invoice.

348 ~~[(i)(A) actual travel expenses;~~
 349 ~~(B) reasonable living expenses; and]~~
 350 ~~[(C) compensation; and]~~
 351 ~~[(ii) for expenses necessarily incurred as approved by the commissioner.]~~

352 (c) An invoice dispute shall be resolved in accordance with rules the department makes
 353 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

354 ~~[(e) The examined insurer shall reimburse the department for:]~~

355 ~~[(i) a department examiner's:]~~
 356 ~~[(A) actual travel expenses; and]~~
 357 ~~[(B) reasonable living expenses; and]~~
 358 ~~[(ii) the compensation of department examiners involved in the examination.]~~

359 ~~[(d)(i) The examined insurer shall certify the consolidated account of all charges and~~
 360 ~~expenses for the examination.]~~

361 ~~[(ii) The examined insurer shall:]~~
 362 ~~[(A) retain a copy of the consolidated account; and]~~
 363 ~~[(B) file a copy of the consolidated account with the department as a public record.]~~

364 ~~[(e) An annual report of examination charges paid by examined insurers directly to~~
 365 ~~persons employed under Subsection 31A-2-203(3) or to department examiners shall~~
 366 ~~be included with the department's budget request.]~~

367 ~~[(f)]~~ (9) ~~[Amounts paid directly by examined insurers to persons employed]~~ An amount an
 368 examinee pays to an independent contractor the commissioner employs under
 369 Subsection 31A-2-203(3) or to a department [examiners] examiner may not be deducted

370 from the department's appropriation.

371 ~~[(5)] (10)~~(a) The amount payable under ~~[Subsection (1)]~~ Subsections (1) through (3) is
 372 due 10 days after the day on which ~~[the examinee is served with a detailed account of~~
 373 ~~the costs]~~ the commissioner directs the examinee to pay the invoice.

374 (b) Payments ~~[received by]~~the department receives under this Subsection ~~[(5)] (10)~~ shall
 375 be handled as provided by Section 31A-3-101.

376 ~~[(6)] (11)~~(a) The commissioner may require an examinee under Subsection (1), or an
 377 insurer requesting an examination under Subsection ~~[(2)] (6)~~, either before or during
 378 an examination, to make deposits with the state treasurer to pay the costs of
 379 examination.

380 (b) ~~[Any]~~ The state treasurer shall hold a deposit [made] an examinee or an insurer makes
 381 under this Subsection ~~[(6) shall be held]~~ (11) in trust ~~[by the state treasurer]~~ until [
 382 ~~applied]~~ the state treasurer applies the deposit to pay the department the costs payable
 383 under this section.

384 (c) If a deposit made under this Subsection ~~[(6)] (11)~~ exceeds examination costs, the state
 385 treasurer shall refund the surplus.

386 (12) If an examinee does not timely pay examination costs, the commissioner may satisfy
 387 the debt by drawing on a statutory deposit the examinee files in accordance with Section
 388 31A-2-206.

389 ~~[(7)] (13)~~ A domestic insurer may offset the examination expenses paid under this section
 390 against premium taxes under Subsection 59-9-102(2).

391 Section 4. Section **31A-2-206** is amended to read:

392 **31A-2-206 . Receipt and handling of deposits.**

393 (1) As used in this chapter:

394 (a) "Custodian institution" means a financial institution in this state as defined under
 395 Section 7-1-103 that:

396 (i) has authority under Title 7, Chapter 5, Trust Business, to engage in a trust
 397 business; and

398 (ii) ~~[is approved by]~~the commissioner approves to have custody of deposited
 399 securities, whether physically, through the Federal Reserve book-entry system, or
 400 through a clearing corporation as defined under Subsection 70A-8-101(1).

401 (b) "Federal Reserve book-entry system" means the computerized system sponsored by
 402 the United States Department of the Treasury and certain other agencies and
 403 instrumentalities of the United States for holding and transferring securities of the

- 404 United States government and other agencies and instrumentalities.
- 405 (2) Subject to the commissioner's approval and to the requirements of this section, the state
 406 treasurer shall accept, and a custodian institution qualified under Subsection (1)(a) may
 407 accept:
- 408 (a) deposits required or permitted under this title or rules adopted under this title;
- 409 (b) deposits of domestic insurers or of alien insurers domiciled in this state if required by
 410 the laws of other states as a prerequisite to authority to do an insurance business in
 411 other states; and
- 412 (c) deposits resulting from application of any retaliatory provisions of this title.
- 413 (3) Deposits authorized under Subsection (2) shall be of securities described in Subsection
 414 (7).
- 415 (4) Unless otherwise provided by the law requiring or permitting the deposit, each deposit
 416 shall be held in trust:
- 417 (a) first, for an examination cost that an insurer has not paid in under Section 31A-2-205;
 418 ~~[(a)] (b) [first] second,~~ for administrative costs under Subsection 31A-27a-701(2)(a);
 419 ~~[(b)] (c) [second] third,~~ for the claimants under Subsection 31A-27a-701(2)(c);
 420 ~~[(c)] (d) [third] fourth,~~ for the claimants under Subsection 31A-27a-701(2)(d); and
 421 ~~[(d)] (e) [fourth] fifth,~~ for all other creditors in the order of priority established under
 422 Section 31A-27a-701.
- 423 (5) A claim may be made against the deposit of an alien insurer only if ~~[it]~~ the claim arises
 424 out of a transaction in the United States.
- 425 (6) Deposits may be made by:
- 426 (a) delivering physical custody and control of the deposited security to the state treasurer
 427 or a custodian institution, accompanied by a statement signed by the depositor
 428 indicating that the deposit shall be held in trust under the terms of this section and
 429 subject to the commissioner's exclusive direction until control is released by the
 430 commissioner; or
- 431 (b) delivering to the commissioner, on a form adopted by rule, a signed certificate of a
 432 custodian institution, describing securities qualifying for deposit under Subsection (7)
 433 that are on deposit with a clearing corporation or held in the Federal Reserve
 434 book-entry system in the name of the custodian institution, in trust for the purposes
 435 stated under this section, and that these securities are subject to the exclusive
 436 direction of the commissioner and ~~[may not be withdrawn or transferred by any~~
 437 ~~person]~~ a person may not withdraw or transfer the securities, including the insurer

- 438 owning the securities, without the commissioner's written approval.
- 439 (7)(a) ~~[Deposits-]~~ A deposit may consist of ~~[any securities]~~ a security authorized in
440 Subsection (7)(b) for which there is a ready market if ~~[they]~~ the deposit:
- 441 (i) ~~[are-]~~ is expressly approved by the commissioner;
- 442 (ii) ~~[are-]~~ is subject to disposition by the state treasurer or custodian institution only
443 with the concurrence of the commissioner; and
- 444 (iii) ~~[are-]~~ is not available to any other person except as expressly provided by law.
- 445 (b) The authorized securities are:
- 446 (i) deposits or certificates of deposit ~~[insured by]~~ that the Federal Deposit Insurance
447 Corporation insures;
- 448 (ii) bonds or other evidences of indebtedness that are guaranteed as to principal and
449 interest by the United States;
- 450 (iii) tax anticipation bonds or notes, general obligation bonds, or revenue bonds of
451 this state or of any county, incorporated city or town, school district, or other
452 political subdivision of this state, if the bonds or notes are rated AAA by Standard
453 and Poor's or an equivalent nationally recognized rating agency;
- 454 (iv) bonds or other evidences of indebtedness issued or guaranteed by an agency or
455 instrumentality of the United States; and
- 456 (v) any other security ~~[approved by]~~ the commissioner approves that the
457 commissioner considers an equivalent grade investment to ~~[those]~~ an authorized
458 security enumerated under Subsections (7)(b)(i) through (iv) based on tests of the
459 safety of principal and liquidity.
- 460 (8)(a) Securities held on deposit shall be valued under Section 31A-17-401 as those
461 investments are valued for life insurers, or at market, whichever is lower.
- 462 (b) ~~[-]~~ The securities shall be revalued whenever the commissioner requests to ensure
463 continued compliance with the requirements of this title.
- 464 (9)(a) The state treasurer or custodian institution shall:
- 465 (i) deliver to the depositor a receipt for all securities deposited or held;
- 466 (ii) issue a duplicate copy of the receipt to the commissioner; and
- 467 (iii) permit the depositor to inspect ~~[its]~~ the depositor's physically held securities at
468 any reasonable time.
- 469 (b) On application of the depositor or when required by the law of any state or country
470 or by the order of ~~[any court of competent]~~ a court with jurisdiction, the state treasurer
471 or custodian institution shall certify that the deposit was made and what is on deposit.

- 472 (c)(i) Depositors, the state treasurer, [~~any~~] a custodian institution, and the
473 commissioner shall each keep a permanent record of securities deposited or held
474 under this section and of any substitutions or withdrawals.
- 475 (ii) [~~They~~] Each person described in Subsection (9)(c)(i) shall compare records at
476 least annually.
- 477 (10) A transfer of a deposited security, whether voluntary or by operation of law, is valid
478 only [~~if approved in writing by~~] if the commissioner approves the transfer in writing and [
479 countersigned by]~~the state treasurer or custodian institution~~ countersigns the transfer.
- 480 (11) Neither a judgment creditor nor other person may levy upon [~~any~~] a deposit held under
481 this section.
- 482 (12) A depositor that [~~has complied~~] complies with all provisions of this title intended to
483 preserve [~~its~~] the depositor's financial solidity is, while solvent and complying with the
484 laws of this state, entitled to:
- 485 (a) receive interest and cash dividends accruing on the securities held for [~~its~~] the
486 depositor's account; and
- 487 (b) substitute for deposited securities other eligible securities, as the commissioner
488 expressly [~~approved by the commissioner~~] approves.
- 489 (13) Within 45 days after the day on which the commissioner gives notice to a depositor
490 that a deposit is not an acceptable deposit under Subsection (7), the depositor shall
491 substitute other eligible securities [~~expressly approved by~~]the commissioner expressly
492 approves and allowed under Subsection (7).
- 493 (14) A depositor may voluntarily deposit or transfer control of eligible securities in excess
494 of requirements to absorb fluctuations in value and to facilitate substitution of securities.
- 495 (15)(a) Upon the depositor's request and upon approval of the commissioner, any deposit
496 or part of a deposit shall be released to, or on order of, the depositor to the extent not
497 needed to satisfy requirements of this title.
- 498 (b) After a hearing, the commissioner may issue an order requiring that a deposit or an
499 appropriate part of the deposit be released to the commissioner to pay an examination
500 cost described in Subsection (4)(a).
- 501 (c) [~~]~~On the order of a court [~~of competent~~] with jurisdiction, the deposit or appropriate
502 part of the deposit shall be released to the person for whom [~~it~~] the deposit is held.
- 503 (16) Each depositor shall pay the cost of custody of securities by a custodian institution or
504 by the state treasurer.
- 505 (17) The commissioner shall adopt rules to implement this section.

506 Section 5. Section **31A-2-207** is amended to read:

507 **31A-2-207 . Commissioner's records and reports -- Protection from disclosure of**
508 **certain records.**

509 (1) The commissioner shall maintain all department records that are:

510 (a) required by law;

511 (b) necessary for the effective operation of the department; or

512 (c) necessary to maintain a full record of department activities.

513 (2) The records of the department may be preserved, managed, stored, and made available
514 for review consistent with:

515 (a) another Utah statute;

516 (b) the rules made under Section 63A-12-104;

517 (c) the decisions of the Records Management Committee made under Section
518 63A-12-113; or

519 (d) the needs of the public.

520 (3) A department record may not be destroyed, damaged, or disposed of without:

521 (a) authorization of the commissioner; and

522 (b) compliance with all other applicable laws.

523 (4) The commissioner shall maintain a permanent record of the commissioner's proceedings
524 and important activities, including:

525 (a) a concise statement of the condition of each insurer examined by the commissioner;
526 and

527 (b) a record of all certificates of authority and licenses issued by the commissioner.

528 (5)(a) Prior to October 1 of each year, the commissioner shall prepare an annual report
529 to the governor which shall include, for the preceding calendar year, the information
530 concerning the department and the insurance industry which the commissioner
531 believes will be useful to the governor and the public.

532 (b) The report required by this Subsection (5) shall include the information required
533 under Chapter 27a, Insurer Receivership Act, and Subsections 31A-2-106(2), [
534 ~~31A-2-205(3)~~] 31A-2-205(7), and 31A-2-208(3).

535 (c) The commissioner shall make the report required by this Subsection (5) available to
536 the public and industry in electronic format.

537 (6) All department records and reports are open to public inspection unless specifically
538 provided otherwise by statute or by Title 63G, Chapter 2, Government Records Access
539 and Management Act.

- 540 (7) On request, the commissioner shall provide to any person certified or uncertified copies
 541 of any record in the department that is open to public inspection.
- 542 (8) Notwithstanding Subsection (6) and Title 63G, Chapter 2, Government Records Access
 543 and Management Act, the commissioner shall protect from disclosure any record, as
 544 defined in Section 63G-2-103, or other document received from an insurance regulator
 545 of another jurisdiction:
- 546 (a) at least to the same extent the record or document is protected from disclosure under
 547 the laws applicable to the insurance regulator providing the record or document; or
- 548 (b) under the same terms and conditions of confidentiality as the National Association of
 549 Insurance Commissioners requires as a condition of participating in any of the
 550 National Association of Insurance Commissioners' programs.
- 551 Section 6. Section **31A-2-310** is amended to read:
- 552 **31A-2-310 . Procedure for service of process through state officer.**
- 553 (1) Service upon the commissioner or lieutenant governor under Section 31A-2-309 is
 554 service on the principal, if:
- 555 (a) ~~[the following-] two copies of the process to be served and the required processing fee~~
 556 ~~are delivered personally or to the office of the official designated in Section~~
 557 ~~31A-2-309[?]; and~~
- 558 ~~[(i) two copies of the process to be served; and]~~
- 559 ~~[(ii) a certificate of proof of service that meets the requirements of Subsection (3),~~
 560 ~~dated and signed by the official designated in Section 31A-2-309; and]~~
- 561 (b) that official mails a copy of the process to the person to be served according to [
 562 ~~Subsection (2)(b)] Subsection (2)(c)(i).~~
- 563 (2)(a) ~~[The-] Upon request, the commissioner [and] or the lieutenant governor shall give [~~
 564 ~~receipts] a receipt for [and keep records of-]all process served through [them] the~~
 565 ~~commissioner or the lieutenant governor.~~
- 566 (b) The commissioner or the lieutenant governor shall keep a record of process served
 567 through the commissioner or the lieutenant governor.
- 568 ~~[(b)] (c)(i)~~ The commissioner or the lieutenant governor shall ~~[immediately-]send by~~
 569 ~~certified mail [one] a copy of the process [received] the commissioner or the~~
 570 ~~lieutenant governor receives to the person to be served at that person's last known~~
 571 ~~principal place of business, residence, or post-office address.~~
- 572 ~~(ii) [-]The commissioner or the lieutenant governor shall retain [the other] a copy [for~~
 573 ~~his files] of the process in a file.~~

574 ~~(e)~~ (d) No plaintiff or complainant may take a judgment by default in ~~[any]~~ a proceeding
575 in which process is served under this section and Section 31A-2-309 until the
576 expiration of 40 days from the date of service of process under ~~[Subsection (2)(b)]~~
577 Subsection (2)(c)(i).

578 (3)(a) ~~[Proof]~~ The official designated in Section 31A-2-309 shall evidence proof of
579 service ~~[shall be evidenced]~~ by a certificate:

580 (i) ~~[by the official designated in Section 31A-2-309,]~~ showing service made upon [
581 ~~him~~] the official and mailing by [~~him~~] the official[-]; and

582 (ii) [-] that is attached to a copy of the process presented to [~~him~~] the official for that
583 purpose.

584 (b) A person seeking evidence of proof of service shall:

585 (i) prepare the certificate described in Subsection (3)(a); and

586 (ii) obtain the signature of the official designated in Section 31A-2-309.

587 (4) When process is served under this section, the words "twenty days" in the first sentence
588 of Rule 12(a) of the Utah Rules of Civil Procedure shall be changed to read "forty days."
589 Section 7. Section **31A-2-404** is amended to read:

590 **31A-2-404 . Duties of the commissioner and Title and Escrow Commission.**

591 (1)(a) Notwithstanding the other provisions of this chapter, to the extent provided in this
592 part, the commissioner shall administer and enforce the provisions in this title related
593 to a title insurance matter.

594 (b)(i) The commissioner may impose a penalty:

595 (A) under this title related to a title insurance matter;

596 (B) after investigation by the commissioner in accordance with Part 3, Procedures
597 and Enforcement; and

598 (C) that ~~[is enforced by]~~ the commissioner enforces.

599 (ii) The commissioner shall consult with and seek concurrence of the commission in
600 a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding
601 the imposition of a penalty, and if concurrence cannot be reached, the
602 commissioner has final authority.

603 (c)(i) Unless a provision of this title grants specific authority to the commission, the
604 commissioner has authority over the implementation of this title related to a title
605 insurance matter.

606 (ii) When a provision requires concurrence between the commission and
607 commissioner, and concurrence cannot be reached, the commissioner has final

- 608 authority.
- 609 (d) Except as provided in Subsection (1)(e), when this title requires concurrence
610 between the commissioner and commission related to a title insurance matter:
611 (i) the commissioner shall report to and update the commission on a regular basis
612 related to that title insurance matter; and
613 (ii) the commission shall review the report [~~submitted by~~]the commissioner submits
614 under this Subsection (1)(d)[;] and:
615 (A) concur with the report; or
616 (B) provide a reason for not concurring with the report and provide
617 recommendations to the commissioner.
- 618 (e) When this title requires concurrence between the commissioner and commission
619 under Subsection (2), (3), or (4):
620 (i) the commission shall report to and update the commissioner on a regular basis
621 related to that title insurance matter; and
622 (ii) the commissioner shall review a report [~~submitted by~~]the commission submits
623 under this Subsection (1)(e) and concur with the report or:
624 (A) provide a reason for not concurring with the report; and
625 (B) provide recommendations to the commission.
- 626 (2) The commission shall:
- 627 (a) subject to Subsection (4), make rules for the administration of the provisions in this
628 title related to title insurance matters including rules related to:
629 (i) rating standards and rating methods for a title licensee, as provided in Section
630 31A-19a-209;
631 (ii) the licensing for a title licensee, including the licensing requirements of Section
632 31A-23a-204;
633 (iii) continuing education requirements of Section 31A-23a-202; and
634 (iv) standards of conduct for a title licensee;
- 635 (b) concur in the issuance and renewal of a license in accordance with Section
636 31A-23a-105 or 31A-26-203;
- 637 (c) with the concurrence of the commissioner, approve a continuing education program
638 required by Section 31A-23a-202;
- 639 (d) on a regular basis advise the commissioner of the most critical matters affecting the
640 title insurance industry and request the commissioner to direct the department's
641 investigative resources to investigate and enforce those matters;

- 642 (e) in accordance with Section 31A-23a-204, participate in the annual license testing
643 evaluation [~~conducted by~~]the commissioner's test administrator conducts;
- 644 (f) advise the commissioner on matters affecting the commissioner's budget related to
645 title insurance; and
- 646 (g) perform other duties as provided in this title.
- 647 (3) The commission may make rules establishing an examination for a license that will
648 satisfy Section 31A-23a-204:
- 649 (a) after consultation with the commissioner's test administrator; and
650 (b) subject to Subsection (4).
- 651 (4)(a) The commission may make a rule under this title only:
- 652 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
653 (ii) with the concurrence of the commissioner, except that if concurrence cannot be
654 reached, the commissioner has final authority; and
655 (iii) if at the time the commission files the commission's proposed rule and rule
656 analysis with the Office of Administrative Rules in accordance with Section
657 63G-3-301, the commission provides the Real Estate Commission that same
658 information.
- 659 (b) The commission may not make a rule regarding adjudicative procedures.
- 660 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
661 adjudicative procedures.
- 662 (5)(a) The commissioner shall annually report the information described in Subsection
663 (5)(b) in writing to the commission.
- 664 (b) The information required to be reported under this Subsection (5):
- 665 (i) may not identify a person; and
666 (ii) shall include:
- 667 (A) the number of complaints the commissioner receives with regard to
668 transactions involving title insurance or a title licensee during the calendar year
669 immediately preceding the report;
- 670 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
671 (C) for each complaint described in Subsection (5)(b)(ii)(A):
- 672 (I) any action taken by the commissioner with regard to the complaint; and
673 (II) the time-period beginning the day on which a complaint is made and
674 ending the day on which the commissioner determines [~~it~~] that the
675 commissioner will take no further action with regard to the complaint.

676 (6) The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah
 677 Administrative Rulemaking Act, that govern the process for winding down the business
 678 of a resident agency title insurance producer.

679 Section 8. Section **31A-3-102** is amended to read:

680 **31A-3-102 . Exclusive fees and taxes.**

681 (1) The following are in place of any other license fee or license assessment that might
 682 otherwise be levied against a licensee by the state or a political subdivision of the state:

683 (a) subject to Subsection (4), taxes and fees under this chapter;

684 (b) the premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

685 (c) the fees under Section 31A-31-108; and

686 (d) the examination costs under Section 31A-2-205.

687 (2) The following are not subject to Title 59, Chapter 7, Corporate Franchise and Income
 688 Taxes:

689 (a) an insurer that is subject to premium taxes under Title 59, Chapter 9, Taxation of
 690 Admitted Insurers, regardless of whether the insurance company has a tax liability
 691 under that chapter;

692 (b) an insurance company that engages in a transaction that is subject to taxes under
 693 Section 31A-3-301 or 31A-3-302, regardless of whether the insurance company has a
 694 tax liability under that section; and

695 (c) a captive insurance company, except for a risk retention group, as provided in
 696 Section 31A-3-304 that pays a fee imposed under Section 31A-3-304.

697 (3) Unless otherwise exempt, a licensee under this title is subject to real and personal
 698 property taxes.

699 (4) A tax or fee under this chapter is not in place of a tax or fee a municipality or county
 700 imposes in accordance with Section 10-1-203 or 17-64-505.

701 Section 9. Section **31A-3-304** is amended to read:

702 **31A-3-304 . Annual fees -- Other taxes or fees prohibited -- Captive Insurance**
 703 **Restricted Account.**

704 (1)(a) A captive insurance company, other than a risk retention group, shall pay an
 705 annual fee imposed under this section to obtain or renew a certificate of authority.

706 (b) The commissioner shall:

707 (i) determine the annual fee in accordance with Section 31A-3-103; and

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

- 710 (2) A captive insurance company that fails to pay the fee required by this section is subject
 711 to the relevant sanctions of this title.
- 712 (3)(a) A captive insurance company that pays one of the following fees is exempt from
 713 Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9,
 714 Taxation of Admitted Insurers:
- 715 (i) a fee under this section;
 - 716 (ii) a fee under Chapter 37, Captive Insurance Companies Act; or
 - 717 (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company
 718 Act.
- 719 (b) The state or a county, city, or town within the state may not levy or collect an
 720 occupation tax or other fee or charge not described in Subsections (3)(a)(i) through
 721 (iii) against a captive insurance company.
- 722 (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115
 723 against a captive insurance company.
- 724 (4) A captive insurance company shall pay the fee imposed by this section to the
 725 commissioner by June 1 of each year.
- 726 (5)(a) The commissioner shall deposit money received from a fee described in
 727 Subsection (3)(a) into the Captive Insurance Restricted Account.
- 728 (b) There is created in the General Fund a restricted account known as the "Captive
 729 Insurance Restricted Account."
- 730 (c) The Captive Insurance Restricted Account shall consist of the fees described in
 731 Subsection (3)(a).
- 732 (d)(i) The commissioner shall administer the Captive Insurance Restricted Account.
- 733 (ii) ~~[-]~~ Subject to appropriations by the Legislature, the commissioner shall use the
 734 money ~~[deposited]~~ the commissioner deposits into the Captive Insurance
 735 Restricted Account to:
- 736 ~~[(i)]~~ (A) administer and enforce~~[:]~~
 - 737 ~~[(A)]~~ Chapter 37, Captive Insurance Companies Act~~[:]~~ and
 - 738 ~~[(B)]~~ Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
 - 739 ~~[(ii)]~~ (B) promote the captive insurance industry in Utah.
- 740 (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing,
 741 except that at the end of each fiscal year, money ~~[received by]~~ the commissioner
 742 receives in excess of the legislative appropriation for the fiscal year that just ended
 743 shall be treated as free revenue in the General Fund:

744 ~~[(i) for fiscal year 2025, in excess of \$1,650,000; and]~~
 745 ~~[(ii)] (i) for fiscal year 2026[~~and subsequent fiscal years~~], in excess of \$1,668,500[~~;~~];~~
 746 and
 747 (ii) for fiscal year 2027 and subsequent fiscal years, in excess of \$1,687,500.

748 Section 10. Section **31A-4-113** is amended to read:

749 **31A-4-113 . Annual and quarterly statements.**

750 (1)(a) Each authorized insurer shall annually, on or before March 1, file with the
 751 commissioner and the NAIC a true statement of the authorized insurer's financial
 752 condition, transactions, and affairs as of December 31 of the preceding year.

753 (b) The statement required by Subsection (1)(a) shall be:

- 754 (i) verified by the oaths of at least two of the insurer's principal officers; and
- 755 (ii) in the general form and provide the information as prescribed by the
- 756 commissioner by rule.

757 ~~[(e) The commissioner may, for good cause shown, extend the date for filing the~~
 758 ~~statement required by Subsection (1)(a).]~~

759 (2)(a) Each authorized insurer shall file with the commissioner and the NAIC a true
 760 statement of the insurer's financial condition, transactions, and affairs within 45 days
 761 after the close of the first, second, and third quarters of a calendar year.

762 (b) A statement required by this Subsection (2) shall be:

- 763 (i) verified by the oath of at least two of the insurer's principal officers; and
- 764 (ii) in the general form and provide the information the commissioner requires by
- 765 rule.

766 ~~[(2)]~~ (3) The annual statement of an alien insurer shall:

- 767 (a) relate only to the alien insurer's transactions and affairs in the United States unless
- 768 the commissioner requires otherwise; and
- 769 (b) be verified by:
 - 770 (i) the insurer's United States manager; or
 - 771 (ii) the insurer's authorized officers.

772 (4) The commissioner may, for good cause shown, extend the date for filing a statement
 773 required by this section.

774 Section 11. Section **31A-4-113.5** is amended to read:

775 **31A-4-113.5 . Filing requirements -- National Association of Insurance**
 776 **Commissioners.**

777 (1)(a) Each domestic, foreign, and alien insurer who is authorized to transact insurance

- 778 business in this state shall annually file with the NAIC;
- 779 (i) ~~[-]~~a copy of the insurer's:
- 780 ~~[(i)]~~ (A) annual statement convention blank on or before March 1;
- 781 ~~[(ii)]~~ (B) market conduct annual statements on or before the applicable date
- 782 determined by the NAIC; and
- 783 (C) quarterly report required by Subsection 31A-4-113(2); and
- 784 ~~[(iii)]~~ (ii) any additional ~~[filings required by]~~ filing the commissioner requires for the
- 785 preceding year.
- 786 (b)(i) The information ~~[filed]~~ an insurer files with the NAIC under Subsection [
- 787 ~~(1)(a)(i)]~~ (1)(a)(i)(A) shall:
- 788 (A) be prepared in accordance with the NAIC's:
- 789 (I) annual statement instructions; and
- 790 (II) Accounting Practices and Procedures Manual; and
- 791 (B) include:
- 792 (I) the signed jurat page; and
- 793 (II) the actuarial certification.
- 794 (ii) An insurer shall file with the NAIC amendments and addenda to information filed
- 795 with the commissioner under Subsection ~~[(1)(a)(i)]~~ (1)(a)(i)(A).
- 796 (c) ~~[The-]~~ An insurer shall prepare the information [filed] an insurer files with the NAIC
- 797 under ~~[Subsection]~~ Subsections ~~[(1)(a)(ii)]~~ (1)(a)(i)(B) and (C) ~~[shall be prepared-]~~ in
- 798 accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.
- 799 (d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay
- 800 any filing fees assessed by the NAIC.
- 801 (e) A foreign insurer that is domiciled in a state that has a law substantially similar to
- 802 this section shall be considered to be in compliance with this section.
- 803 (2) All financial analysis ratios and examination synopses concerning insurance companies
- 804 that are submitted to the department by the Insurance Regulatory Information System
- 805 are confidential and may not be disclosed by the department.
- 806 (3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority
- 807 of ~~[any]~~ an insurer [failing] that fails to:
- 808 (a) submit the filings under Subsection (1)(a) when due or within any extension of time
- 809 granted for good cause by:
- 810 (i) the commissioner; or
- 811 (ii) the NAIC; or

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

- 814 (i) the commissioner; or
815 (ii) the NAIC.

816 Section 12. Section **31A-5-420** is amended to read:

817 **31A-5-420 . Payment of dividends by mutual insurers and mutual insurance**
818 **holding companies.**

819 (1) When ~~[it]~~ doing so is in the best interests of the company, the directors of a domestic
820 mutual insurer or a domestic mutual insurance holding company shall declare,
821 apportion, and pay to ~~[its]~~ the domestic mutual insurer's or the domestic mutual insurance
822 holding company's members dividends from ~~[its]~~ the domestic mutual insurer's or the
823 domestic mutual insurance holding company's net savings and earnings.

824 (2)(a) The mutual insurer or mutual insurance holding company shall make a reasonable
825 classification of ~~[its]~~ the mutual insurer's or the mutual insurance holding company's
826 participating policies and ~~[its]~~ the mutual insurer's or the mutual insurance holding
827 company's assumed risks.

828 (b) ~~[-]~~ No dividend shall be paid that is inequitable, unfairly discriminates between
829 classifications of insurance contracts, or unfairly discriminates between policies
830 within the same classification.

831 (3) Unless stated in the policy, no dividend, otherwise earned, shall be contingent upon the
832 payment of the renewal premium on ~~[any]~~ a policy.

833 (4) Subsection (1) may not be construed to require ~~[an insurer determined by-]~~ a mutual
834 insurer or mutual insurance holding company that the United States Internal Revenue
835 Service determines to be a nonprofit organization to pay a dividend in a manner which
836 would jeopardize that status.

837 (5)(a) At least 30 days before the day on which a dividend distribution occurs, a mutual
838 insurer or mutual insurance holding company shall file with the commissioner a
839 schedule explaining the basis for the dividend distribution.

840 (b) The commissioner shall keep a schedule a mutual insurer or mutual insurance
841 holding company files in accordance with this Subsection (5) confidential unless the
842 commissioner finds that the interests of insureds and the public require that the
843 commissioner make the schedule public.

844 Section 13. Section **31A-11-104** is amended to read:

845 **31A-11-104 . Applicability of other portions of this title.**

- 846 (1) In addition to this chapter, motor clubs are subject to the applicable sections of:
- 847 (a) Chapter 1, General Provisions, Chapter 2, Administration of the Insurance Laws,
- 848 Chapter 4, Insurers in General, Chapter 16, Insurance Holding Companies, Chapter
- 849 21, Insurance Contracts in General, Chapter 22, Contracts in Specific Lines, Chapter
- 850 26, Insurance Adjusters, [~~Chapter 27, Delinquency Administrative Action Provisions~~]
- 851 Chapter 27, Administrative Supervision of Insurers, and Chapter 27a, Insurer
- 852 Receivership Act;
- 853 (b) Chapter 3, Part 1, Funding the Insurance Department;
- 854 (c) Chapter 23a, Part 1, General Provisions, Part 4, Marketing Practices, and Part 5,
- 855 Compensation of Producers and Consultants; and
- 856 (d) Section 31A-23a-207.
- 857 (2) Sections 31A-14-204 and 31A-14-216 apply to nondomestic motor clubs.
- 858 (3) Section 31A-5-401 applies to domestic motor clubs.
- 859 (4) Sections 31A-5-105, 31A-5-106, and 31A-5-216 apply to both domestic and
- 860 nondomestic motor clubs.
- 861 (5) Both domestic and nondomestic motor clubs are subject to the department fees under
- 862 Section 31A-3-103. Other provisions of this title apply to motor clubs only as
- 863 specifically provided in this chapter.

864 Section 14. Section **31A-14-206** is amended to read:

865 **31A-14-206 . Commercially domiciled insurers.**

- 866 (1) As used in this section, and except as to title insurers, the commissioner may consider a
- 867 foreign insurer to be "commercially domiciled" in this state if:
- 868 (a) during the three immediately preceding calendar years, the foreign insurer wrote
- 869 more insurance premiums in this state than [~~it~~] the foreign insurer wrote in [~~its~~] the
- 870 foreign insurer's state of domicile during the same period; or
- 871 (b) during the same three-year period, the foreign insurer's gross premiums written in
- 872 this state constituted 15% or more of the insurer's total gross premiums written in the
- 873 United States.
- 874 (2)(a) Subject to Subsection (3), an insurer determined by the commissioner to be
- 875 commercially domiciled in this state may be subjected to Chapter 16, Insurance
- 876 Holding Companies, Chapter 17, Determination of Financial Condition, Chapter 18,
- 877 Investments, [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 878 Administrative Supervision of Insurers, and Chapter 27a, Insurer Receivership Act,
- 879 and Chapter 27a, Part 4, Liquidation, Part 5, Asset Recovery, and Part 6, Claims, in

- 880 the same manner and to the same extent as domestic insurers.
- 881 (b) [-]The commissioner shall, by order, notify any commercially domiciled insurer not
882 exempt under Subsection (3) of the extent to which the insurer is subject to the
883 provisions listed under this Subsection (2).
- 884 (3) The commissioner may exempt from the provisions of this section any commercially
885 domiciled insurer if the commissioner determines that the insurer has assets physically
886 located in this state or an asset to liability ratio sufficient to justify the conclusion that
887 there is no reasonable danger that the operations or conduct of the business of the insurer
888 could present a danger of loss to Utah policyholders.
- 889 (4) Subsection 31A-14-205(4) applies to the conflict of the laws of this state with the laws
890 of the insurer's domicile for foreign insurers, including commercially domiciled insurers,
891 under this section.
- 892 (5) This section does not excuse or exempt any foreign insurer from complying with the
893 provisions under this title which are otherwise applicable to a foreign insurer.

894 Section 15. Section **31A-16-111** is amended to read:

895 **31A-16-111 . Required sale of improperly acquired stock -- Penalties.**

- 896 (1) If the commissioner finds that the acquiring person has not substantially complied with
897 the requirements of this chapter in acquiring control of a domestic insurer, the
898 commissioner may require the acquiring person to sell the acquiring person's stock of
899 the domestic insurer in the manner specified in Subsection (2).
- 900 (2)(a) The commissioner shall effect the sale required by Subsection (1) in the manner [
901 ~~which~~] that, under the particular circumstances, appears most likely to result in the
902 payment of the full market value for the stock by persons who have the collective
903 competence, experience, financial resources, and integrity to obtain approval under
904 Subsection 31A-16-103(8).
- 905 (b) Sales made under this section are subject to approval by a court with jurisdiction
906 under Title 78A, Judiciary and Judicial Administration, which court has the authority
907 to effect the terms of the sale.
- 908 (3)(a) The proceeds from sales [~~made~~] a person makes under this section shall be
909 distributed first to the person required by this section to sell the stock, but only up to
910 the amount the person originally [~~paid by the person~~] paid for the securities.
- 911 (b) [-]Additional sale proceeds shall be [~~paid to~~] deposited into the General Fund.
- 912 (4) The person required to sell and persons related to or affiliated with the seller may not
913 purchase the stock at the sale conducted under this section.

- 914 (5)~~(a)~~ A director or officer of an insurance holding company system violates this
 915 chapter if the director or officer knowingly:
- 916 ~~(i)~~ (a) participates in or assents to a transaction or investment that:
- 917 ~~(A)~~ (i) has not been properly reported or submitted ~~[pursuant to]~~ in accordance with:
- 918 ~~(H)~~ (A) Subsections 31A-16-105(1) and (2); or
- 919 ~~(H)~~ (B) Subsection 31A-16-106(1)(b); or
- 920 ~~(B)~~ (ii) otherwise violates this chapter; or
- 921 ~~(ii)~~ (b) permits any of the officers or agents of the insurer to engage in a transaction or
 922 investment described in Subsection ~~[(5)(a)(i)]~~ (5)(a).
- 923 ~~(b) A director or officer in violation of Subsection (5)(a) shall pay, in the director's or~~
 924 ~~officer's individual capacity, a civil penalty of not more than \$20,000 per violation:]~~
- 925 ~~[(i) upon a finding by the commissioner of a violation; and]~~
- 926 ~~[(ii) after notice and hearing before the commissioner.]~~
- 927 ~~(c) In determining the amount of the civil penalty under Subsection (5)(b), the~~
 928 ~~commissioner shall take into account:]~~
- 929 ~~[(i) the appropriateness of the penalty with respect to the gravity of the violation;]~~
- 930 ~~[(ii) the history of previous violations; and]~~
- 931 ~~[(iii) any other matters that justice requires.]~~
- 932 (6)(a) When ~~[it appears to]~~the commissioner suspects that any insurer or any director,
 933 officer, employee, or agent of the insurer, has committed a willful violation of this
 934 chapter, the commissioner may refer the violation to the appropriate prosecutor.
- 935 (b)(i) An insurer that willfully violates this chapter may be fined not more than
 936 \$20,000.
- 937 (ii) Any individual who willfully violates this chapter is guilty of a third degree
 938 felony, and upon conviction may be:
- 939 (A) fined in that person's individual capacity not more than \$5,000;
- 940 (B) imprisoned; or
- 941 (C) both fined and imprisoned.
- 942 (7) This section does not limit the other sanctions applicable to violations of this title under
 943 Section 31A-2-308.
- 944 Section 16. Section **31A-18-117** is amended to read:
- 945 **31A-18-117 . Conflicts of laws and other standards.**
- 946 (1) ~~[Except as provided in Subsection (2), the]~~ The provisions of this chapter apply if there
 947 is a conflict between this chapter and another provision of state statute, except:~~[:]~~

948 [(2)] (a) Chapter 16, Insurance Holding Companies, purporting to authorize an insurer to
 949 make a particular investment, supersedes this chapter~~[-]~~ if there is a conflict between
 950 this chapter and Chapter 16, Insurance Holding Companies; and

951 (b) Chapter 37, Captive Insurance Companies Act, supersedes this chapter if there is a
 952 conflict between this chapter and Chapter 37, Captive Insurance Companies Act.

953 [(3)] (2) An insurer shall value the insurer's assets in accordance with the valuation
 954 standards of the NAIC to the extent those standards remain consistent with the statutes
 955 of this state or the rules or orders of the commissioner.

956 Section 17. Section **31A-21-310** is amended to read:

957 **31A-21-310 . Dividends on policies.**

958 (1) Section 31A-22-418 applies to life insurance and annuities.

959 (2)(a) [~~Any~~] An insurer may distribute a portion of surplus attributable to policies other
 960 than life insurance or annuities, in amounts and with classifications the board of
 961 directors determines to be fair and reasonable.

962 (b) [~~This~~] A distribution under this Subsection (2) may not be contingent on the
 963 renewal of [~~any~~] a policy or of premium payments unless the policy stated that
 964 limitation when [~~it~~] the policy was written.

965 (c) [~~-~~]A schedule explaining the basis for the distribution shall be filed with the
 966 commissioner prior to the distribution.

967 (d) [~~-~~]The commissioner shall keep the schedule confidential~~[shall be kept confidential~~
 968 ~~by the commissioner]~~unless the commissioner finds that the interests of insureds and
 969 the public require that [~~it be made~~] the commissioner make the schedule public.

970 (3)(a) [~~Any~~] An insurer may distribute surplus to any class of policyholder, even if [~~their~~]
 971 the insurer's policies do not provide for [~~it~~] the distribution.

972 (b) [~~A~~] The insurer shall file a schedule explaining the basis for the distribution [shall
 973 be filed]with the commissioner [~~under~~] in accordance with Subsection (2) at least 30
 974 days [prior to the distribution] before the day on which the distribution occurs.

975 (c) [~~-~~]The commissioner shall disallow [~~any~~] a distribution [~~which~~] that:

976 (i) [~~-~~]is materially unfair to other policyholders; or

977 (ii) [~~which~~]would place the insurer in a financially hazardous condition.

978 (4) [~~It is permissible to-~~] An insurer may provide an indivisible dividend to classes of
 979 policyholders having more than one type of policy, including a combination of life or
 980 annuities with other types of insurance.

981 (5)(a) The provisions of this section do not apply to a member dividend that a mutual

982 insurer or mutual insurance holding company pays.

983 (b) Section 31A-5-420 applies to a member dividend that a mutual insurer or mutual
 984 insurance holding company pays.

985 Section 18. Section **31A-22-309** is amended to read:

986 **31A-22-309 . Limitations, exclusions, and conditions to personal injury**
 987 **protection.**

988 (1)(a) A person who has or is required to have direct benefit coverage under a policy [
 989 ~~which~~] that includes personal injury protection may not maintain a cause of action for
 990 general damages arising out of personal injuries alleged to have been caused by an
 991 automobile accident, except where the person [~~has sustained~~] sustains one or more of
 992 the following:

993 (i) death;

994 (ii) dismemberment;

995 (iii) permanent disability or permanent impairment based upon objective findings;

996 (iv) permanent disfigurement;

997 (v) a bone fracture; or

998 (vi) medical expenses to a person in excess of \$3,000.

999 (b) Subsection (1)(a) does not apply to a person making an uninsured motorist claim.

1000 (2)(a) [~~Any~~] An insurer issuing personal injury protection coverage under this part may
 1001 only exclude from this coverage benefits:

1002 (i) for [~~any~~] an injury [~~sustained by~~]the insured sustains while occupying another
 1003 motor vehicle owned by or furnished for the regular use of the insured or a
 1004 resident family member of the insured and not insured under the policy;

1005 (ii) for [~~any~~] an injury [~~sustained by any~~] a person sustains while operating the insured
 1006 motor vehicle without the express or implied consent of the insured or while not in
 1007 lawful possession of the insured motor vehicle;

1008 (iii) to [~~any~~] an injured person, if the person's conduct contributed to the person's
 1009 injury:

1010 (A) by intentionally causing injury to the person; or

1011 (B) while committing a felony;

1012 (iv) for [~~any~~] an injury [~~sustained by any person~~] a person sustains arising out of the
 1013 use of [~~any~~] a motor vehicle while located for use as a residence or premises;

1014 (v) for [~~any~~] an injury due to war, whether [~~or not~~]declared, civil war, insurrection,
 1015 rebellion, or revolution, or to [~~any~~] an act or a condition incident to [~~any of the~~

- 1016 ~~foregoing~~] a war, civil war, insurrection, rebellion, or revolution;~~[-or]~~
- 1017 (vi) for ~~[any]~~ an injury resulting from the radioactive, toxic, explosive, or other
- 1018 hazardous properties of nuclear materials~~[-]~~ ; or
- 1019 (vii) for an injury a person sustains arising from the use of an insured motor vehicle
- 1020 while the person uses the insured motor vehicle to provide transportation network
- 1021 services, as that term is defined in Section 13-51-102.
- 1022 (b) This Subsection (2) does not limit the exclusions that may be contained in other
- 1023 types of coverage.
- 1024 (3) The benefits payable to ~~[any]~~ an injured person under Section 31A-22-307 are reduced
- 1025 by:
- 1026 (a) any benefits ~~[which]~~ that the injured person receives or is entitled to receive as a
- 1027 result of an accident covered in this code under any workers' compensation or similar
- 1028 statutory plan; and
- 1029 (b) any amounts ~~[which]~~ that the injured person receives or is entitled to receive from
- 1030 the United States or any of ~~[its]~~ the United States' agencies because that person is on
- 1031 active duty in the military service.
- 1032 (4) When a person injured is also an insured party under any other policy, including those
- 1033 policies complying with this part, primary coverage is given by the policy insuring the
- 1034 motor vehicle in use during the accident.
- 1035 (5)(a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a
- 1036 monthly basis as expenses are incurred.
- 1037 (b) Benefits for any period are overdue if ~~[they are not paid]~~ the insurer does not pay the
- 1038 benefits within 30 days after the day on which the insurer receives reasonable proof
- 1039 of the fact and amount of expenses incurred during the period.
- 1040 (c) ~~[-]~~ If reasonable proof is not supplied as to the entire claim, the amount supported by
- 1041 reasonable proof is overdue if not paid within 30 days after the insurer receives that
- 1042 proof~~[is received by the insurer]~~.
- 1043 (d) ~~[-]~~ Any part or all of the remainder of the claim that is later supported by reasonable
- 1044 proof is also overdue if not paid within 30 days after the day on which the insurer
- 1045 receives the proof~~[is received by the insurer]~~.
- 1046 ~~[(e)]~~ (e) If the insurer fails to pay the expenses when due, these expenses shall bear
- 1047 interest at the rate of 1-1/2% per month after the due date.
- 1048 ~~[(f)]~~ (f)(i) The person entitled to the benefits may bring an action in contract to
- 1049 recover the expenses plus the applicable interest.

1050 (ii) [-]If the insurer is required by the action to pay any overdue benefits and interest,
 1051 the insurer is also required to pay a reasonable attorney's fee to the claimant.

1052 (6)(a) Except as provided in Subsection (6)(b), [~~every~~] a policy [~~providing~~] that provides
 1053 personal injury protection coverage is subject to the following:

1054 (i) that where the insured under the policy is or would be held legally liable for the
 1055 personal injuries sustained by any person to whom benefits required under
 1056 personal injury protection have been paid by another insurer, the insurer of the
 1057 person who would be held legally liable shall reimburse the other insurer for the
 1058 payment, but not in excess of the amount of damages recoverable; and

1059 (ii) that the issue of liability for that reimbursement and [~~its~~] the reimbursement's
 1060 amount shall be decided by mandatory, binding arbitration between the insurers.

1061 (b) There shall be no right of reimbursement between insurers under Subsection (6)(a) if
 1062 the insurer of the person who would be held legally liable for the personal injuries
 1063 sustained has tendered [~~its~~] the insurer's policy limit.

1064 (c)(i) If the insurer of the person who would be held legally liable for the personal
 1065 injuries sustained reimburses a no-fault insurer prior to settling a third party
 1066 liability claim with an injured person and subsequently determines that some or all
 1067 of the reimbursed amount is needed to settle a third party claim, the insurer of the
 1068 person who would be held legally liable for the personal injuries sustained shall
 1069 provide written notice to the no-fault insurer that some or all of the reimbursed
 1070 amount is needed to settle a third party liability claim.

1071 (ii) The written notice described under Subsection (6)(c)(i) shall:

1072 (A) identify the amount of the reimbursement that is needed to settle a third party
 1073 liability claim;

1074 (B) provide notice to the no-fault insurer that the no-fault insurer has 15 days to
 1075 return the amount described in Subsection (6)(c)(ii)(A); and

1076 (C) identify the third party liability insurer that the returned amount shall be paid
 1077 to.

1078 (iii) A no-fault insurer that receives a notice under this Subsection (6)(c) shall return
 1079 the portion of the reimbursement identified under Subsection (6)(c)(ii) to the third
 1080 party liability insurer identified under Subsection (6)(c)(ii)(C) within 15 business
 1081 days [~~from receipt of~~] after the day on which the no-fault insurer receives a notice
 1082 under this Subsection (6)(c).

1083 Section 19. Section **31A-22-505** is amended to read:

1084 **31A-22-505 . Association groups.**

- 1085 (1) An insurer may issue a group insurance policy offering life insurance to an association
1086 group or to the trustees of a fund established, created, and maintained for the benefit of
1087 the members of the association group if:
- 1088 (a) the commissioner authorizes the association group;
 - 1089 (b) the benefits of the group insurance policy are reasonable in relation to the premiums
1090 charged for the policy; and
 - 1091 (c) the association group:
 - 1092 (i) purchases insurance on a group basis on behalf of the association group's members;
 - 1093 (ii) is formed and maintained for a shared substantially common purpose that:
 - 1094 (A) is not related to obtaining insurance; and
 - 1095 (B) is the same profession, trade, or occupation or has some common economic,
1096 representation of interest, or genuine organizational relationship;
 - 1097 (iii) has at least 100 members;
 - 1098 (iv) has been actively in existence for at least five years;
 - 1099 (v) has a constitution and bylaws that require:
 - 1100 (A) the association to hold regular meetings not less than annually to further the
1101 purpose of the association's members; and
 - 1102 (B) members of the association to have voting privileges and representation on
1103 any governing board or committee;
 - 1104 (vi) does not condition membership in the association group on any health
1105 status-related factor;
 - 1106 (vii) makes insurance offered through the association group available exclusively to a
1107 member of the association; and
 - 1108 (viii) only offers insurance through the association group in connection with a
1109 member of the association group.
- 1110 (2) A group insurance policy offering life insurance that an insurer issues to an association
1111 group may insure members and employees of the association, employees of the
1112 members, one or more of the preceding entities, or all of any classes of these named
1113 entities for the benefit of persons other than the employees' employer, or any officials,
1114 representatives, trustees, or agents of the employer or association.
- 1115 (3)(a) The following shall pay the premium under a group insurance policy offering life
1116 insurance that an insurer issues to an association group:
- 1117 (i) the policyholder from funds contributed by the association;

- 1118 (ii) employer members, from funds contributed by the covered persons; or
 1119 (iii) from any combination of Subsections (3)(a)(i) and (ii).
- 1120 (b) Except as provided under Section 31A-22-512, a policy on which no part of the
 1121 premium is contributed by the covered persons, specifically for their insurance, is
 1122 required to insure all eligible persons.
- 1123 (4)(a) An association group that meets the requirements described under Subsection (1)
 1124 shall disclose the following to each insured member:
- 1125 (i) each cost related to joining and maintaining membership in the association;
 1126 (ii) that membership fees or dues are in addition to the policy premium;
 1127 (iii) that the association group holds the master group insurance policy;
 1128 (iv) that the association group and insurer determine the amount of the premium
 1129 charged and the terms and conditions of coverage under the group insurance
 1130 policy; and
 1131 (v) that the association group policyholder and insurer may change the premium and
 1132 terms and conditions of coverage under the insurance policy:
 1133 (A) through agreement; and
 1134 (B) without the consent of the individual certificate holder.
- 1135 (b) If an insurer collects membership fees or dues on behalf of an association, the insurer
 1136 shall disclose to each member of the association that the insurer is billing and
 1137 collecting membership fees and dues on behalf of the association.

1138 Section 20. Section **31A-22-650** is amended to read:

1139 **31A-22-650 . Health care preauthorization requirements.**

- 1140 (1) As used in this section:
- 1141 (a) "Adverse preauthorization determination" means a determination by an insurer that
 1142 health care does not meet the preauthorization requirement for the health care.
- 1143 (b) "Authorization" means a determination by an insurer that for health care with a
 1144 preauthorization requirement:
- 1145 (i) the proposed drug, device, or covered service meets all requirements, restrictions,
 1146 limitations, and clinical criteria for authorization [~~established by~~] that the insurer
 1147 establishes;
- 1148 (ii) the drug, device, or covered service is covered by the enrollee's insurance policy;
 1149 and
- 1150 (iii) the insurer will provide coverage for the drug, device, or covered service subject
 1151 to the provisions of the insurance policy, including any cost sharing

1152 responsibilities of the enrollee.

1153 (c) "Device" means a prescription device as defined in Section 58-17b-102.

1154 (d) "Drug" means the same as that term is defined in Section 58-17b-102.

1155 (e) "Insurer" means the same as that term is defined in Section 31A-22-634.

1156 (f) "Preauthorization requirement" means a requirement by an insurer that an enrollee
1157 obtain authorization for a drug, device, or service covered by the insurance policy,
1158 before receiving the drug, device, or service.

1159 (2)(a) An insurer may not modify an existing requirement for authorization unless, at
1160 least 30 days before the day on which the modification takes effect, the insurer:

1161 (i) posts a notice of the modification on the website described in Subsection
1162 31A-22-613.5(6)(a); and

1163 (ii) if requested by a network provider or the network provider's representative,
1164 provides to the network provider by mail or email a written notice of modification
1165 to a particular requirement for authorization described in the request from the
1166 network provider.

1167 (b) Subsection (2)(a) does not apply if:

1168 (i) complying with Subsection (2)(a) would create a danger to the enrollee's health or
1169 safety; or

1170 (ii) the modification is for a newly covered drug or device.

1171 (c) An insurer may not revoke an authorization for a drug, device, or covered service if:

1172 (i) the network provider submits a request for authorization for the drug, device, or
1173 covered service to the insurer;

1174 (ii) the insurer grants the authorization requested under Subsection (2)(c)(i);

1175 (iii) the network provider renders the drug, device, or covered service to the enrollee
1176 in accordance with the authorization and any terms and conditions of the network
1177 provider's contract with the insurer;

1178 (iv) on the day on which the network provider renders the drug, device, or covered
1179 service to the enrollee:

1180 (A) the enrollee is eligible for coverage under the enrollee's insurance policy; and

1181 (B) the enrollee's condition or circumstances related to the enrollee's care have not
1182 changed;

1183 (v) the network provider submits an accurate claim that matches the information in
1184 the request for authorization under Subsection (2)(c)(i); and

1185 (vi) the authorization was not based on fraudulent or materially incorrect information

1186 from the network provider.

1187 (3)(a) An insurer that receives a request for authorization shall treat the request as a
1188 pre-service claim as that term is defined in 29 C.F.R. Sec. 2560.503-1 and process the
1189 request in accordance with:

1190 (i) 29 C.F.R. Sec. 2560.503-1, regardless of whether the coverage is offered through
1191 an individual or group health insurance policy;

1192 (ii) Subsection 31A-4-116(2); and

1193 (iii) Section 31A-22-629.

1194 (b) If a network provider submits a claim to an insurer that includes an unintentional
1195 error that results in a denial of the claim, the insurer shall permit the network
1196 provider with an opportunity to resubmit the claim with corrected information within
1197 a reasonable amount of time.

1198 (c) Except as provided in Subsection (3)(d), the appeal of an adverse preauthorization
1199 determination regarding clinical or medical necessity as requested by a physician
1200 may only be reviewed by a physician who is currently licensed as a physician and
1201 surgeon in a state, district, or territory of the United States.

1202 (d) The appeal of an adverse determination requested by a physician regarding clinical
1203 or medical necessity of a drug, may only be reviewed by an individual who is
1204 currently licensed in a state, district, or territory of the United States as:

1205 (i) a physician and surgeon; or

1206 (ii) a pharmacist.

1207 (e) An insurer shall ensure that an adverse preauthorization determination regarding
1208 clinical or medical necessity is made by an individual who:

1209 (i) has knowledge of the medical condition or disease of the enrollee for whom the
1210 authorization is requested; or

1211 (ii) consults with a specialist who has knowledge of the medical condition or disease
1212 of the enrollee for whom the authorization is requested regarding the request
1213 before making the determination.

1214 (f) An insurer shall specify how long an authorization is valid.

1215 (4)(a) An insurer that removes a drug from the insurer's formulary shall:

1216 (i) permit an enrollee, an enrollee's designee, or an enrollee's network provider to
1217 request an exemption from the change to the formulary for the purpose of
1218 providing the patient with continuity of care; and

1219 (ii) have a process to review and make a decision regarding an exemption requested

- 1220 under Subsection (4)(a)(i).
- 1221 (b) If an insurer makes a change to the formulary for a drug in the middle of a plan year,
1222 the insurer may not implement the changes for an enrollee that is on an active course
1223 of treatment for the drug unless the insurer provides the enrollee with notice at least
1224 30 days before the day on which the change is implemented.
- 1225 (5)(a) Each April 1, an insurer with a preauthorization requirement shall report to the
1226 department, for the previous calendar year, the percentage of authorizations, not
1227 including a claim involving urgent care as defined in 29 C.F.R. Sec. 2560.503-1, for
1228 which the insurer notified a provider regarding an authorization or adverse
1229 preauthorization determination more than one week after the day on which the
1230 insurer received the request for authorization.
- 1231 (b) Before [~~March~~] April 1, 2026, and each [~~March~~] April 1 thereafter, an insurer shall
1232 report to the department the following for the previous calendar year:
- 1233 (i) a list of services that have preauthorization requirements;
- 1234 (ii) for pre-service preauthorization requests that were not urgent, the percentage of
1235 individual service requests that:
- 1236 (A) were approved;
- 1237 (B) were denied;
- 1238 (C) were approved after appeal;
- 1239 (D) the time frame for review was extended, and the request was approved;
- 1240 (E) were denied due to incomplete information from the health care provider; and
- 1241 (F) were received through fax, phone, and electronic portal; and
- 1242 (iii) for urgent pre-service preauthorization requests, the percentage of individual
1243 service requests that:
- 1244 (A) were approved;
- 1245 (B) were denied;
- 1246 (C) were denied due to incomplete information from the health care provider; and
- 1247 (D) were received through fax, phone, and electronic portal.
- 1248 (c) Data provided to the department under Subsections (5)(b)(ii) and (iii) shall be
1249 aggregated for all services.
- 1250 (d) Subsection (5)(b) does not require an insurer to report information regarding
1251 prescription drugs.
- 1252 (e) The department shall compile the information described in Subsection (5)(b) and
1253 publish the information on the department's website.

- 1254 (6) An insurer may not have a preauthorization requirement for emergency health care as
1255 described in Section 31A-22-627.
- 1256 (7) For each adverse preauthorization determination [~~made by~~]an insurer makes, the
1257 insurer shall provide to the enrollee and the enrollee's health care provider:
1258 (a) a detailed and specific explanation that explains why the [~~determination was made~~]
1259 insurer made the determination; and
1260 (b) a notice explaining the enrollee may appeal the determination [~~may be appealed~~]and
1261 the process for appealing the determination, including how to begin an expedited
1262 appeal process as described in Section 31A-22-629.
- 1263 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1264 department may make rules to implement Subsection (5)(b).
- 1265 Section 21. Section **31A-22-701** is amended to read:
1266 **31A-22-701 . Groups eligible for group or blanket insurance.**
- 1267 (1) A group insurance policy offering accident and health insurance may be issued to:
1268 (a) a group:
1269 (i) to which a group life insurance policy may be issued under Section 31A-22-502,
1270 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, 31A-22-507, or 31A-22-508[-
1271 ~~or 31A-22-509~~]; and
1272 (ii) that is formed and maintained in good faith for a purpose other than obtaining
1273 insurance;
- 1274 (b) a group [~~specifically authorized by~~] that the commissioner specifically authorizes,
1275 upon a finding that:
1276 (i) authorization is not contrary to the public interest;
1277 (ii) the group is actuarially sound;
1278 (iii) formation of the proposed group may result in economies of scale in acquisition,
1279 administrative, marketing, and brokerage costs;
1280 (iv) the insurance policy, insurance certificate, or other indicia of coverage that will
1281 be offered to the proposed group is substantially equivalent to insurance policies
1282 that are otherwise available to similar groups;
1283 (v) the group would not present hazards of adverse selection;
1284 (vi) the premiums for the insurance policy and any contributions by or on behalf of
1285 the insured persons are reasonable in relation to the benefits provided; and
1286 (vii) the group is formed and maintained in good faith for a purpose other than
1287 obtaining insurance; or

- 1288 (c) a postsecondary educational institution covering students, upon a finding that:
- 1289 (i) the policy provides standards for financial soundness;
- 1290 (ii) the policy protects the students covered;
- 1291 (iii) the policy provides for the establishment of a financially viable alternative to
- 1292 traditional health care plans;
- 1293 (iv) authorization is not contrary to the public interest;
- 1294 (v) the policy would not present hazards of adverse selection; and
- 1295 (vi) the premiums for the policy and any contributions by or on behalf of the insured
- 1296 persons are reasonable in relation to the benefits provided.
- 1297 (2) A blanket insurance policy offering accident and health insurance:
- 1298 (a) covers a defined class of persons;
- 1299 (b) may not be offered or underwritten on an individual basis;
- 1300 (c) shall cover only a group that is:
- 1301 (i) actuarially sound; and
- 1302 (ii) formed and maintained in good faith for a purpose other than obtaining insurance;
- 1303 and
- 1304 (d) may be issued only to:
- 1305 (i) a common carrier or an operator, owner, or lessee of a means of transportation, as
- 1306 policyholder, covering persons who may become passengers as defined by
- 1307 reference to the person's travel status;
- 1308 (ii) an employer, as policyholder, covering any group of employees, dependents, or
- 1309 guests, as defined by reference to specified hazards incident to any activities of the
- 1310 policyholder;
- 1311 (iii) an institution of learning, including a school district, a school jurisdictional unit,
- 1312 or the head, principal, or governing board of a school jurisdictional unit, as
- 1313 policyholder, covering students, teachers, or employees;
- 1314 (iv) a religious, charitable, recreational, educational, or civic organization, or branch
- 1315 of one of those organizations, as policyholder, covering a group of members or
- 1316 participants as defined by reference to specified hazards incident to the activities
- 1317 sponsored or supervised by the policyholder;
- 1318 (v) a sports team, camp, or sponsor of a sports team or camp, as policyholder,
- 1319 covering members, campers, employees, officials, or supervisors;
- 1320 (vi) a volunteer fire department, first aid, civil defense, or other similar volunteer
- 1321 organization, as policyholder, covering a group of members or participants as

1322 defined by reference to specified hazards incident to activities sponsored,
1323 supervised, or participated in by the policyholder;
1324 (vii) a newspaper or other publisher, as policyholder, covering a newspaper's or
1325 publisher's carriers;
1326 (viii) a labor union, as a policyholder, covering a group of members or participants as
1327 defined by reference to specified hazards incident to the activities or operations
1328 sponsored or supervised by the policyholder;
1329 (ix) an association that has a constitution and bylaws covering a group of members or
1330 participants as defined by reference to specified hazards incident to the activities
1331 or operations sponsored or supervised by the policyholder; or
1332 (x) any other class of risks that, in the judgment of the commissioner, may be
1333 properly eligible for a blanket insurance policy offering accident and health
1334 insurance.

1335 (3) The judgment of the commissioner may be exercised on the basis of:

- 1336 (a) individual risks;
1337 (b) a class of risks; or
1338 (c) both risks described in Subsections (3)(a) and (b).

1339 (4) A group insurance policy offering accident and health insurance issued to a group
1340 authorized under Subsection 31A-22-504(1)(b)(ii) is subject to the provisions of Section
1341 31A-22-602.

1342 Section 22. Section **31A-23a-203.5** is amended to read:

1343 **31A-23a-203.5 . Errors and omissions coverage requirements.**

1344 (1) In accordance with this section, a resident individual producer shall ensure that the
1345 resident individual producer is covered:

- 1346 (a) for the legal liability of the resident individual producer as the result of an erroneous
1347 act or failure to act in the resident individual producer's capacity as a producer; and
1348 (b) at all times during the term of the resident individual producer's license.

1349 (2) The coverage required by Subsection (1) shall consist of:

- 1350 (a) a policy naming the resident individual producer;
1351 (b) a policy naming the agency that designates the resident individual producer in
1352 accordance with this chapter; or
1353 (c) a written agreement by an insurer or group of affiliated insurers, on behalf of a
1354 resident individual producer who is or will become an exclusive agent of the insurer
1355 or group of affiliated insurers, under which the insurer or group of affiliated insurers

1356 agrees to assume responsibility, to the benefit of an aggrieved person, for legal
 1357 liability of the resident individual producer as the result of an erroneous act or failure
 1358 to act in the resident individual producer's capacity as a producer for the insurer or
 1359 group of affiliated insurers.

1360 (3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3, Utah
 1361 Administrative Rulemaking Act, provide for:

- 1362 (a) the terms and conditions of the coverage required under Subsection (1); and
 1363 (b) if the coverage required by Subsection (1) is terminated during a resident individual
 1364 producer's license term, requirements to:
 1365 (i) provide notice; and
 1366 (ii) replace the coverage.

1367 (4) An individual title insurance producer is considered to be in compliance with this
 1368 section when:

- 1369 (a) the individual title insurance producer who is not designated by an agency title
 1370 producer maintains the individual title insurance producer's own bond, policy, or
 1371 other financial protection in accordance with Subsection [~~31A-23a-204(2)~~]
 1372 31A-23a-204(3);
 1373 (b) the individual title insurance producer is designated by an agency title insurance
 1374 producer that maintains a bond, policy, or other financial protection in accordance
 1375 with Subsection [~~31A-23a-204(2)~~] 31A-23a-204(3); or
 1376 (c) the individual title insurance producer is an employee of and is appointed by a title
 1377 insurer.

1378 (5) Notwithstanding the other provisions of this section, a resident individual producer is
 1379 exempt from the requirement to maintain coverage as provided in this section during a
 1380 period in which the resident individual producer is not either:

- 1381 (a) appointed by an insurer under this title; or
 1382 (b) designated by an agency under this title.

1383 (6) A limited lines producer is exempt from this section.

1384 Section 23. Section **31A-23a-204** is amended to read:

1385 **31A-23a-204 . Special requirements for title insurance producers and agencies.**

1386 [~~An individual title insurance producer or agency title insurance producer shall be~~

-1387 ~~licensed in accordance with this chapter, with the additional requirements listed in this section.]~~

1388 (1) An individual title insurance producer or agency title insurance producer shall be

1389 licensed in accordance with this chapter, with the additional requirements listed in this

- 1390 section.
- 1391 ~~[(1)]~~ (2)(a) A person that receives a new license under this title as an agency title
- 1392 insurance producer shall at the time of licensure be owned or managed by at least one
- 1393 individual who is licensed for at least three of the five years immediately ~~[preceeding~~
- 1394 ~~the date on]~~ before the day on which the agency title insurance producer applies for a
- 1395 license with both:
- 1396 (i) a title examination line of authority; and
- 1397 (ii) an escrow line of authority.
- 1398 (b) An agency title insurance producer subject to Subsection ~~[(1)(a)]~~ (2)(a) may comply
- 1399 with Subsection ~~[(1)(a)]~~ (2)(a) by having the agency title insurance producer owned or
- 1400 managed by:
- 1401 (i) one or more individuals who are licensed with the title examination line of
- 1402 authority for the time period provided in Subsection ~~[(1)(a)]~~ (2)(a); and
- 1403 (ii) one or more individuals who are licensed with the escrow line of authority for the
- 1404 time period provided in Subsection ~~[(1)(a)]~~ (2)(a).
- 1405 (c) A person licensed as an agency title insurance producer shall at all times during the
- 1406 term of licensure be owned or managed by at least one individual who is licensed for
- 1407 at least three years within the preceding five-year period with both:
- 1408 (i) a title examination line of authority; and
- 1409 (ii) an escrow line of authority.
- 1410 (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
- 1411 exempt an attorney with real estate experience from the experience requirements in
- 1412 Subsection ~~[(1)(a)]~~ (2)(a).
- 1413 (e)(i) An individual who satisfies the requirements of this Subsection ~~[(1)]~~ (2) is
- 1414 known as a "qualifying licensee."
- 1415 (ii) ~~[-]~~ At any given time, an individual may be a qualifying licensee for not more
- 1416 than two agency title insurance producers.
- 1417 ~~[(2)]~~ (3)(a) An individual title insurance producer or agency title insurance producer ~~[~~
- 1418 ~~appointed by an insurer]~~ that an insurer appoints shall maintain:
- 1419 (i) a ~~[fidelity bond]~~ crime insurance policy; and
- 1420 (ii) a professional liability insurance policy~~[-or]~~ .
- 1421 ~~[(iii) a financial protection:]~~
- 1422 ~~[(A) equivalent to that described in Subsection (2)(a)(i) or (ii); and]~~
- 1423 ~~[(B) that the commissioner considers adequate.]~~

- 1424 (b) The [~~bond,~~]insurance[~~, or financial protection~~] required by this Subsection [(2)] (3):
- 1425 (i) shall be supplied under a contract [~~approved by~~]the commissioner approves to
- 1426 provide protection against the improper performance of [~~any~~] a service, including
- 1427 escrow service, in conjunction with the issuance of a contract or policy of title
- 1428 insurance; and
- 1429 (ii) be in a face amount no less than [~~\$250,000~~] \$500,000.
- 1430 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
- 1431 exempt individual title insurance producer or agency title insurance producers from
- 1432 the requirements of this Subsection [(2)] (3) upon a finding that, and only so long as,
- 1433 the required [~~policy or bond~~] insurance is generally unavailable at reasonable rates.
- 1434 [(3)] (4) An individual title insurance producer or agency title insurance producer appointed
- 1435 by an insurer may maintain a reserve fund to the extent money was deposited before
- 1436 July 1, 2008, and not withdrawn to the income of the individual title insurance producer
- 1437 or agency title insurance producer.
- 1438 [(4)] (5) An examination for licensure shall include questions regarding the examination of
- 1439 title to real property.
- 1440 [(5)] (6) An individual title insurance producer may not perform the functions of escrow
- 1441 unless the individual title insurance producer has been examined on the fiduciary duties
- 1442 and procedures involved in those functions.
- 1443 [(6)] (7) The Title and Escrow Commission may adopt rules, establishing an examination
- 1444 for a license that will satisfy this section, subject to Section 31A-2-404, and after
- 1445 consulting with the commissioner's test administrator.
- 1446 [(7)] (8) A license may be issued to an individual title insurance producer or agency title
- 1447 insurance producer who has qualified:
- 1448 (a) to perform only examinations of title as specified in Subsection [(4)] (5);
- 1449 (b) to handle only escrow arrangements as specified in Subsection [(5)] (6); or
- 1450 (c) to act as a title marketing representative.
- 1451 [(8)] (9)(a) A person licensed to practice law in Utah is exempt from the requirements of
- 1452 Subsections [(2)] (3) and [(3)] (4) if that person issues 12 or less policies in any
- 1453 12-month period.
- 1454 (b) In determining the number of policies issued by a person licensed to practice law in
- 1455 Utah for purposes of Subsection [(8)(a)] (9)(a), if the person licensed to practice law
- 1456 in Utah issues a policy to more than one party to the same closing, the person is
- 1457 considered to have issued only one policy.

- 1458 ~~[(9)]~~ (10) A person licensed to practice law in Utah, whether exempt under Subsection ~~[(8)]~~
 1459 ~~(9)~~ or not, shall maintain a trust account separate from a law firm trust account for all
 1460 title and real estate escrow transactions.
- 1461 ~~[(10)]~~ (11)(a) The ~~[department]~~ commissioner may, in accordance with Title 63G,
 1462 Chapter 4, Administrative Procedures Act, take ~~[any of the following actions]~~ an
 1463 action described in Subsection (11)(b) against a title insurance producer if the title
 1464 insurance producer:
- 1465 (i)(A) conducts title insurance business without an appointment from a title
 1466 insurer; or
- 1467 (B) ~~[-does not have an appointment-]~~ has not had an appointment for a period of
 1468 more than 28 consecutive days from a title insurer as described in Section
 1469 31A-23a-115[~~z~~].
- 1470 (b) If the commissioner makes a finding under Subsection (11)(a), the commissioner
 1471 may:
- 1472 ~~[(a)]~~ (i) suspend or revoke the title insurance producer's license;
 1473 ~~[(b)]~~ (ii) freeze a bank account associated with the title insurance producer's business;
 1474 ~~[(c)]~~ (iii) subpoena the title insurance producer's records;
 1475 ~~[(d)]~~ (iv) enjoin the title producer's business operations; or
 1476 ~~[(e)]~~ (v) post, at the title producer's business location, a notice of an action listed in
 1477 Subsections ~~[(10)(a)]~~ (11)(b)(i) through ~~[(10)(d)]~~ (iv).
- 1478 (12)(a) If an agency title insurance producer becomes aware of facts that support a
 1479 reasonable belief that an electronic wire funds transfer related to a real estate or title
 1480 insurance transaction did not reach the intended recipient of the electronic wire funds
 1481 transfer, the agency title insurance producer shall report the facts to:
- 1482 (i) the commissioner; and
 1483 (ii) each insurer with whom the producer has an appointment.
- 1484 (b) The requirement described in Subsection (12)(a) applies if:
- 1485 (i) the agency title insurance producer initiated the transfer; or
 1486 (ii) the agency title insurance producer was the intended recipient of the transfer.
- 1487 (c) An agency title insurance producer shall make a report described in Subsection
 1488 (12)(a) no later than seven business days after the day on which the agency title
 1489 insurance producer became aware of the facts that initiated the report.
- 1490 (d)(i) Except as provided in Subsection (12)(d)(ii), an agency title insurance producer
 1491 is immune from civil action, civil penalty, or damages, if the producer makes a

1492 good faith report under this Subsection (12).
 1493 (ii) Subsection (12)(d)(i) does not apply in an action that the department commences
 1494 against a producer for the violation of this title.

1495 (e) The identity of an agency title insurance producer that makes a report under
 1496 Subsection (12)(a)(i) is a protected record under Title 63G, Chapter 2, Government
 1497 Records Access and Management Act.

1498 (13)(a) A title insurer shall report to the commissioner the termination of an appointment
 1499 of a title insurance producer within seven days after the day on which termination
 1500 occurs.

1501 (b) A title insurance producer shall report to the commissioner a title insurer's
 1502 termination of the title insurance producer's appointment within seven days after the
 1503 day on which termination occurs.

1504 (c) The requirements of this Subsection (13) are in addition to the requirements of
 1505 Section 31A-23a-115.

1506 Section 24. Section **31A-23a-401** is amended to read:

1507 **31A-23a-401 . Disclosure of conflicting interests.**

1508 (1)(a) Except as provided under Subsection (1)(b):

1509 (i) a licensee under this chapter may not act in the same or any directly related
 1510 transaction as:

1511 (A) a producer for the insured or consultant; and

1512 (B) producer for the insurer; and

1513 (ii) a producer for the insured or consultant may not recommend or encourage the
 1514 purchase of insurance from or through an insurer or other producer:

1515 (A) of which the producer for the insured or consultant or producer for the
 1516 insured's or consultant's spouse is an owner, executive, or employee; or

1517 (B) to which the producer for the insured or consultant has the type of relation that
 1518 a material benefit would accrue to the producer for the insured or consultant or
 1519 spouse as a result of the purchase.

1520 (b) Subsection (1)(a) does not apply if the following three conditions are met:

1521 (i) Prior to performing the consulting services, the producer for the insured or
 1522 consultant shall disclose to the client, prominently, in writing:

1523 (A) the producer for the insured's or consultant's interest as a producer for the
 1524 insurer, or the relationship to an insurer or other producer; and

1525 (B) that as a result of those interests, the producer for the insured's or the

1526 consultant's recommendations should be given appropriate scrutiny.
 1527 (ii) The producer for the insured's or consultant's fee shall be agreed upon, in writing,
 1528 after the disclosure required under Subsection (1)(b)(i), but before performing the
 1529 requested services.
 1530 (iii) Any report resulting from requested services shall contain a copy of the
 1531 disclosure made under Subsection (1)(b)(i).

1532 (2) A licensee under this chapter may not act as to the same client as both a producer for the
 1533 insurer and a producer for the insured without the client's prior written consent based on
 1534 full disclosure.

1535 (3) Whenever a person applies for insurance coverage through a producer for the insured,
 1536 the producer for the insured shall disclose to the applicant, in writing, that the producer
 1537 for the insured is not the producer for the insurer or the potential insurer. This
 1538 disclosure shall also inform the applicant that the applicant likely does not have the
 1539 benefit of an insurer being financially responsible for the conduct of the producer for the
 1540 insured.

1541 [~~(4) If a licensee is subject to both this section and Subsection 31A-23a-501(4), the licensee~~
 1542 ~~shall provide the disclosure required under each statute.]~~

1543 Section 25. Section **31A-23a-406** is amended to read:

1544 **31A-23a-406 . Title insurance producer's business.**

1545 (1) As used in this section:

1546 (a) [~~"Automated clearing house network" or~~] "ACH network" means a national
 1547 electronic funds transfer system regulated by the Federal Reserve and the Office of
 1548 the Comptroller of the Currency.

1549 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.

1550 (c) "Funds transfer system" means the same as that term is defined in Section
 1551 70A-4a-105.

1552 (2) An individual title insurance producer or agency title insurance producer may do escrow
 1553 involving real property transactions if all of the following exist:

1554 (a) the individual title insurance producer or agency title insurance producer is licensed
 1555 with:

1556 (i) the title line of authority; and

1557 (ii) the escrow subline of authority;

1558 (b) a title insurer authorized to do business in this state appoints the individual title
 1559 insurance producer or agency title insurance producer~~[is appointed by a title insurer~~

- 1560 ~~authorized to do business in the state];~~
- 1561 (c) except as provided in Subsection (4), the individual title insurance producer or
- 1562 agency title insurance producer issues one or more of the following as part of the
- 1563 transaction:
- 1564 (i) an owner's policy offering title insurance;
- 1565 (ii) a lender's policy offering title insurance; or
- 1566 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an
- 1567 owner's or a lender's policy offering title insurance;
- 1568 (d) money deposited with the individual title insurance producer or agency title
- 1569 insurance producer in connection with any escrow is deposited:
- 1570 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 1571 (A) has a branch in this state~~[, if the individual title insurance producer or agency~~
- 1572 ~~title insurance producer depositing the money is a resident licensee]; and~~
- 1573 (B) ~~[is authorized by]~~the depository institution's primary regulator authorizes to
- 1574 engage in trust business, as defined in Section 7-5-1, in this state; and
- 1575 (ii) in a trust account that is separate from all other trust account money that is not
- 1576 related to real estate transactions;
- 1577 (e) money deposited with the individual title insurance producer or agency title
- 1578 insurance producer in connection with any escrow is the property of the one or more
- 1579 persons entitled to the money under the provisions of the escrow;
- 1580 (f) money deposited with the individual title insurance producer or agency title insurance
- 1581 producer in connection with an escrow is segregated escrow by escrow in the records
- 1582 of the individual title insurance producer or agency title insurance producer;
- 1583 (g) earnings on money held in escrow may be paid out of the trust account to any person
- 1584 in accordance with the conditions of the escrow;
- 1585 (h) the escrow does not require the individual title insurance producer or agency title
- 1586 insurance producer to hold:
- 1587 (i) construction money; or
- 1588 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 1589 (i) the individual title insurance producer or agency title insurance producer~~[- shall] :~~
- 1590 (i) [-maintain] maintains a physical office in Utah staffed by a person with an escrow
- 1591 subline of authority who processes the escrow[-] ; and
- 1592 (ii) upon receiving an order for a policy of title insurance, notifies the parties to the
- 1593 real estate transaction of:

- 1594 (A) the availability of a policy of title insurance;
1595 (B) the cost of a policy of title insurance; and
1596 (C) protections available from a closing protection letter described in Section
1597 31A-4-117.
- 1598 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title
1599 insurance producer may engage in the escrow business if:
1600 (a) the escrow involves:
1601 (i) a mobile home;
1602 (ii) a grazing right;
1603 (iii) a water right; or
1604 (iv) other personal property [~~authorized by~~] that the commissioner authorizes; and
1605 (b) the individual title insurance producer or agency title insurance producer complies
1606 with this section except for Subsection (2)(c).
- 1607 (4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real
1608 property from the School and Institutional Trust Lands Administration.
1609 (b) This subsection does not prohibit an individual title insurance producer or agency
1610 title insurance producer from issuing a policy described in Subsection (2)(c) as part
1611 of a transaction described in Subsection (4)(a).
- 1612 (5) Money held in escrow:
1613 (a) is not subject to any debts of the individual title insurance producer or agency title
1614 insurance producer;
1615 (b) may only be used to fulfill the terms of the individual escrow under which the money
1616 is accepted; and
1617 (c) may not be used until the conditions of the escrow are met.
- 1618 (6) Assets or property other than escrow money [~~received by~~] that an individual title
1619 insurance producer or agency title insurance producer receives in accordance with an
1620 escrow shall be maintained in a manner that will:
1621 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
1622 (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- 1623 (7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn,
1624 executed, or dated, or money otherwise disbursed unless the segregated trust account
1625 from which money is to be disbursed contains a sufficient credit balance consisting of
1626 collected and cleared money at the time the check is drawn, executed, or dated, or
1627 money is otherwise disbursed.

- 1628 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"
1629 and may be disbursed as follows:
- 1630 (i) cash may be disbursed on the same day the cash is deposited;
- 1631 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 1632 (iii) the proceeds of one or more of the following financial instruments may be
1633 disbursed on the same day the financial instruments are deposited if received from
1634 a single party to the real estate transaction and if the aggregate of the financial
1635 instruments for the real estate transaction is less than \$10,000:
- 1636 (A) a cashier's check, certified check, or official check that is drawn on an existing
1637 account at a federally insured financial institution;
- 1638 (B) a check drawn on the trust account of a principal broker or associate broker
1639 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if
1640 the individual title insurance producer or agency title insurance producer has
1641 reasonable and prudent grounds to believe sufficient money will be available
1642 from the trust account on which the check is drawn at the time of disbursement
1643 of proceeds from the individual title insurance producer or agency title
1644 insurance producer's trust account;
- 1645 (C) a personal check not to exceed \$500 per closing; or
- 1646 (D) a check drawn on the trust account of another individual title insurance
1647 producer or agency title insurance producer, if the individual title insurance
1648 producer or agency title insurance producer in the escrow transaction has
1649 reasonable and prudent grounds to believe that sufficient money will be
1650 available for withdrawal from the account upon which the check is drawn at
1651 the time of disbursement of money from the trust account of the individual title
1652 insurance producer or agency title insurance producer in the escrow transaction;
- 1653 (iv) deposits made through the ACH network may be disbursed on the same day the
1654 deposit is made if:
- 1655 (A) the transferred funds remain uniquely designated and traceable throughout the
1656 entire ACH network transfer process;
- 1657 (B) except as a function of the ACH network process, the transferred funds are not
1658 subject to comingling or third party access during the transfer process;
- 1659 (C) the transferred funds are deposited into the title insurance producer's trust
1660 account and are available for disbursement; and
- 1661 (D) either the ACH network payment type or the title insurance producer's

1662 systems prevent the transaction from being unilaterally canceled or reversed by
1663 the consumer once the transferred funds are deposited to the individual title
1664 insurance producer or agency title producer; or

1665 (v) deposits may be disbursed on the same day the deposit is made if the deposit is
1666 made via:

1667 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds
1668 transfer system; or

1669 (B) a funds transfer system provided by an association of federally insured
1670 depository institutions.

1671 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:

1672 (i) within the time limits provided under the Expedited Funds Availability Act, 12
1673 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal
1674 Reserve System; or

1675 (ii) upon notification from the financial institution to which the money has been
1676 deposited that final settlement has occurred on the deposited financial instrument.

1677 (8) An individual title insurance producer or agency title insurance producer shall maintain
1678 a record of a receipt or disbursement of escrow money.

1679 (9) An individual title insurance producer or agency title insurance producer shall comply
1680 with:

1681 (a) Section 31A-23a-409;

1682 (b) Title 46, Chapter 1, Notaries Public Reform Act; and

1683 (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404,
1684 that govern escrows.

1685 (10) If an individual title insurance producer or agency title insurance producer conducts a
1686 search for real estate located in the state, the individual title insurance producer or
1687 agency title insurance producer shall conduct a reasonable search of the public records.

1688 Section 26. Section **31A-23a-409** is amended to read:

1689 **31A-23a-409 . Trust obligation for money collected.**

1690 (1)(a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received
1691 by, or collected by a licensee for forwarding to insurers or to insureds.

1692 (b)(i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust
1693 funds with:

1694 (A) the licensee's own money; or

1695 (B) money held in any other capacity.

- 1696 (ii) This Subsection (1)(b) does not apply to:
- 1697 (A) amounts necessary to pay bank charges; and
- 1698 (B) money paid by insureds and belonging in part to the licensee as a fee or
- 1699 commission.
- 1700 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the
- 1701 fiduciary duties of a trustee with respect to money to be forwarded to insurers or
- 1702 insureds through the licensee.
- 1703 (d)(i) Unless money is sent to the appropriate payee by the close of the next business
- 1704 day after their receipt, the licensee shall deposit them in an account authorized
- 1705 under Subsection (2).
- 1706 (ii) Money deposited under this Subsection (1)(d) shall remain in an account
- 1707 authorized under Subsection (2) until sent to the appropriate payee.
- 1708 (2)(a) ~~Money~~ A licensee shall deposit money required to be deposited under Subsection
- 1709 (1)[shall be deposited]:
- 1710 ~~[(a)]~~ (i) into a federally insured trust account in a depository institution, as defined in
- 1711 Section 7-1-103, ~~[which]~~ that:
- 1712 ~~[(i)]~~ (A) has a branch in this state, if the ~~[individual title insurance producer or~~
- 1713 ~~agency title insurance producer depositing the money]~~ licensee is a resident
- 1714 licensee;
- 1715 ~~[(ii)]~~ (B) has federal deposit insurance; and
- 1716 ~~[(iii)]~~ (C) ~~[is authorized by its]~~ the depository institution's primary regulator
- 1717 authorizes to engage in the trust business, as that term is defined by Section
- 1718 7-5-1, in this state; or
- 1719 ~~[(b)]~~ (ii) into some other account, that:
- 1720 ~~[(i)]~~ (A) the commissioner approves by rule or order; and
- 1721 ~~[(ii)]~~ (B) provides safety comparable to an account described in Subsection ~~[(2)(a)]~~
- 1722 (2)(a)(i).
- 1723 (b) This Subsection (2) does not apply to a title insurance licensee.
- 1724 (3) ~~[It is not a violation of]~~ A licensee does not violate Subsection ~~[(2)(a)]~~ (2)(a)(i) if the
- 1725 amounts in the accounts exceed the amount of the federal insurance on the accounts.
- 1726 (4)(a) A trust account into which a licensee deposits money ~~[is deposited]~~ may be
- 1727 interest bearing.
- 1728 (b) ~~[-]~~The interest accrued on the account may be paid to the licensee, so long as the
- 1729 licensee otherwise complies with this section and with the contract with the insurer.

1730 (5) A depository institution or other organization holding trust funds under this section may
1731 not offset or impound trust account funds against debts and obligations [~~incurred by~~]the
1732 licensee incurs.

1733 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion
1734 of the money held under Subsection (1) to the licensee's own use, is guilty of theft under
1735 Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.

1736 (7) A nonresident licensee:

1737 (a) shall comply with Subsection (1)(a) by complying with the trust account
1738 requirements of the nonresident licensee's home state; and

1739 (b) is not required to comply with the other provisions of this section.

1740 Section 27. Section **31A-23a-501** is amended to read:

1741 **31A-23a-501 . Licensee compensation.**

1742 (1) As used in this section:

1743 (a) "Commission compensation" includes funds paid to or credited for the benefit of a
1744 licensee from:

1745 (i) commission amounts deducted from insurance premiums on insurance sold by or
1746 placed through the licensee;

1747 (ii) commission amounts received from an insurer or another licensee as a result of
1748 the sale or placement of insurance; or

1749 (iii) overrides, bonuses, contingent bonuses, or contingent commissions received
1750 from an insurer or another licensee as a result of the sale or placement of
1751 insurance.

1752 (b)(i) "Compensation from an insurer or third party administrator" means

1753 commissions, fees, awards, overrides, bonuses, contingent commissions, loans,
1754 stock options, gifts, prizes, or any other form of valuable consideration:

1755 (A) whether [~~or not~~]payable [~~pursuant to~~] in accordance with a written agreement;

1756 and

1757 (B) received from:

1758 (I) an insurer; or

1759 (II) a third party to the transaction for the sale or placement of insurance.

1760 (ii) "Compensation from an insurer or third party administrator" does not mean
1761 compensation from a customer that is:

1762 (A) a fee or pass-through costs as provided in Subsection (1)(e); or

1763 (B) a fee or amount collected by or paid to the producer that does not exceed an

1764 amount [~~established by~~]the commissioner establishes by administrative rule.

1765 (c)(i) "Customer" means:

1766 (A) the person signing the application or submission for insurance; or

1767 (B) the authorized representative of the insured actually negotiating the placement
1768 of insurance with the producer.

1769 (ii) "Customer" does not mean a person who is a participant or beneficiary of:

1770 (A) an employee benefit plan; or

1771 (B) a group or blanket insurance policy or group annuity contract the producer or
1772 affiliate sells, solicits, or negotiates~~[sold, solicited, or negotiated by the~~
1773 ~~producer or affiliate]~~.

1774 (d)(i) "Noncommission compensation" includes all funds paid to or credited for the
1775 benefit of a licensee other than commission compensation.

1776 (ii) "Noncommission compensation" does not include charges for pass-through costs
1777 incurred by the licensee in connection with obtaining, placing, or servicing an
1778 insurance policy.

1779 (e) "Pass-through costs" include:

1780 (i) costs for copying documents to be submitted to the insurer; and

1781 (ii) bank costs for processing cash or credit card payments.

1782 (2)(a) Except as provided in Subsection (3), a licensee may receive from an insured or
1783 from a person purchasing an insurance policy, noncommission compensation.

1784 (b) Noncommission compensation shall be:

1785 (i) limited to actual or reasonable expenses incurred for services; and

1786 (ii) uniformly applied to all insureds or prospective insureds in a class or classes of
1787 business or for a specific service or services.

1788 (c) The following additional noncommission compensation is authorized:

1789 (i) compensation a surety bond's principal debtor pays, under procedures approved by
1790 a rule or order of the commissioner, to a producer of a compensation corporate
1791 surety for an extra service;

1792 (ii) compensation an insurance producer receives for services performed for an
1793 insured in connection with a claim adjustment, if the producer:

1794 (A) does not receive and is not promised compensation for aiding in the claim
1795 adjustment before the claim occurs; and

1796 (B) is also licensed as a public adjuster in accordance with Section 31A-26-203;

1797 (iii) compensation a consultant receives as a consulting fee, if the consultant complies

- 1798 with the requirements under Section 31A-23a-401; and
 1799 (iv) a compensation arrangement that the commissioner approves after finding that
 1800 the arrangement:
 1801 (A) does not violate Section 31A-23a-401; and
 1802 (B) is not harmful to the public.
 1803 (d) All accounting records relating to noncommission compensation shall be maintained
 1804 in a manner that facilitates an audit.

1805 (3)(a) A surplus lines producer may receive noncommission compensation when acting
 1806 as a producer for the insured in a surplus lines transaction, if:

- 1807 (i) the producer and the insured have agreed on the producer's noncommission
 1808 compensation; and
 1809 (ii) the producer has disclosed to the insured the existence and source of any other
 1810 compensation that accrues to the producer as a result of the transaction.

1811 (b) The disclosure required by this Subsection (3) shall:

- 1812 (i) include the signature of the insured or prospective insured acknowledging the
 1813 noncommission compensation;
 1814 (ii) clearly specify:
 1815 (A) the amount of any known noncommission compensation;
 1816 (B) the type and amount, if known, of any potential and contingent
 1817 noncommission compensation; and
 1818 (C) the existence and source of any other compensation; and
 1819 (iii) be provided to the insured or prospective insured before the performance of the
 1820 service.

1821 [~~(4)(a) For purposes of this Subsection (4):~~]

1822 [~~(i) "Large customer" means an employer who, with respect to a calendar year and to~~
 1823 ~~a plan year:]~~

1824 [~~(A) employed an average of at least 100 eligible employees on each business day~~
 1825 ~~during the preceding calendar year; and]~~

1826 [~~(B) employs at least two employees on the first day of the plan year.]~~

1827 [(ii) "Producer" includes:]

1828 [(A) a producer;]

1829 [(B) an affiliate of a producer; or]

1830 [(C) a consultant.]

1831 [(b) A producer may not accept or receive any compensation from an insurer or third

1832 party administrator for the initial placement of a health benefit plan, other than a
 1833 hospital confinement indemnity policy, unless prior to a large customer's initial
 1834 purchase of the health benefit plan the producer discloses in writing to the large
 1835 customer that the producer will receive compensation from the insurer or third party
 1836 administrator for the placement of insurance, including the amount or type of
 1837 compensation known to the producer at the time of the disclosure.]

1838 [(e) A producer shall:]

1839 [(i) obtain the large customer's signed acknowledgment that the disclosure under
 1840 Subsection (4)(b) was made to the large customer; or]

1841 [(ii)(A) sign a statement that the disclosure required by Subsection (4)(b) was
 1842 made to the large customer; and]

1843 [(B) keep the signed statement on file in the producer's office while the health
 1844 benefit plan placed with the large customer is in force.]

1845 [(d) A licensee who collects or receives any part of the compensation from an insurer or
 1846 third party administrator in a manner that facilitates an audit shall, while the health
 1847 benefit plan placed with the large customer is in force, maintain a copy of:]

1848 [(i) the signed acknowledgment described in Subsection (4)(c)(i); or]

1849 [(ii) the signed statement described in Subsection (4)(c)(ii).]

1850 [(e) Subsection (4)(c) does not apply to:]

1851 [(i) a person licensed as a producer who acts only as an intermediary between an
 1852 insurer and the customer's producer, including a managing general agent; or]

1853 [(ii) the placement of insurance in a secondary or residual market.]

1854 [(f)(i) A producer shall provide to a large customer listed in this Subsection (4)(f) an
 1855 annual accounting, as defined by rule made by the department in accordance with
 1856 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the
 1857 producer receives in commission compensation from an insurer or third party
 1858 administrator as a result of the sale or placement of a health benefit plan to a large
 1859 customer that is:]

1860 [(A) the state;]

1861 [(B) a political subdivision or instrumentality of the state or a combination thereof
 1862 primarily engaged in educational activities or the administration or servicing of
 1863 educational activities, including the State Board of Education and its
 1864 instrumentalities, an institution of higher education and its branches, a school
 1865 district and its instrumentalities, a vocational and technical school, and an

- 1866 entity arising out of a consolidation agreement between entities described
 1867 under this Subsection (4)(f)(i)(B);]
- 1868 [~~(C)~~ a county, city, town, special district under Title 17B, Limited Purpose Local
 1869 Government Entities – Special Districts, special service district under Title
 1870 17D, Chapter 1, Special Service District Act, an entity created by an interlocal
 1871 cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act,
 1872 or any other governmental entity designated in statute as a political subdivision
 1873 of the state; or]
- 1874 [~~(D)~~ a quasi-public corporation, that has the same meaning as defined in Section
 1875 63E-1-102.]
- 1876 [(ii) The department shall pattern the annual accounting required by this Subsection
 1877 (4)(f) on the insurance related information on Internal Revenue Service Form
 1878 5500 and its relevant attachments.]
- 1879 [~~(g)~~ At the request of the department, a producer shall provide the department a copy of:]
- 1880 [(i) a disclosure required by this Subsection (4); or]
- 1881 [(ii) an Internal Revenue Service Form 5500 and its relevant attachments.]
- 1882 [(5)] (4) This section does not alter the right of any licensee to recover from an insured the
 1883 amount of any premium due for insurance effected by or through that licensee or to
 1884 charge a reasonable rate of interest upon past-due accounts.
- 1885 [(6)] (5) This section does not apply to bail bond producers or bail enforcement agents as
 1886 defined in Section 31A-35-102.
- 1887 [(7)] (6) A licensee may not receive noncommission compensation from an insurer, insured,
 1888 or enrollee for providing a service or engaging in an act that is required to be provided
 1889 or performed in order to receive commission compensation, except for the surplus lines
 1890 transactions that do not receive commissions.
- 1891 Section 28. Section **31A-26-301.6** is amended to read:
- 1892 **31A-26-301.6 . Health care claims practices.**
- 1893 (1) As used in this section:
- 1894 (a) "Health care provider" means a person licensed to provide health care under:
- 1895 (i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or
- 1896 (ii) Title 58, Occupations and Professions.
- 1897 (b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301,
 1898 and includes:
- 1899 (i) a health maintenance organization; and

- 1900 (ii) a third party administrator that is subject to this title, provided that nothing in this
1901 section may be construed as requiring a third party administrator to use [its] the
1902 third party administrator's own funds to pay claims that have not been funded by
1903 the entity for which the third party administrator is paying claims.
- 1904 (c) "Provider" means a health care provider to whom an insurer is obligated to pay
1905 directly in connection with a claim by virtue of:
1906 (i) an agreement between the insurer and the provider;
1907 (ii) an accident and health insurance policy or contract of the insurer; or
1908 (iii) state or federal law.
- 1909 (2) An insurer shall timely pay every valid insurance claim [~~submitted by~~] that a provider or
1910 insured submits in accordance with this section.
- 1911 (3)(a) Except as provided in Subsection (4), within 30 days of the day on which the
1912 insurer receives a written claim, an insurer shall:
1913 (i) pay the claim; or
1914 (ii) deny the claim and provide a written explanation for the denial.
- 1915 (b)(i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)
1916 may be extended by 15 days if the insurer:
1917 (A) determines that the extension is necessary due to matters beyond the control
1918 of the insurer; and
1919 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the
1920 provider and insured in writing of:
1921 (I) the circumstances requiring the extension of time; and
1922 (II) the date by which the insurer expects to pay the claim or deny the claim
1923 with a written explanation for the denial.
- 1924 (ii) If an extension is necessary due to a failure of the provider or insured to submit
1925 the information necessary to decide the claim:
1926 (A) the notice of extension required by this Subsection (3)(b) shall specifically
1927 describe the required information; and
1928 (B) the insurer shall give the provider or insured at least 45 days from the day on
1929 which the provider or insured receives the notice before the insurer denies the
1930 claim for failure to provide the information requested in Subsection
1931 (3)(b)(ii)(A).
- 1932 (4)(a) In the case of a claim for income replacement benefits, within 45 days of the day
1933 on which the insurer receives a written claim, an insurer shall:

- 1934 (i) pay the claim; or
- 1935 (ii) deny the claim and provide a written explanation of the denial.
- 1936 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)
- 1937 may be extended for 30 days if the insurer:
- 1938 (i) determines that the extension is necessary due to matters beyond the control of the
- 1939 insurer; and
- 1940 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies
- 1941 the insured of:
- 1942 (A) the circumstances requiring the extension of time; and
- 1943 (B) the date by which the insurer expects to pay the claim or deny the claim with a
- 1944 written explanation for the denial.
- 1945 (c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection
- 1946 (4)(a) may be extended for up to an additional 30 days from the day on which the
- 1947 30-day extension period provided in Subsection (4)(b) ends if before the day on
- 1948 which the 30-day extension period ends, the insurer:
- 1949 (i) determines that due to matters beyond the control of the insurer a decision cannot
- 1950 be rendered within the 30-day extension period; and
- 1951 (ii) notifies the insured of:
- 1952 (A) the circumstances requiring the extension; and
- 1953 (B) the date as of which the insurer expects to pay the claim or deny the claim
- 1954 with a written explanation for the denial.
- 1955 (d) A notice of extension under this Subsection (4) shall specifically explain:
- 1956 (i) the standards on which entitlement to a benefit is based; and
- 1957 (ii) the unresolved issues that prevent a decision on the claim.
- 1958 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the
- 1959 insured to submit the information necessary to decide the claim:
- 1960 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically
- 1961 describe the necessary information; and
- 1962 (ii) the insurer shall give the insured at least 45 days from the day on which the
- 1963 insured receives the notice before the insurer denies the claim for failure to
- 1964 provide the information requested in Subsection (4)(b) or (c).
- 1965 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c),
- 1966 due to an insured or provider failing to submit information necessary to decide a claim,
- 1967 the period for making the benefit determination shall be tolled from the date on which

- 1968 the notification of the extension is sent to the insured or provider until the date on which
 1969 the insured or provider responds to the request for additional information.
- 1970 (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to
 1971 pay on the claim, and provide a written explanation of the insurer's decision regarding
 1972 any part of the claim that is denied within 20 days of receiving the information requested
 1973 under Subsection (3)(b), (4)(b), or (4)(c).
- 1974 (7)(a) Whenever an insurer makes a payment to a provider on any part of a claim under
 1975 this section, the insurer shall also send to the insured an explanation of benefits paid.
- 1976 (b) Whenever an insurer denies any part of a claim under this section, the insurer shall
 1977 also send to the insured:
- 1978 (i) a written explanation of the part of the claim that was denied; and
 1979 (ii) notice of the adverse benefit determination review process established under
 1980 Section 31A-22-629.
- 1981 (c) This Subsection (7) does not apply to a person receiving benefits under the state
 1982 Medicaid program as defined in Section 26B-3-101, unless required by the
 1983 Department of Health and Human Services or federal law.
- 1984 (8)(a) A late fee shall be imposed on:
- 1985 (i) an insurer that fails to timely pay a claim in accordance with this section; and
 1986 (ii) a provider that fails to timely provide information on a claim in accordance with
 1987 this section.
- 1988 (b) The late fee described in Subsection (8)(a) shall be determined by multiplying
 1989 together:
- 1990 (i) the total amount of the claim the insurer is obliged to pay;
 1991 (ii) the total number of days the response or the payment is late; and
 1992 (iii) 0.033% daily interest rate.
- 1993 (c) Any late fee paid or collected under this Subsection (8) shall be separately identified
 1994 on the documentation used by the insurer to pay the claim.
- 1995 (d) For purposes of this Subsection (8), "late fee" does not include an amount that is less
 1996 than \$1.
- 1997 (9) Each insurer shall establish a review process to resolve claims-related disputes between
 1998 the insurer and providers.
- 1999 (10) An insurer or person representing an insurer may not engage in any unfair claim
 2000 settlement practice with respect to a provider. Unfair claim settlement practices include:
 2001 (a) knowingly misrepresenting a material fact or the contents of an insurance policy in

- 2002 connection with a claim;
- 2003 (b) failing to acknowledge and substantively respond within 15 days to any written
- 2004 communication from a provider relating to a pending claim;
- 2005 (c) denying or threatening to deny the payment of a claim for any reason that is not
- 2006 clearly described in the insured's policy;
- 2007 (d) failing to maintain a payment process sufficient to comply with this section;
- 2008 (e) failing to maintain claims documentation sufficient to demonstrate compliance with
- 2009 this section;
- 2010 (f) failing, upon request, to give to the provider written information regarding the
- 2011 specific rate and terms under which the provider will be paid for health care services;
- 2012 (g) failing to timely pay a valid claim in accordance with this section as a means of
- 2013 influencing, intimidating, retaliating, or gaining an advantage over the provider with
- 2014 respect to an unrelated claim, an undisputed part of a pending claim, or some other
- 2015 aspect of the contractual relationship;
- 2016 (h) failing to pay the sum when required and as required under Subsection (8) when a
- 2017 violation has occurred;
- 2018 (i) threatening to retaliate or actual retaliation against a provider for the provider
- 2019 applying this section;
- 2020 (j) any material violation of this section; and
- 2021 (k) any other unfair claim settlement practice established in rule or law.
- 2022 (11)(a) The provisions of this section shall apply to each contract between an insurer and
- 2023 a provider for the duration of the contract.
- 2024 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith
- 2025 insurance claim.
- 2026 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer
- 2027 and a provider from including provisions in their contract that are more stringent than
- 2028 the provisions of this section.
- 2029 (12)(a) [~~Pursuant to~~] In accordance with Chapter 2, Part 2, Duties and Powers of
- 2030 Commissioner, the commissioner may conduct examinations to determine an
- 2031 insurer's level of compliance with this section and impose sanctions for each
- 2032 violation.
- 2033 (b) The commissioner may adopt rules only as necessary to implement this section.
- 2034 (c) The commissioner may establish rules to facilitate the exchange of electronic
- 2035 confirmations when claims-related information has been received.

- 2036 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules
 2037 regarding the review process required by Subsection (9).
- 2038 (13) Nothing in this section may be construed as limiting the collection rights of a provider
 2039 under Section 31A-26-301.5.
- 2040 (14) Nothing in this section may be construed as limiting the ability of an insurer to:
- 2041 (a) recover any amount improperly paid to a provider or an insured:
- 2042 (i) in accordance with Section 31A-31-103 or any other provision of state or federal
 2043 law;
- 2044 (ii) within 24 months of the amount improperly paid for a coordination of benefits
 2045 error;
- 2046 (iii) within 12 months of the amount improperly paid for any other reason not
 2047 identified in Subsection (14)(a)(i) or (ii); or
- 2048 (iv) within 36 months of the amount improperly paid when the improper payment
 2049 was due to a recovery by Medicaid, Medicare, the Children's Health Insurance
 2050 Program, or any other state or federal health care program;
- 2051 (b) take any action against a provider that is permitted under the terms of the provider
 2052 contract and not prohibited by this section;
- 2053 (c) report the provider to a state or federal agency with regulatory authority over the
 2054 provider for unprofessional, unlawful, or fraudulent conduct; or
- 2055 (d) enter into a mutual agreement with a provider to resolve alleged violations of this
 2056 section through mediation or binding arbitration.
- 2057 (15) A provider may only seek recovery from the insurer for an amount the insurer
 2058 improperly [~~paid by the insurer~~] pays within the same time frames [as] described in [
 2059 Subsections] Subsection (14)(a)[~~and (b)~~].
- 2060 (16)(a) An insurer may offer the remittance of payment through a credit card or other
 2061 similar arrangement.
- 2062 (b)(i) A provider may elect not to receive remittance through a credit card or other
 2063 similar arrangement.
- 2064 (ii) An insurer:
- 2065 (A) shall permit a provider's election described in Subsection (16)(b)(i) to apply to
 2066 the provider's entire practice;
- 2067 (B) may not require a provider's election described in Subsection (16)(b)(i) to be
 2068 made on a patient-by-patient basis; and
- 2069 (C) shall allow a provider to opt out of all credit card or other similar

2070 arrangements for every plan offered by the insurer through a single opt out
2071 process.

2072 (iii) If a provider elects not to receive remittance through a credit card or other
2073 similar arrangement, that decision remains in effect until:

2074 (A) the provider affirmatively elects to receive remittance through credit card or
2075 similar arrangement; or

2076 (B) a new contract is issued.

2077 (c) An insurer may not require a provider or insured to accept remittance through a
2078 credit card or other similar arrangement.

2079 (d) An insurer shall allow a tangible check as a form of acceptable payment.

2080 Section 29. Section **31A-26-401** is amended to read:

2081 **31A-26-401 . Required contracts.**

2082 (1)(a) A public adjuster may not, directly or indirectly, act within this state as a public
2083 adjuster without having first entered into a contract, in writing, on a form [filed] a
2084 public adjuster files with the department in accordance with Section 31A-21-201, [
2085 ~~executed in duplicate by~~] that the public adjuster and the insured or the insured's duly
2086 authorized representative executes in duplicate. [~~A public adjuster may not use a~~
2087 ~~form of contract that is not filed with the department.~~]

2088 (b) A public adjuster shall provide a signed copy of the contract to the insured at the
2089 time of signing.

2090 (c) A public adjuster may not use a form of contract that the public adjuster has not filed
2091 with the department.

2092 (d) A public adjuster may not redact a compensation provision from a contract form the
2093 public adjuster files with the department.

2094 (2)(a) [~~A~~] An insured may rescind a contract described in Subsection (1) [is subject to
2095 rescission] in accordance with Section 31A-26-311.

2096 (b) If an insured rescinds a contract, the public adjuster shall return to the insured
2097 anything of value the insured gives to the public adjuster under the terms of the
2098 contract within 15 business days after the day on which the public adjuster receives
2099 the notice of rescission.

2100 [(3)(a) A contract described in Subsection (1) shall include a prominently displayed
2101 notice in 12-point boldface type that states "~~WE REPRESENT THE INSURED~~
2102 ~~ONLY.~~"]

2103 [(b) The commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah

2104 ~~Administrative Rulemaking Act, may require additional prominently displayed notice~~
 2105 ~~requirements in the contract as the commissioner considers necessary.]~~

2106 (3) A contract described in Subsection (1):

2107 (a) shall include each notice and statement that the commissioner:

2108 (i) deems necessary; and

2109 (ii) requires by rule in accordance with Title 63G, Chapter 3, Utah Administrative
 2110 Rulemaking Act; and

2111 (b) may not include a term that:

2112 (i) allows a public adjuster to collect the public adjuster's percentage fee when money
 2113 is due from an insurance company but the insurance company has not paid;

2114 (ii) allows a public adjuster to collect the entire fee from the first check an insurance
 2115 company issues instead of a percentage of each check the insurance company
 2116 issues;

2117 (iii) requires an insured to authorize an insurance company to issue a check only in
 2118 the name of the public adjuster;

2119 (iv) imposes a collection cost or a late fee; or

2120 (v) prevents an insured from pursuing a civil remedy.

2121 (4)(a) A public adjuster shall provide to the insurer a notification letter, that the insured
 2122 signs, authorizing the public adjuster to represent the insured's interest.

2123 (b) After receiving the letter described in Subsection (4)(a), an insurer shall verify with
 2124 the department that the public adjuster holds a valid license.

2125 [~~4) A public adjuster shall keep at the public adjuster's principal place of business a copy~~
 2126 ~~of each contract entered into in this state for the current year plus three years, and each~~
 2127 ~~contract shall be available at all times for inspection, without notice, by the~~
 2128 ~~commissioner or the commissioner's authorized representative.]~~

2129 (5) A public adjuster may not enter into a contract with an insured and collect compensation
 2130 as provided in the contract without actually performing the services a licensed public
 2131 adjuster customarily [~~provided by a licensed public adjuster for~~] provides the insured.

2132 Section 30. Section ~~31A-26-402~~ is amended to read:

2133 **31A-26-402 . Compensation.**

2134 (1) Except as provided by [~~Subsection (2)] Subsection (4), a public adjuster may receive~~
 2135 ~~compensation for service~~ [~~provided~~] a public adjuster provides under this chapter
 2136 consisting of: [-]

2137 (a) an hourly fee[-] ;

- 2138 (b) ~~[-]a flat rate[-];~~ ;
- 2139 (c) ~~[-]a percentage of the total amount [paid-by]an insurer pays to resolve a claim[-];~~ or
- 2140 (d) ~~[-]another method of compensation.~~
- 2141 (2)(a) If a person compensates a public adjuster at an hourly rate, the contract between
- 2142 the person and public adjuster shall state:
- 2143 (i) the hourly rate; and
- 2144 (ii) how the hourly rate applies to the hours of service the public adjuster provides to
- 2145 calculate the amount payable to the public adjuster.
- 2146 (b) If a person compensates a public adjuster on a flat fee basis, the contract between the
- 2147 person and public adjuster shall state the amount payable to the public adjuster.
- 2148 (c) If a person compensates a public adjuster on a percentage basis, the contract between
- 2149 the person and the public adjuster shall state the exact percentage that applies to the
- 2150 settlement of a claim to calculate the amount payable to the public adjuster.
- 2151 (d) If a person uses a method of calculation not described in Subsections (2)(a) through
- 2152 (c) to determine a public adjuster's compensation, the contract between the person
- 2153 and the public adjuster shall include a detailed explanation of how the person
- 2154 determines the amount payable to the public adjuster based on the service the public
- 2155 adjuster provides.
- 2156 (3)(a) A contract between an insured and a public adjuster for compensation under this
- 2157 section shall state the type of initial expenses, with dollar estimates, that the insured
- 2158 approves to reimburse the public adjuster from the proceeds of the claim payment.
- 2159 (b) A public adjuster shall provide an itemized invoice of each expense the public
- 2160 adjuster incurs during the process of resolving a claim to the insured at the
- 2161 conclusion of a claim.
- 2162 [(2)] (4)(a) A public adjuster may not receive a compensation consisting of a percentage
- 2163 of the total amount ~~[paid-by]an insurer pays to resolve a claim on a claim on which~~
- 2164 the insurer, not later than 72 hours after the ~~[date] day~~ on which the loss is reported to
- 2165 the insurer, either pays or commits in writing to pay to the insured the policy limit of
- 2166 the insurance policy.
- 2167 (b) [A] Subject to Subsection (6), a public adjuster is entitled to reasonable compensation
- 2168 from the insured for services ~~[provided-by]the public adjuster provides on behalf of~~
- 2169 the insured, based on the time spent on a claim that is subject to this ~~[Subsection (2)]~~
- 2170 Subsection (4) and expenses ~~[incurred-by]the public adjuster incurs, until the claim~~
- 2171 is paid or the insured receives a written commitment to pay from the insurer.

2172 [(3)] (5) Except for the payment of compensation by the insured, a person paying proceeds
 2173 of a policy of insurance or making a payment affecting an insured's rights under a policy
 2174 of insurance shall:

- 2175 (a) include the insured as a payee on the payment draft or check; and
 2176 (b) require the written signature and endorsement of the insured on the payment draft or
 2177 check.

2178 [(4)] (6) A public adjuster may not:

- 2179 (a) [-]accept [~~any~~] a payment that violates this section notwithstanding [~~whether~~] a written
 2180 authorization that the insured gives [~~authorization~~] to the public adjuster[-] ;
 2181 (b) [~~A public adjuster may not~~]sign and endorse [~~any~~] a payment draft or check on
 2182 behalf of an insured[-] ;
 2183 (c) charge, agree to, or accept as compensation or reimbursement, a payment,
 2184 commission, fee, or another thing of value equal to more than:
 2185 (i) 10% for a catastrophic insurance claim settlement; or
 2186 (ii) 15% for a non-catastrophic insurance claim settlement; or
 2187 (d) require, demand, or accept a fee, retainer, compensation, deposit, or other thing of
 2188 value before the settlement of a claim.

2189 Section 31. Section **31A-26-403.1** is enacted to read:

2190 **31A-26-403.1 . Assignment of property insurance policy rights and benefits.**

- 2191 (1) A property insurance policy may prohibit the assignment of a right or benefit under the
 2192 property insurance policy to a property repair contractor, roofing company, disaster
 2193 clean up company, appraiser, inspector, or other person hired to remedy the damage that
 2194 is the subject of an insured's claim.
 2195 (2) A person may not circumvent the prohibition described in Subsection (1) by obtaining a
 2196 power of attorney from an insured.
 2197 (3) A property insurance policy may not prohibit the assignment of a right or benefit under
 2198 the policy to a policy adjuster.

2199 Section 32. Section **31A-26-404** is enacted to read:

2200 **31A-26-404 . Funds that a public adjuster holds.**

2201 A public adjuster that receives, accepts, or holds funds on behalf of an insured shall
 2202 deposit the funds into a trust account within a federally insured depository institution that:

- 2203 (1)(a) has a branch in this state, if the public adjuster depositing the money is a resident
 2204 licensee;
 2205 (b) has a branch in the public adjuster's home state, if the public adjuster is a nonresident

- 2206 licensee; or
- 2207 (c) has a branch where the loss occurred; and
- 2208 (2) the depository institution's primary regulator authorizes to engage in trust business.
- 2209 Section 33. Section **31A-26-405** is enacted to read:
- 2210 **31A-26-405 . Public adjuster standards of conduct.**
- 2211 A public adjuster may not:
- 2212 (1) solicit or attempt to solicit an insured during the progress of a loss-producing
- 2213 occurrence;
- 2214 (2) advertise or infer damage unless an inspection of the property has been completed;
- 2215 (3) offer to pay an insured's deductible, or claim that the public adjuster will waive the
- 2216 insured's deductible, as an inducement for the insured to use the public adjuster's
- 2217 services;
- 2218 (4) offer to conduct a free inspection of property other than property that is the subject of an
- 2219 insured's claim;
- 2220 (5) participate directly, indirectly, or through an affiliate, in the reconstruction, repair, or
- 2221 restoration of property that is the subject of the public adjuster's contract with an insured;
- 2222 (6) solicit, accept compensation from, or have an interest in a business that provides a
- 2223 product or service in connection with a claim that the public adjuster has a contract to
- 2224 adjust;
- 2225 (7) have a financial interest in, directly, indirectly, or through an affiliate, an aspect of an
- 2226 insured's claim except for:
- 2227 (a) a salary;
- 2228 (b) a fee;
- 2229 (c) a commission; or
- 2230 (d) other compensation established in the written contract with the insured;
- 2231 (8) collect compensation as provided in a contract without actually performing the service a
- 2232 licensed public adjuster customarily provides for the insured;
- 2233 (9) acquire an interest in a salvage of property except as authorized in a contract with the
- 2234 insured;
- 2235 (10) recommend or direct that the insured obtain a repair or service in connection with a
- 2236 loss from a person:
- 2237 (a) in whom the public adjuster has a financial interest; or
- 2238 (b) from whom the public adjuster may receive direct or indirect compensation for the
- 2239 referral;

- 2240 (11) accept, sign, or endorse a check or payment draft:
 2241 (a) that does not name the insured as a payee; or
 2242 (b) on behalf of the insured;
 2243 (12) adjust a claim if the terms and conditions of the insurance coverage exceed the public
 2244 adjuster's competence, knowledge, or expertise;
 2245 (13) represent or act as a company adjuster or independent adjuster on the same claim;
 2246 (14) enter into a contract or accept a power of attorney that vests in the public adjuster the
 2247 authority to choose the persons that will perform repair work;
 2248 (15) agree to a loss settlement without the insured's knowledge or consent; or
 2249 (16) allow the following to obtain an insured's signature on the public adjuster's contract:
 2250 (a) a home repair contractor;
 2251 (b) a roofing company;
 2252 (c) a disaster clean up company;
 2253 (d) an appraiser;
 2254 (e) an inspector; or
 2255 (f) any other person hired to remedy the damage that is the subject of the insured's claim.
- 2256 Section 34. Section **31A-26-406** is enacted to read:
 2257 **31A-26-406 . Record retention requirements.**
- 2258 (1) A public adjuster shall keep at the public adjuster's address that the public adjuster
 2259 registers with the commissioner a record of each investigation, adjustment, or
 2260 transaction the public adjuster undertakes or completes under the public adjuster's
 2261 license.
- 2262 (2) For each investigation, adjustment, or transaction, a record described in Subsection (1)
 2263 shall include:
 2264 (a) the name of the insured;
 2265 (b) the date, location, and amount of the loss the insured incurs;
 2266 (c) a copy of the contract between the public adjuster and the insured;
 2267 (d) for each policy an insured carries that relates to the loss the insured incurs:
 2268 (i) the name of the insurer;
 2269 (ii) the amount of the policy;
 2270 (iii) the expiration date of the policy; and
 2271 (iv) the number of the policy;
 2272 (e) an itemized statement of each of the insured's recoveries;
 2273 (f) an itemized statement of all compensation the public adjuster receives in connection

- 2274 with the investigation, adjustment, or transaction;
 2275 (g) a register of all money the public adjuster receives, deposits, disburses, or withdraws
 2276 in connection with a transaction with an insured, including:
 2277 (i) a fee transfer;
 2278 (ii) a disbursement from a trust account; or
 2279 (iii) a transaction that involves an interest-bearing account;
 2280 (h) the name of the public adjuster that executed the contract;
 2281 (i) the name of the attorney that represents the insured, if applicable;
 2282 (j) the name of the insurance company's claims representative; and
 2283 (k) documentation that the public adjuster meets all applicable statutory financial
 2284 responsibility requirements.

2285 Section 35. Section **31A-26-407**, which is renumbered from Section 31A-26-403 is renumbered
 2286 and amended to read:

2287 **[31A-26-403] 31A-26-407 . Rulemaking.**

2288 The commissioner may make rules, in accordance with Title 63G, Chapter 3, Utah
 2289 Administrative Rulemaking Act:

- 2290 (1) addressing the forms required by this part;
 2291 (2) providing for notice requirements in contracts; and
 2292 (3) establishing the scope of a contract a public adjuster enters into with an insured that the
 2293 public adjuster represents.

2294 Section 36. Section **31A-27-501** is amended to read:

2295 **CHAPTER 27. Administrative Supervision of Insurers**

2296 **31A-27-501 . Applicability -- Construction -- Commissioner's powers.**

2297 [~~(1)~~] This chapter is known as the "~~Delinquency Administrative Action Provisions.~~"

2298 [~~(2)~~] (1) The proceedings authorized by this part may be applied to:

- 2299 (a) all insurers and reinsurers:
 2300 (i) who are doing, or have done, an insurance business in this state; and
 2301 (ii) against whom claims arising from that business may exist;
 2302 (b) all insurers who have the appearance of or claim [~~they~~] the insurers do an insurance
 2303 business in this state;
 2304 (c) all insurers who have insureds resident in this state; and
 2305 (d) all other persons organized or in the process of organizing to do an insurance
 2306 business as an insurer in this state.

2307 [~~(3)~~] (2) This part shall be liberally construed to protect the interests of insureds, creditors,

2308 and the public generally, with minimum interference with the normal prerogatives of
 2309 owners, through:

- 2310 (a) early detection of any potentially dangerous condition in an insurer;
- 2311 (b) prompt application of appropriate regulatory corrective measures; and
- 2312 (c) regulation of the insurance business by law relating to insolvency of insurers and by
 2313 substantive rules on the entire insurance business.

2314 ~~[(4)]~~ (3) This part does not limit the powers granted the commissioner by other provisions of
 2315 law.

2316 Section 37. Section **31A-27-503** is amended to read:

2317 **31A-27-503 . Commissioner's administrative actions.**

2318 (1)(a) The commissioner may take an action described in Subsection (1)(b) ~~[whenever]~~

2319 if, after conducting a proceeding in accordance with Title 63G, Chapter 4,

2320 Administrative Procedures Act, the commissioner ~~[has reasonable cause to believe,~~

2321 ~~and determines after a hearing]~~ determines that an insurer:

2322 (i) has committed or engaged in an act, practice, or transaction that would subject the
 2323 insurer to a formal delinquency proceeding under Chapter 27a, Insurer

2324 Receivership Act;

2325 (ii) is committing or engaging in an act, practice, or transaction that would subject the

2326 insurer to a formal delinquency proceeding under Chapter 27a, Insurer

2327 Receivership Act;

2328 (iii) is about to commit or engage in an act, practice, or transaction that would subject

2329 the insurer to a formal delinquency proceeding under Chapter 27a, Insurer

2330 Receivership Act;

2331 (iv) is in or is about to be in a condition that would subject the insurer to a formal

2332 delinquency proceeding under Chapter 27a, Insurer Receivership Act;~~[-or]~~

2333 (v) is in hazardous financial condition or potentially hazardous financial condition, as

2334 defined by rule made under Subsection 31A-27a-101(3)(c)~~[-]~~ ;

2335 (vi) has refused to permit the commissioner, the commissioner's deputies, the

2336 commissioner's employees, or commissioned examiners to conduct an

2337 examination of the insurer's books, papers, accounts, records, or affairs;

2338 (vii) has unlawfully removed from this state a book, paper, account, or record that is

2339 necessary for the examination of the insurer;

2340 (viii) has failed to promptly comply with:

2341 (A) applicable financial reporting statutes or rules; or

- 2342 (B) requests from the department relating to the financial reporting statutes or
 2343 rules described in Subsection (1)(a)(viii)(A);
- 2344 (ix) has neglected or refused to comply with an order of the commissioner to make
 2345 good, within the time period described in applicable law, a prohibited deficiency
 2346 in the insurer's:
- 2347 (A) capital;
 2348 (B) capital stock; or
 2349 (C) surplus;
- 2350 (x) continues to transact insurance or write business after the commissioner revokes
 2351 or suspends the insurer's license;
- 2352 (xi) in violation of an order of the commissioner or, if required by law, without first
 2353 obtaining written approval of the commissioner, has by contract or other
 2354 agreement:
- 2355 (A) completely reinsured the insurer's entire outstanding business; or
 2356 (B) merged or substantially consolidated the insurer's entire property or business
 2357 with another insurer;
- 2358 (xii) has engaged in a transaction in which the insurer is not authorized to engage
 2359 under the laws of this state; or
- 2360 (xiii) has refused to comply with a lawful order of the commissioner.
- 2361 (b) If the conditions of Subsection (1)(a) are met, the commissioner may ~~make and~~
 2362 ~~serve upon the insurer and any other persons whose action or forbearance from action~~
 2363 ~~is reasonably necessary, those orders, other than a seizure order under Section~~
 2364 ~~31A-27a-201,] :~~
- 2365 (i) issue a mandatory order or prohibitory order that [are] is reasonably necessary to
 2366 correct, eliminate, or remedy the act, practice, transaction, or condition described
 2367 in Subsection (1)(a)[-] ; or
- 2368 (ii) place the insurer under administrative supervision until the insurer halts or
 2369 corrects the act, practice, transaction, or condition that is the ground for the order.
- 2370 (c) The commissioner may appoint an independent contractor to serve as an
 2371 administrative supervisor to supervise the insurer in accordance with Subsection
 2372 (1)(b)(ii).
- 2373 ~~[(e) The commissioner may issue an order for the insurer to submit to supervision by a~~
 2374 ~~supervisor appointed by the commissioner until the act, practice, transaction, or~~
 2375 ~~condition that is the ground for the order has been halted or corrected.]~~

2376 ~~[(2)(a) The commissioner may make and serve an order issued under Subsection (1)~~
 2377 ~~without notice and before a hearing if:]~~

2378 ~~[(i) the conditions of Subsection (1) are satisfied; and]~~
 2379 ~~[(ii) it appears to the commissioner that irreparable harm to the property or business~~
 2380 ~~of the insurer or to the interests of its policyholders, creditors, or the public may~~
 2381 ~~occur unless the commissioner issues, with immediate effect, the order.]~~

2382 ~~[(b) The commissioner shall serve the insurer with an order described in this Subsection~~
 2383 ~~(2) and a notice of agency action, containing a statement of the reasons why~~
 2384 ~~irreparable harm is threatened unless the order is issued with immediate effect.]~~

2385 ~~[(3)] (2)[(a) If the commissioner issues an order for supervision of an insurer under~~
 2386 ~~Subsection (1) or (2), the commissioner shall:]~~

2387 ~~[(i) notify the insurer that the insurer is under the supervision of the commissioner;~~
 2388 ~~and]~~

2389 ~~[(ii) explain the reasons for that supervision.]~~

2390 ~~[(b) During the period of supervision] If the commissioner places an insurer under~~
 2391 ~~administrative supervision in accordance with Subsection (1)(b)(ii), the~~
 2392 ~~commissioner may prohibit the insurer from doing any of the following, without the~~
 2393 ~~prior approval of the commissioner or [a] the supervisor [appointed by] that the~~
 2394 ~~commissioner appoints in accordance with Subsection (1)(b)(ii):~~

2395 ~~[(i)] (a) transferring any of [its] the insurer's assets or [its] the insurer's business in force;~~
 2396 ~~[(ii)] (b) withdrawing funds from any of [its] the insurer's bank accounts;~~
 2397 ~~[(iii)] (c) lending any of [its] the insurer's funds;~~
 2398 ~~[(iv)] (d) investing any of [its] the insurer's funds;~~
 2399 ~~[(v)] (e) transferring any of [its] the insurer's property;~~
 2400 ~~[(vi)] (f) incurring any debt, obligation, or liability other than in the ordinary and usual~~
 2401 ~~course of business;[-or]~~

2402 ~~[(vii)] (g) entering into [any] a new reinsurance contract or treaty[-];~~

2403 ~~(h) merging or consolidating with another company;~~
 2404 ~~(i) approving a new premium or renew a policy;~~
 2405 ~~(j) terminating, surrendering, forfeiting, converting, or lapsing an insurance policy, a~~
 2406 ~~certificate, or a contract, except for nonpayment of a premium due;~~
 2407 ~~(k) releasing, paying, or refunding a premium deposit, accrued cash, a loan value, an~~
 2408 ~~unearned premium, or other reserve on an insurance policy a certificate, or a contract;~~
 2409 ~~(l) making a material change in management;~~

2410 (m) increasing a salary or a benefit of an officer or a director; or
 2411 (n) increasing a preferential payment of a bonus, dividend, or other payment deemed
 2412 preferential.

2413 (3) A supervisor that the commissioner appoints in accordance with Subsection (1)(b)(ii):
 2414 (a) is an independent contractor;
 2415 (b) shall treat the administrative supervision of an insurer as though the administrative
 2416 supervision is an examination described in Sections 31A-2-204 and 31A-2-205; and
 2417 (c) shall receive compensation in the same form that an independent contractor who
 2418 performs examination functions under this title receives compensation in accordance
 2419 with Section 31A-2-205.

2420 [~~(4)(a) If the commissioner issues a summary order before a hearing under Subsection~~
 2421 ~~(2), the insurer may waive the commissioner's hearing and apply for immediate~~
 2422 ~~judicial relief by any remedy afforded by law, without first exhausting the insurer's~~
 2423 ~~administrative remedies.]~~

2424 [~~(b) If the insurer has a hearing before the commissioner, the insurer and any person~~
 2425 ~~whose interests are substantially affected are entitled to judicial review of any order~~
 2426 ~~issued by the commissioner.]~~

2427 Section 38. Section **31A-27-504** is amended to read:

2428 **31A-27-504 . Conduct of hearings.**

2429 (1) [~~The~~] A proceeding the commissioner [shall hold a hearing conducted] conducts under
 2430 Section 31A-27-503 [privately] is confidential unless the insurer requests [~~a public~~
 2431 ~~hearing] that the proceeding be public.~~

2432 (2) [~~All~~] The commissioner shall keep all records of the insurer, other documents, and all
 2433 department files and papers[, so far as they pertain to or are a part of the record of a
 2434 hearing conducted] that are relevant to a proceeding the commissioner conducts under
 2435 Section 31A-27-503[, shall be kept] confidential:

2436 (a) except as is necessary to obtain compliance with [a hearing conducted under Section
 2437 31A-27-503] an order commissioner issues; or

2438 (b) [~~unless the insurer requests that the matter be made public] unless the proceeding is~~
 2439 public.

2440 (3) [~~Any~~] A person having possession or custody of and refusing to deliver [any of the
 2441 records of an insurer against which an order is issued by the commissioner is in
 2442 accordance with a hearing conducted under Section 31A-27-503 subject to] the records
 2443 described in Subsection (2) is subject to penalty under Section 31A-2-308.

2444 Section 39. Section **31A-28-203** is amended to read:

2445 **Part 2. Utah Property and Casualty Insurance Guaranty Association Act**

2446 **31A-28-203 . Definitions.**

2447 As used in this part:

2448 (1) "Affiliate" [~~is as defined~~] means the same as that term is defined in Section 31A-1-301.

2449 (2) "Association account" means the Utah Property and Casualty Insurance Guaranty
2450 Association Account created by Section 31A-28-205.

2451 (3)(a) "Claimant" means:

2452 (i) an insured making a first-party claim; or

2453 (ii) a person instituting a liability claim.

2454 (b) A person who is an affiliate of the insolvent insurer may not be a claimant.

2455 (4)(a) "Covered claim" means an unpaid claim, including an unpaid claim under a
2456 personal lines policy for unearned premiums [~~submitted by~~] a claimant submits, if:

2457 (i) the claim arises out of the coverage;

2458 (ii) the claim is within the coverage;

2459 (iii) the claim is not in excess of the applicable limits of an insurance policy to which
2460 this part applies;

2461 (iv) the insurer who issued the policy becomes an insolvent insurer; and

2462 (v)(A) the claimant or insured is a resident of this state at the time of the insured
2463 event; or

2464 (B) the claim is a first-party claim for damage to property that is permanently
2465 located in this state.

2466 (b) "Covered claim" does not include:

2467 (i) [~~any~~] an amount awarded as punitive or exemplary damages or [~~any~~] an amount
2468 due any reinsurer, insurer, insurance pool, or underwriting association, as
2469 subrogation recoveries or otherwise[~~;~~] ;

2470 (ii) [~~nor does it include any~~] a supplementary payment obligation, including
2471 adjustment fees and expenses, attorneys' fees and expenses, court costs, interest,
2472 and bond premiums, [~~prior to~~] before the appointment of a liquidator;

2473 [(ii)] (iii) [~~any~~] an amount sought as a return of premium under a retrospective rating
2474 plan;

2475 [(iii)] (iv) [~~any~~] a first-party claim by an insured if:

2476 (A) the insured's net worth exceeds \$25,000,000 on December 31 of the year [
2477 ~~preceding the date~~] before the day on which the insurer becomes an insolvent

- 2478 insurer; and
- 2479 (B) the insured's net worth includes the aggregate net worth of the insured and all
- 2480 of [~~its~~] the insured's subsidiaries as calculated on a consolidated basis; [~~or~~]
- 2481 [~~(iv)~~] (v) any first-party claims by an insured that is an affiliate of the insolvent insurer[~~;~~] ;
- 2482 or
- 2483 (vi) a claim by or against an insured of an insolvent insurer, if the insured has a net
- 2484 worth of more than \$25,000,000 on the day on which the insurer becomes:
- 2485 (A) insolvent; or
- 2486 (B) subject to an order of liquidation.
- 2487 (5) "Insolvent insurer" means a member insurer that is placed under an order of liquidation
- 2488 by a court [~~of competent~~] with jurisdiction [~~with~~] that makes a finding of insolvency.
- 2489 (6) "Member insurer" means [~~any~~] a person [~~who~~] that:
- 2490 (a) writes any kind of insurance to which this part applies under Section 31A-28-202,
- 2491 including the exchange of reciprocal or inter-insurance contracts; and
- 2492 (b) is licensed to transact insurance in this state.
- 2493 (7)(a) "Net direct written premiums" means direct gross premiums written in this state
- 2494 on insurance policies that this part applies to, less return premiums and dividends
- 2495 paid or credited to policyholders on the direct business.
- 2496 (b) "Net direct written premiums" does not include premiums on contracts between
- 2497 insurers or reinsurers.
- 2498 (8) "Personal lines policy" means an insurance policy issued to an individual that:
- 2499 (a) insures a motor vehicle used for personal purposes and not used in trade or business;
- 2500 or
- 2501 (b) insures a residential dwelling.
- 2502 (9) "Residence" means, for [~~entities~~] an entity other than a natural person, the state where
- 2503 the principal place of business of a claimant, insured, or policyholder is located at the
- 2504 time of the insured event.

2505 Section 40. Section **31A-35-103** is amended to read:

2506 **31A-35-103 . Exemption from other provisions of this title.**

2507 Bail bond agencies are exempted from:

- 2508 (1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;
- 2509 (2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and
- 2510 31A-4-107;
- 2511 (3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section

- 2512 31A-5-103;
- 2513 (4) Chapter 6a, Service Contracts;
- 2514 (5) Chapter 6b, Guaranteed Asset Protection Waiver Act;
- 2515 (6) Chapter 7, Nonprofit Health Service Insurance Corporations;
- 2516 (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- 2517 (8) Chapter 8a, Health Discount Program Consumer Protection Act;
- 2518 (9) Chapter 9, Insurance Fraternal;
- 2519 (10) Chapter 10, Annuities;
- 2520 (11) Chapter 11, Motor Clubs;
- 2521 (12) Chapter 12, State Risk Management Fund;
- 2522 (13) Chapter 14, Foreign Insurers;
- 2523 (14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;
- 2524 (15) Chapter 16, Insurance Holding Companies;
- 2525 (16) Chapter 17, Determination of Financial Condition;
- 2526 (17) Chapter 18, Investments;
- 2527 (18) Chapter 19a, Utah Rate Regulation Act;
- 2528 (19) Chapter 20, Underwriting Restrictions;
- 2529 (20) Chapter 23b, Navigator License Act;
- 2530 (21) Chapter 25, Third Party Administrators;
- 2531 (22) Chapter 26, Insurance Adjusters;
- 2532 (23) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 2533 Administrative Supervision of Insurers;
- 2534 (24) Chapter 27a, Insurer Receivership Act;
- 2535 (25) Chapter 28, Guaranty Associations;
- 2536 (26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
- 2537 (27) Chapter 31, Insurance Fraud Act;
- 2538 (28) Chapter 32a, Medical Care Savings Account Act;
- 2539 (29) Chapter 36, Life Settlements Act;
- 2540 (30) Chapter 37, Captive Insurance Companies Act;
- 2541 (31) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;
- 2542 (32) Chapter 38, Federal Health Care Tax Credit Program Act;
- 2543 (33) Chapter 39, Interstate Insurance Product Regulation Compact;
- 2544 (34) Chapter 40, Professional Employer Organization Licensing Act;
- 2545 (35) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act; and

2546 (36) Chapter 43, Small Employer Stop-Loss Insurance Act.

2547 Section 41. Section **31A-37-102** is amended to read:

2548 **31A-37-102 . Definitions.**

2549 As used in this chapter:

2550 (1)(a) "Affiliated company" means a business entity that because of common ownership,
2551 control, operation, or management is in the same corporate or limited liability
2552 company system as:

2553 (i) a parent;

2554 (ii) an industrial insured; or

2555 (iii) a member organization.

2556 (b) "Affiliated company" does not include a business entity for which the commissioner
2557 issues an order finding that the business entity is not an affiliated company.

2558 (2) "Agency captive" means a captive insurer that:

2559 (a) is owned by one or more business entities that are licensed in any state as insurance
2560 producers or managing general agents; and

2561 (b) only insures risks on policies placed through the captive insurer's owners.

2562 (3) "Alien captive insurance company" means an insurer:

2563 (a) formed to write insurance business for a parent or affiliate of the insurer; and

2564 (b) licensed [~~pursuant to~~] in accordance with the laws of an alien or foreign jurisdiction
2565 that imposes statutory or regulatory standards:

2566 (i) on a business entity transacting the business of insurance in the alien or foreign
2567 jurisdiction; and

2568 (ii) in a form acceptable to the commissioner.

2569 (4) "Applicant captive insurance company" means an entity that has submitted an
2570 application for a certificate of authority for a captive insurance company, unless the
2571 application has been denied or withdrawn.

2572 (5) "Association" means a legal association of two or more persons that meets the following
2573 requirements:

2574 (a) the persons are exposed to similar or related liability because of related, similar, or
2575 common business trade, products, services, premises, or operations; and

2576 (b)(i) the association or the association's member organizations:

2577 (A) own, control, or hold power to vote all of the outstanding voting securities of
2578 an association captive insurance company incorporated as a stock insurer;

2579 (B) have complete voting control over an association captive insurance company

- 2580 incorporated as a mutual insurer; or
- 2581 (C) have complete voting control over an association captive insurance company
- 2582 formed as a limited liability company; or
- 2583 (ii) the association's member organizations collectively constitute all of the
- 2584 subscribers of an association captive insurance company formed as a reciprocal
- 2585 insurer.
- 2586 (6) "Association captive insurance company" means a business entity that insures risks of:
- 2587 (a) a member organization of the association;
- 2588 (b) an affiliate of a member organization of the association; and
- 2589 (c) the association.
- 2590 (7) "Branch business" means an insurance business transacted by a branch captive
- 2591 insurance company in this state.
- 2592 (8) "Branch captive insurance company" means an alien captive insurance company that
- 2593 has a certificate of authority from the commissioner to transact the business of insurance
- 2594 in this state through a captive insurance company that is domiciled outside of this state.
- 2595 (9) "Branch operation" means a business operation of a branch captive insurance company
- 2596 in this state.
- 2597 (10)(a) "Captive insurance company" means the same as that term is defined in Section
- 2598 31A-1-301.
- 2599 (b) "Captive insurance company" includes any of the following formed or holding a
- 2600 certificate of authority under this chapter:
- 2601 (i) an agency captive insurance company;
- 2602 (ii) ~~[a branch]~~ an association captive insurance company;
- 2603 (iii) a ~~[pooling]~~ branch captive insurance company;
- 2604 (iv) ~~[a pure]~~ an industrial insured captive insurance company;
- 2605 (v) ~~[an association]~~ a pooling captive insurance company;
- 2606 (vi) a ~~[sponsored]~~ pure captive insurance company;
- 2607 (vii) ~~[an industrial insured captive insurance company, including an industrial insured~~
- 2608 ~~captive insurance company formed as]~~ a risk retention group ~~[captive]~~ formed in
- 2609 this state ~~[pursuant to the provisions of the Federal Liability Risk Retention Act of~~
- 2610 ~~1986]~~ that is:
- 2611 (A) created under the Liability Risk Retention Act of 1986, 15 U.S.C. Sec. 3901 et
- 2612 seq. as a corporation or other limited liability entity; and
- 2613 (B) taxable under this title as a stock corporation or mutual insurer;

2614 (viii) a [~~special purpose~~] sponsored captive insurance company;[-or]

2615 (ix) a special purpose [~~financial~~] captive insurance company[-] ; or

2616 (x) a special purpose financial captive insurance company.

2617 (11)(a) "Cell" means a separate account for one or more participants formed and
2618 operating under the authority of a sponsored captive insurance company to write
2619 insurance coverage as described in this title.

2620 (b) "Cell" includes an account formed as either:

2621 (i) an incorporated cell; or

2622 (ii) a protected cell.

2623 (12) "Commissioner" means Utah's Insurance Commissioner or the commissioner's
2624 designee.

2625 (13) "Common ownership and control" means that two or more captive insurance
2626 companies are owned or controlled by the same person or group of persons as follows:

2627 (a) in the case of a captive insurance company that is a stock corporation, the direct or
2628 indirect ownership of 80% or more of the outstanding voting stock of the stock
2629 corporation;

2630 (b) in the case of a captive insurance company that is a mutual corporation, the direct or
2631 indirect ownership of 80% or more of the surplus and the voting power of the mutual
2632 corporation;

2633 (c) in the case of a captive insurance company that is a limited liability company, the
2634 direct or indirect ownership by the same member or members of 80% or more of the
2635 membership interests in the limited liability company; or

2636 (d) in the case of a sponsored captive insurance company, a cell is a separate captive
2637 insurance company owned and controlled by the cell's participant, only if:

2638 (i) the participant is the only participant with respect to the cell; and

2639 (ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored
2640 captive insurance company through common ownership and control.

2641 (14) "Consolidated debt to total capital ratio" means the ratio of Subsection (14)(a) to (b).

2642 (a) This Subsection (14)(a) is an amount equal to the sum of all debts and hybrid capital
2643 instruments including:

2644 (i) all borrowings from depository institutions;

2645 (ii) all senior debt;

2646 (iii) all subordinated debts;

2647 (iv) all trust preferred shares; and

- 2648 (v) all other hybrid capital instruments that are not included in the determination of
 2649 consolidated GAAP net worth issued and outstanding.
- 2650 (b) This Subsection (14)(b) is an amount equal to the sum of:
- 2651 (i) total capital consisting of all debts and hybrid capital instruments as described in
 2652 Subsection (14)(a); and
- 2653 (ii) shareholders' equity determined in accordance with generally accepted accounting
 2654 principles for reporting to the United States Securities and Exchange Commission.
- 2655 (15) "Consolidated GAAP net worth" means the consolidated shareholders' or members'
 2656 equity determined in accordance with generally accepted accounting principles for
 2657 reporting to the United States Securities and Exchange Commission.
- 2658 (16) "Controlled unaffiliated business" means a business entity:
- 2659 (a)(i) in the case of a [~~pure~~]captive insurance company, other than a risk retention
 2660 group, that is not in the corporate or limited liability company system of a parent
 2661 or the parent's affiliate; or
- 2662 (ii) in the case of an industrial insured captive insurance company, that is not in the
 2663 corporate or limited liability company system of an industrial insured or an
 2664 affiliated company of the industrial insured;
- 2665 (b)(i) in the case of a [~~pure~~]captive insurance company, other than a risk retention
 2666 group, that has a contractual relationship with a parent or affiliate; or
- 2667 (ii) in the case of an industrial insured captive insurance company, that has a
 2668 contractual relationship with an industrial insured or an affiliated company of the
 2669 industrial insured; and
- 2670 (c) whose risks that are or will be insured by a [~~pure~~]captive insurance company, [~~an~~
 2671 ~~industrial insured captive insurance company, or both~~] other than a risk retention
 2672 group, are managed in accordance with Subsection 31A-37-106(1)(j) by:
- 2673 (i)(A) a [~~pure~~]captive insurance company; or
- 2674 (B) an industrial insured captive insurance company; or
- 2675 (ii) a parent or affiliate of:
- 2676 (A) a [~~pure~~]captive insurance company; or
- 2677 (B) an industrial insured captive insurance company.
- 2678 (17) "Criminal act" means an act for which a person receives a verdict or finding of guilt
 2679 after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
- 2680 (18) "Establisher" means a person who establishes a business entity or a trust.
- 2681 (19) "Governing body" means the persons who hold the ultimate authority to direct and

- 2682 manage the affairs of an entity.
- 2683 (20) "Incorporated cell" means a separate account:
- 2684 (a) established and maintained by a sponsored captive insurance company for a
- 2685 participant; and
- 2686 (b) that has been organized as a corporation, a limited liability company, or a
- 2687 not-for-profit organization.
- 2688 (21) "Industrial insured" means an insured:
- 2689 (a) that produces insurance:
- 2690 (i) by the services of a full-time employee acting as a risk manager or insurance
- 2691 manager; or
- 2692 (ii) using the services of a regularly and continuously qualified insurance consultant;
- 2693 (b) whose aggregate annual premiums for insurance on all risks total at least \$25,000;
- 2694 and
- 2695 (c) that has at least 25 full-time employees.
- 2696 (22) "Industrial insured captive insurance company" means a business entity that:
- 2697 (a) insures risks of the industrial insureds that comprise the industrial insured group; and
- 2698 (b) may insure the risks of:
- 2699 (i) an affiliated company of an industrial insured; or
- 2700 (ii) a controlled unaffiliated business of:
- 2701 (A) an industrial insured; or
- 2702 (B) an affiliated company of an industrial insured.
- 2703 (23) "Industrial insured group" means:
- 2704 (a) a group of industrial insureds that collectively:
- 2705 (i) own, control, or hold with power to vote all of the outstanding voting securities of
- 2706 an industrial insured captive insurance company incorporated or organized as a
- 2707 limited liability company as a stock insurer; or
- 2708 (ii) have complete voting control over an industrial insured captive insurance
- 2709 company incorporated or organized as a limited liability company as a mutual
- 2710 insurer; or
- 2711 ~~[(b) a group that is:]~~
- 2712 ~~[(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec.~~
- 2713 ~~3901 et seq., as amended, as a corporation or other limited liability association;~~
- 2714 ~~and]~~
- 2715 ~~[(ii) taxable under this title as a:]~~

- 2716 [~~(A)~~ stock corporation; or]
- 2717 [~~(B)~~ mutual insurer; or]
- 2718 [~~(e)~~] (b) a group that has complete voting control over an industrial captive insurance
- 2719 company formed as a limited liability company.
- 2720 (24) "Member organization" means a person that belongs to an association.
- 2721 (25) "Parent" means a person that directly or indirectly owns, controls, or holds with power
- 2722 to vote more than 50% of the outstanding securities of an organization.
- 2723 (26) "Participant" means an entity that is insured by a sponsored captive insurance company:
- 2724 (a) if the losses of the participant are limited through a participant contract to the assets
- 2725 of a protected cell; and
- 2726 (b)(i) the entity is permitted to be a participant under Section 31A-37-403; or
- 2727 (ii) the entity is an affiliate of an entity permitted to be a participant under Section
- 2728 31A-37-403.
- 2729 (27) "Participant contract" means a contract by which a sponsored captive insurance
- 2730 company:
- 2731 (a) insures the risks of a participant; and
- 2732 (b) limits the losses of the participant to the assets of a protected cell.
- 2733 (28) "Pooling captive" means a captive insurer organized for the purpose of establishing a
- 2734 risk-sharing arrangement between other captive insurers.
- 2735 (29) "Protected cell" means a separate account:
- 2736 (a) established and maintained by a sponsored captive insurance company for a
- 2737 participant; and
- 2738 (b) that has not been organized as an entity including a corporation, a limited liability
- 2739 company, or a not-for-profit organization.
- 2740 (30) "Pure captive insurance company" means a business entity that insures risks of a
- 2741 parent, affiliate, or controlled unaffiliated business of the business entity.
- 2742 (31) "Special purpose financial captive insurance company" means the same as that term is
- 2743 defined in Section 31A-37a-102.
- 2744 (32) "Sponsor" means an entity that:
- 2745 (a) meets the requirements of Section 31A-37-402; and
- 2746 (b) is approved by the commissioner to:
- 2747 (i) provide all or part of the capital and surplus in an amount:
- 2748 (A) required by Section 31A-37-204; or
- 2749 (B) greater than the amount required by Section 31A-37-204, if, by order, the

- 2750 commissioner deems the increase necessary; and
- 2751 (ii) organize and operate a sponsored captive insurance company.
- 2752 (33) "Sponsored captive insurance company" means a captive insurance company:
- 2753 (a) in which the minimum capital and surplus required by applicable law is provided by
- 2754 one or more sponsors or participants;
- 2755 (b) that is formed or holding a certificate of authority under this chapter;
- 2756 (c) that insures the risks of a separate participant through the contract; and
- 2757 (d) that segregates each participant's liability through one or more cells.
- 2758 (34) "Treasury rates" means the United States Treasury strip asked yield as published in the
- 2759 Wall Street Journal as of a balance sheet date.
- 2760 Section 42. Section **31A-37-103** is amended to read:
- 2761 **31A-37-103 . Chapter exclusivity.**
- 2762 (1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a
- 2763 provision of this title other than this chapter does not apply to a captive insurance
- 2764 company.
- 2765 (2) To the extent that a provision of the following does not contradict this chapter, the
- 2766 provision applies to a captive insurance company that receives a certificate of authority
- 2767 under this chapter:
- 2768 (a) Chapter 1, General Provisions;
- 2769 (b) Chapter 2, Administration of the Insurance Laws;
- 2770 (c) Chapter 4, Insurers in General;
- 2771 (d) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 2772 (e) Chapter 14, Foreign Insurers;
- 2773 (f) Chapter 16, Insurance Holding Companies;
- 2774 (g) Chapter 17, Determination of Financial Condition;
- 2775 (h) Chapter 18, Investments;
- 2776 (i) Chapter 19a, Utah Rate Regulation Act;
- 2777 (j) [~~Chapter 27, Delinquency Administrative Action Provisions~~] Chapter 27,
- 2778 Administrative Supervision of Insurers; and
- 2779 (k) Chapter 27a, Insurer Receivership Act.
- 2780 (3) In addition to this chapter, and subject to Section 31A-37a-103:
- 2781 (a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a
- 2782 special purpose financial captive insurance company; and
- 2783 (b) for purposes of a special purpose financial captive insurance company, a reference in

2784 this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose
2785 Financial Captive Insurance Company Act.

2786 (4) In addition to this chapter, ~~[an industrial group captive insurance company formed as a]~~
2787 risk retention group ~~[eaptive]~~ is subject to Chapter 15, Part 2, Risk Retention Groups Act,
2788 to the extent that this chapter is silent regarding regulation of risk retention groups
2789 conducting business in the state.

2790 Section 43. Section **31A-37-201** is amended to read:

2791 **31A-37-201 . Certificate of authority.**

2792 (1) The commissioner may issue a certificate of authority to act as an insurer in this state to
2793 a captive insurance company that meets the requirements of this chapter.

2794 (2) To conduct insurance business in this state, a captive insurance company shall:

2795 (a) obtain from the commissioner a certificate of authority authorizing the captive
2796 insurance company to conduct insurance business in this state;

2797 (b)(i) hold a meeting of the governing body:

2798 (A) at least once each year;

2799 (B) at which a quorum is present;

2800 (C) in the state; and

2801 (D) at which at least one out-of-state individual is physically present; or

2802 (ii) become a member of the Utah Captive Insurance Association at the highest level
2803 of membership;

2804 (c) maintain in this state:

2805 (i) the principal place of business of the captive insurance company; or

2806 (ii) in the case of a branch captive insurance company, the principal place of business
2807 for the branch operations of the branch captive insurance company; and

2808 (d) except as provided in Subsection (3), appoint a resident registered agent to accept
2809 service of process and to otherwise act on behalf of the captive insurance company in
2810 the state.

2811 (3) In the case of a captive insurance company formed as a corporation, if the registered
2812 agent cannot with reasonable diligence be found at the registered office of the captive
2813 insurance company, the commissioner is the agent of the captive insurance company
2814 upon whom process, notice, or demand may be served.

2815 (4)(a) Before receiving a certificate of authority, an applicant captive insurance company
2816 shall file with the commissioner:

2817 (i) a certified copy of the captive insurance company's organizational charter;

- 2818 (ii) a statement under oath of the captive insurance company's president and secretary
2819 or their equivalents showing the captive insurance company's financial condition;
2820 and
- 2821 (iii) any other statement or document required by the commissioner under Section
2822 31A-37-106.
- 2823 (b) In addition to the information required under Subsection (4)(a), an applicant captive
2824 insurance company shall file with the commissioner evidence of:
- 2825 (i) the amount and liquidity of the assets of the applicant captive insurance company
2826 relative to the risks to be assumed by the applicant captive insurance company;
2827 (ii) the adequacy of the expertise, experience, and character of the person who will
2828 manage the applicant captive insurance company;
- 2829 (iii) the overall soundness of the plan of operation of the applicant captive insurance
2830 company;
- 2831 (iv) the adequacy of the loss prevention programs for the prospective insureds of the
2832 applicant captive insurance company as the commissioner deems necessary; and
2833 (v) any other factor the commissioner:
- 2834 (A) adopts by rule under Section 31A-37-106; and
2835 (B) considers relevant in ascertaining whether the applicant captive insurance
2836 company will be able to meet the policy obligations of the applicant captive
2837 insurance company.
- 2838 (c) In addition to the information required by Subsections (4)(a) and (b), an applicant
2839 sponsored captive insurance company shall file with the commissioner:
- 2840 (i) a business plan at the level of detail required by the commissioner under Section
2841 31A-37-106 demonstrating:
- 2842 (A) the manner in which the applicant sponsored captive insurance company will
2843 account for the losses and expenses of each cell; and
2844 (B) the manner in which the applicant sponsored captive insurance company will
2845 report to the commissioner the financial history, including losses and expenses,
2846 of each cell;
- 2847 (ii) a statement acknowledging that the applicant sponsored captive insurance
2848 company will make all financial records of the applicant sponsored captive
2849 insurance company, including records pertaining to a cell, available for inspection
2850 or examination by the commissioner;
- 2851 (iii) a contract or sample contract between the applicant sponsored captive insurance

- 2852 company and a participant; and
- 2853 (iv) evidence that expenses will be allocated to each cell in an equitable manner.
- 2854 (5)(a) Information submitted in accordance with this section is classified as a protected
- 2855 record under Title 63G, Chapter 2, Government Records Access and Management Act.
- 2856 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and
- 2857 Management Act, the commissioner may disclose information submitted in
- 2858 accordance with this section to a public official having jurisdiction over the
- 2859 regulation of insurance in another state if:
- 2860 (i) the public official receiving the information agrees in writing to maintain the
- 2861 confidentiality of the information; and
- 2862 (ii) the laws of the state in which the public official serves require the information to
- 2863 be confidential.
- 2864 (c) This Subsection (5) does not apply to information [~~provided by an industrial insured~~
- 2865 ~~captive insurance company insuring the risks of an industrial insured group~~] that a
- 2866 risk retention group formed or operating in this state provides.
- 2867 (6)(a) A captive insurance company shall pay to the department the following
- 2868 nonrefundable fees [~~established by~~]the department establishes under Sections
- 2869 31A-3-103, 31A-3-304, and 63J-1-504:
- 2870 (i) a fee for examining, investigating, and processing, by a department employee, of
- 2871 an application for a certificate of authority made by an applicant captive insurance
- 2872 company;
- 2873 (ii) a fee for obtaining a certificate of authority for the year the captive insurance
- 2874 company is issued a certificate of authority by the department; and
- 2875 (iii) a certificate of authority renewal fee, assessed annually.
- 2876 (b) The commissioner may:
- 2877 (i) assign a department employee or retain legal, financial, or examination services
- 2878 from outside the department to perform the services described in:
- 2879 (A) Subsection (6)(a); and
- 2880 (B) Section 31A-37-502; and
- 2881 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the
- 2882 applicant captive insurance company.
- 2883 (7) If the commissioner is satisfied that the documents and statements filed by the applicant
- 2884 captive insurance company comply with this chapter, the commissioner may grant a
- 2885 certificate of authority authorizing the company to do insurance business in this state.

2886 (8) A certificate of authority granted under this section expires annually and shall be
 2887 renewed by July 1 of each year.

2888 Section 44. Section **31A-37-204** is amended to read:

2889 **31A-37-204 . Paid-in capital -- Other capital.**

2890 (1) For purposes of this section, "marketable securities" means:

2891 (a) a bond or other evidence of indebtedness of a governmental unit in the United States
 2892 or Canada or any instrumentality of the United States or Canada; or

2893 (b) securities:

2894 (i) traded on one or more of the following exchanges in the United States:

2895 (A) New York;

2896 (B) American; or

2897 (C) NASDAQ;

2898 (ii) when no particular security, or a substantially related security, applied toward the
 2899 required minimum capital and surplus requirement of Subsection (2) represents
 2900 more than 50% of the minimum capital and surplus requirement; and

2901 (iii) when no group of up to four particular securities, consolidating substantially
 2902 related securities, applied toward the required minimum capital and surplus
 2903 requirement of Subsection (2) represents more than 90% of the minimum capital
 2904 and surplus requirement.

2905 (2)(a) The commissioner may not issue a certificate of authority to a captive insurance
 2906 company [~~described in Subsection (2)(e)~~] unless the company possesses and
 2907 maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

2908 (i) in the case of a pure captive insurance company:

2909 (A) except as provided in Subsection (2)(a)(i)(B), not less than \$250,000; or

2910 (B) if the pure captive insurance company is not acting as a pool that facilitates
 2911 risk distribution for other captive insurers, an amount that is the greater of:

2912 (I) not less than 20% of the company's total aggregate risk; or

2913 (II) \$50,000;

2914 (ii) in the case of an association captive insurance company, not less than \$500,000;

2915 (iii) in the case of an industrial insured captive insurance company [~~incorporated as a~~
 2916 ~~stock insurer~~] or a risk retention group, not less than \$700,000;

2917 (iv) in the case of a sponsored captive insurance company, not less than \$250,000 of
 2918 which a minimum of \$50,000 is provided by the sponsor; or

2919 (v) in the case of a special purpose captive insurance company, an amount

2920 determined by the commissioner after giving due consideration to the company's
 2921 business plan, feasibility study, and pro-formas, including the nature of the risks
 2922 to be insured.

2923 (b) The paid-in capital and surplus required under this Subsection (2) may be in the form
 2924 of:

2925 (i)(A) cash; or

2926 (B) cash equivalent;

2927 (ii) an irrevocable letter of credit:

2928 (A) issued by:

2929 (I) a bank chartered by this state;

2930 (II) a member bank of the Federal Reserve System; or

2931 (III) a member bank of the Federal Deposit Insurance Corporation;

2932 (B) ~~[approved by]~~ that the commissioner approves;

2933 (iii) marketable securities as determined by Subsection (1); or

2934 (iv) some other thing of value ~~[approved by]~~ that the commissioner approves, for a
 2935 period not to exceed 45 days, to facilitate the formation of a captive insurance
 2936 company in this state ~~[pursuant to]~~ in accordance with an approved plan of
 2937 liquidation and reorganization of another captive insurance company or alien
 2938 captive insurance company in another jurisdiction.

2939 ~~[(e) This Subsection (2) applies to:]~~

2940 ~~[(i) a pure captive insurance company;]~~

2941 ~~[(ii) a sponsored captive insurance company;]~~

2942 ~~[(iii) a special purpose captive insurance company;]~~

2943 ~~[(iv) an association captive insurance company; or]~~

2944 ~~[(v) an industrial insured captive insurance company.]~~

2945 (3)(a) The commissioner may, under Section 31A-37-106, ~~[prescribe]~~ require additional
 2946 capital based on the type, volume, and nature of insurance business transacted.

2947 (b) The capital ~~[prescribed by]~~ that the commissioner requires under this Subsection (3)
 2948 may be in the form of:

2949 (i) cash;

2950 (ii) an irrevocable letter of credit issued by:

2951 (A) a bank chartered by this state; or

2952 (B) a member bank of the Federal Reserve System; or

2953 (iii) marketable securities as determined by Subsection (1).

- 2954 (4)(a) Except as provided in Subsection (4)(c), a branch captive insurance company, as
2955 security for the payment of liabilities attributable to branch operations, shall, through
2956 the branch captive insurance company's branch operations, establish and maintain a
2957 trust fund:
- 2958 (i) funded by an irrevocable letter of credit or other acceptable asset; and
 - 2959 (ii) in the United States for the benefit of:
 - 2960 (A) United States policyholders; and
 - 2961 (B) United States ceding insurers under:
 - 2962 (I) insurance policies issued; or
 - 2963 (II) reinsurance contracts issued or assumed.
- 2964 (b) The amount of the security required under this Subsection (4) shall be no less than:
- 2965 (i) the capital and surplus required by this chapter; and
 - 2966 (ii) the reserves on the insurance policies or reinsurance contracts, including:
 - 2967 (A) reserves for losses;
 - 2968 (B) allocated loss adjustment expenses;
 - 2969 (C) incurred but not reported losses; and
 - 2970 (D) unearned premiums with regard to business written through branch operations.
- 2971 (c) Notwithstanding the other provisions of this Subsection (4):
- 2972 (i) the commissioner may permit a branch captive insurance company that is required
2973 to post security for loss reserves on branch business by the branch captive
2974 insurance company's reinsurer to reduce the funds in the trust account required by
2975 this section by the same amount as the security posted if the security remains
2976 posted with the reinsurer; and
 - 2977 (ii) a branch captive insurance company that is the result of the licensure of an alien
2978 captive insurance company that is not formed in an alien jurisdiction is not subject
2979 to the requirements of this Subsection (4).
- 2980 (5)(a) A captive insurance company may not pay the following without the prior
2981 approval of the commissioner:
- 2982 (i) a dividend out of capital or surplus; or
 - 2983 (ii) a distribution with respect to capital or surplus.
- 2984 (b) The commissioner shall condition approval of an ongoing plan for the payment of
2985 dividends or other distributions on the retention, at the time of each payment, of
2986 capital or surplus.
- 2987 (6) Notwithstanding Subsection (1), to protect the solvency and liquidity of a captive

2988 insurance company, the commissioner may reject the application of specific assets or
 2989 amounts of specific assets to [~~satisfying~~] satisfy the requirement of Subsection (2).

2990 Section 45. Section **31A-37-302** is amended to read:

2991 **31A-37-302 . Investment requirements.**

2992 (1)(a) Except as provided in Subsection (1)(b), a captive insurance company [~~and an~~
 2993 ~~industrial insured captive insurance company~~] and a risk retention group shall comply
 2994 with the investment requirements contained in this title.

2995 (b) Notwithstanding Subsection (1)(a) and any other provision of this title, the
 2996 commissioner may approve the use of alternative reliable methods of valuation and
 2997 rating under Section 31A-37-106 for a captive insurance company or [~~an industrial~~
 2998 ~~insured captive insurance company~~] a risk retention group.

2999 (2)(a) Except as provided in Subsection (2)(b), a [~~pure~~] captive insurance company, [~~or~~
 3000 ~~industrial insured captive insurance company~~] other than a risk retention group, is not
 3001 subject to any restrictions on [~~allowable~~] authorized classes of investments described
 3002 in Section [~~31A-18-108~~] 31A-18-110.

3003 (b) Under Section 31A-37-106, the commissioner may prohibit or limit an investment
 3004 that threatens the solvency or liquidity of a captive insurance company or [~~industrial~~
 3005 ~~insured captive insurance company~~] risk retention group.

3006 (3)(a)(i) Except as provided in Subsection (3)(a)(ii), a captive insurance company
 3007 may not make loans to:

3008 (A) the parent company of the captive insurance company; or

3009 (B) an affiliate of the captive insurance company.

3010 (ii) A pure captive insurance company and an incorporated cell of a sponsored
 3011 captive insurance company may make loans to:

3012 (A) the parent company of the pure captive insurance company or incorporated
 3013 cell of a sponsored captive insurance company; or

3014 (B) an affiliate of the pure captive insurance company or incorporated cell of a
 3015 sponsored captive insurance company.

3016 (b) A loan under Subsection (3)(a):

3017 (i) may be made only on the prior written approval of the commissioner and, when
 3018 applicable, the sponsor for an incorporated cell; and

3019 (ii) shall be evidenced by a note in a form approved by the commissioner and, when
 3020 applicable, the sponsor for an incorporated cell.

3021 (c) A pure captive insurance company may not make a loan from the paid-in capital

3022 required under Subsection 31A-37-204(2).

3023 [~~(4) If a captive insurer has excess surplus above the minimum capital required by Section~~
3024 ~~31A-37-204, the captive insurer may invest the captive insurer's excess surplus in a~~
3025 ~~manner inconsistent with the authorized classes of investments described in Section~~
3026 ~~31A-18-110.]~~

3027 (4)(a) For purposes of this chapter, the excess surplus of a captive insurance company,
3028 other than a risk retention group, is the amount of the company's assets that exceeds
3029 120% of the company's minimum capital required by Section 31A-37-204 plus an
3030 actuarially determined reserve estimate.

3031 (b) A captive insurer may only invest excess surplus in a manner inconsistent with the
3032 authorized classes of investments described in Section 31A-18-110 with prior written
3033 approval of the commissioner.

3034 (5) Nothing in this section empowers a captive insurer to make an investment that is illegal
3035 or otherwise prohibited by this title.

3036 Section 46. Section **31A-37-501** is amended to read:

3037 **31A-37-501 . Reports to commissioner.**

3038 (1) A captive insurance company is not required to make a report except those provided in
3039 this chapter.

3040 (2)(a) Before March 1 of each year, a captive insurance company shall submit to the
3041 commissioner a report of the financial condition of the captive insurance company,
3042 verified by oath of at least two individuals who are executive officers of the captive
3043 insurance company.

3044 (b) Except as provided in Section 31A-37-204, a captive insurance company shall report:

3045 (i) using generally accepted accounting principles, except to the extent that the
3046 commissioner requires, approves, or accepts the use of a statutory accounting
3047 principle;

3048 (ii) using a useful or necessary modification or adaptation to an accounting principle
3049 that is required, approved, or accepted by the commissioner for the type of
3050 insurance and kind of insurer to be reported upon; and

3051 (iii) supplemental or additional information required by the commissioner.

3052 (c) Except as otherwise provided:

3053 (i) a licensed captive insurance company shall file the report required by Section
3054 31A-4-113; and

3055 (ii) [~~an industrial insured-] a risk retention group shall comply with Section~~

- 3056 31A-4-113.5.
- 3057 (3)(a) A pure captive insurance company may make written application to file the
3058 required report on a fiscal year end that is consistent with the fiscal year of the parent
3059 company of the pure captive insurance company.
- 3060 (b) If the commissioner grants an alternative reporting date for a [~~pure~~]captive insurance
3061 company requested under Subsection (3)(a)[~~;~~] :
- 3062 (i) [~~]~~the annual report is due 60 days after the day on which the fiscal year [~~end~~]
3063 ends; and
- 3064 (ii) the annual audit is due six months after the day on which the fiscal year ends.
- 3065 (4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file
3066 with the commissioner a copy of the reports and statements required to be filed under
3067 the laws of the jurisdiction in which the alien captive insurance company is formed,
3068 verified by oath by two of the alien captive insurance company's executive officers.
- 3069 (b) If the commissioner is satisfied that the annual report filed by the alien captive
3070 insurance company in the jurisdiction in which the alien captive insurance company
3071 is formed provides adequate information concerning the financial condition of the
3072 alien captive insurance company, the commissioner may waive the requirement for
3073 completion of the annual statement required for a captive insurance company under
3074 this section with respect to business written in the alien or foreign jurisdiction.
- 3075 (c) A waiver by the commissioner under Subsection (4)(b):
- 3076 (i) shall be in writing; and
- 3077 (ii) is subject to public inspection.
- 3078 (5) Before March 1 of each year, a sponsored captive insurance company shall submit to
3079 the commissioner a consolidated report of the financial condition of each cell, including
3080 a financial statement for each cell.
- 3081 (6)(a) A captive insurance company shall notify the commissioner in writing if there is:
- 3082 (i) a material change to the captive insurance company's most recently filed report of
3083 financial condition; or
- 3084 (ii) an adverse material change in the financial condition of a captive insurance
3085 company since the captive insurance company's most recently filed report of
3086 financial condition.
- 3087 (b) A captive insurance company shall submit a notification described in this subsection
3088 within 20 days after the day on which the captive insurance company learns of the
3089 material change.

3090 Section 47. Section **31A-37-505** is amended to read:

3091 **31A-37-505 . Suspension or revocation -- Grounds.**

- 3092 (1) The commissioner may suspend or revoke the certificate of authority of a captive
 3093 insurance company to conduct an insurance business in this state for:
- 3094 (a) insolvency or impairment of capital or surplus;
 - 3095 (b) failure to meet the requirements [~~of Section 31A-37-204~~] of Part 2, Certificate of
 3096 Authority;
 - 3097 (c) refusal or failure to submit:
 - 3098 (i) an annual report required by Section 31A-37-501; or
 - 3099 (ii) any other report or statement required by law or by lawful order of the
 3100 commissioner;
 - 3101 (d) failure to comply with the charter, bylaws, or other organizational document of the
 3102 captive insurance company;
 - 3103 (e) failure to submit to:
 - 3104 (i) an examination under Section 31A-37-502; or
 - 3105 (ii) any legal obligation relative to an examination under Section 31A-37-502;
 - 3106 (f) refusal or failure to pay:
 - 3107 (i) an annual fee described in Section 31A-3-304;
 - 3108 (ii) the cost of examination described in Section 31A-37-502; or
 - 3109 (iii) any other fee prescribed by this title;
 - 3110 (g) use of methods that, although not otherwise specifically prohibited by law, render:
 - 3111 (i) the operation of the captive insurance company detrimental to the public or the
 3112 policyholders of the captive insurance company; or
 - 3113 (ii) the condition of the captive insurance company unsound with respect to the
 3114 public or to the policyholders of the captive insurance company; or
 - 3115 (h) failure otherwise to comply with laws of this state.
- 3116 (2) Notwithstanding any other provision of this title, if the commissioner finds, upon
 3117 examination, hearing, or other evidence, that a captive insurance company has
 3118 committed [~~any of the acts specified in~~] an act described in Subsection (1), the
 3119 commissioner may suspend or revoke the certificate of authority of the captive insurance
 3120 company if the commissioner considers [~~it~~] that the revocation or suspension is in the
 3121 best interest of the public and the policyholders of the captive insurance company[~~to~~
 3122 ~~revoke the certificate of authority~~].

3123 Section 48. Section **31A-37-701** is amended to read:

3124 **31A-37-701 . Certificate of dormancy.**

- 3125 (1) In accordance with the provisions of this section, a captive insurance company, other
 3126 than a risk retention group, may apply, without fee, to the commissioner for a certificate
 3127 of dormancy.
- 3128 (2)(a) A captive insurance company, other than ~~[an industrial insured captive insurance~~
 3129 ~~company]~~ a risk retention group or a cell of a sponsored captive insurance company,
 3130 is eligible for a certificate of dormancy if the company:
- 3131 (i) has ceased transacting the business of insurance, including the issuance of
 3132 insurance policies; and
- 3133 (ii) has no remaining insurance liabilities or obligations associated with insurance
 3134 business transactions or insurance policies.
- 3135 (b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or
 3136 obligations for which the captive insurance company has withheld sufficient funds or
 3137 that are otherwise sufficiently secured.
- 3138 (3) Except as provided in Subsection (4), a captive insurance company that holds a
 3139 certificate of dormancy is subject to all requirements of this chapter.
- 3140 (4) A captive insurance company that holds a certificate of dormancy:
- 3141 (a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus
 3142 of[:] at least 10% of the minimum capital required in Section 31A-37-204; and
 3143 ~~[(i) in the case of a pure captive insurance company or a special purpose captive~~
 3144 ~~insurance company, not less than \$25,000;]~~
 3145 ~~[(ii) in the case of an association captive insurance company, not less than \$75,000; or]~~
 3146 ~~[(iii) in the case of a sponsored captive insurance company, not less than \$50,000, of~~
 3147 ~~which the sponsor provides at least \$20,000; and]~~
- 3148 (b) is not required to:
- 3149 (i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;
 3150 (ii) maintain an active agreement with an independent auditor or actuary; or
 3151 (iii) hold an annual meeting of the captive insurance company in the state.
- 3152 (5) The commissioner may require a captive insurance company that holds a certificate of
 3153 dormancy to submit an annual audit if the commissioner determines that there are
 3154 concerns regarding the captive insurance company's solvency or liquidity.
- 3155 (6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal
 3156 fee, no later than July 1 of each year, a captive insurance company shall pay an annual
 3157 dormancy renewal fee that is equal to 50% of the captive insurance's company's

3158 certificate of authority renewal fee.

3159 Section 49. Section **31A-41-202** is amended to read:

3160 **31A-41-202 . Assessments.**

3161 (1) An agency title insurance producer licensed under this title shall pay an annual
3162 assessment determined by the commission by rule made in accordance with Section
3163 31A-2-404, except that the annual assessment:

3164 (a) may not exceed \$1,000; and

3165 (b) shall be determined on the basis of title insurance premium volume.

3166 (2) An individual who applies for a license or renewal of a license as an individual title
3167 insurance producer, shall pay in addition to any other fee required by this title, an
3168 assessment not to exceed \$20, as determined by the commission by rule made in
3169 accordance with Section 31A-2-404, except that if the individual holds more than one
3170 license, the total of all assessments under this Subsection (2) may not exceed \$20 in a
3171 fiscal year.

3172 (3)(a) To be licensed as an agency title insurance producer, a person shall pay to the
3173 department an assessment of \$1,000 before the day on which the person is licensed as
3174 a title insurance agency.

3175 (b)(i) The department shall assess on a licensed agency title insurance producer an
3176 amount equal to the greater of:

3177 (A) \$1,000; or

3178 (B) subject to Subsection (3)(b)(ii), 2% of the balance in the agency title insurance
3179 producer's reserve account described in Subsection [~~31A-23a-204(3)~~
3180 31A-23a-204(4)].

3181 (ii) The department may assess on an agency title insurance producer an amount less
3182 than 2% of the balance described in Subsection (3)(b)(i)(B) if:

3183 (A) before issuing the assessments under this Subsection (3)(b) the department
3184 determines that the total of all assessments under Subsection (3)(b)(i) will
3185 exceed \$250,000;

3186 (B) the amount assessed on the agency title insurance producer is not less than
3187 \$1,000; and

3188 (C) the department reduces the assessment in a proportionate amount for agency
3189 title insurance producers assessed on the basis of the 2% of the balance
3190 described in Subsection (3)(b)(i)(B).

3191 (iii) An agency title insurance producer assessed under this Subsection (3)(b) shall

3192 pay the assessment by no later than August [4] 31.

3193 (4) The department may not assess a title insurance licensee an assessment for purposes of
3194 the fund if that assessment is not expressly provided for in this section.

3195 Section 50. Section **63G-2-305** is amended to read:

3196 **63G-2-305 . Protected records.**

3197 The following records are protected if properly classified by a governmental entity:

3198 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
3199 provided the governmental entity with the information specified in Section 63G-2-309;

3200 (2) commercial information or nonindividual financial information obtained from a person
3201 if:

3202 (a) disclosure of the information could reasonably be expected to result in unfair
3203 competitive injury to the person submitting the information or would impair the
3204 ability of the governmental entity to obtain necessary information in the future;

3205 (b) the person submitting the information has a greater interest in prohibiting access than
3206 the public in obtaining access; and

3207 (c) the person submitting the information has provided the governmental entity with the
3208 information specified in Section 63G-2-309;

3209 (3) commercial or financial information acquired or prepared by a governmental entity to
3210 the extent that disclosure would lead to financial speculations in currencies, securities, or
3211 commodities that will interfere with a planned transaction by the governmental entity or
3212 cause substantial financial injury to the governmental entity or state economy;

3213 (4) records, the disclosure of which could cause commercial injury to, or confer a
3214 competitive advantage upon a potential or actual competitor of, a commercial project
3215 entity as defined in Subsection 11-13-103(4);

3216 (5) test questions and answers to be used in future license, certification, registration,
3217 employment, or academic examinations;

3218 (6) records, the disclosure of which would impair governmental procurement proceedings
3219 or give an unfair advantage to any person proposing to enter into a contract or agreement
3220 with a governmental entity, except, subject to Subsections (1) and (2), that this
3221 Subsection (6) does not restrict the right of a person to have access to, after the contract
3222 or grant has been awarded and signed by all parties:

3223 (a) a bid, proposal, application, or other information submitted to or by a governmental
3224 entity in response to:

3225 (i) an invitation for bids;

- 3226 (ii) a request for proposals;
- 3227 (iii) a request for quotes;
- 3228 (iv) a grant; or
- 3229 (v) other similar document; or
- 3230 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 3231 (7) information submitted to or by a governmental entity in response to a request for
- 3232 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
- 3233 restrict the right of a person to have access to the information, after:
- 3234 (a) a contract directly relating to the subject of the request for information has been
- 3235 awarded and signed by all parties; or
- 3236 (b)(i) a final determination is made not to enter into a contract that relates to the
- 3237 subject of the request for information; and
- 3238 (ii) at least two years have passed after the day on which the request for information
- 3239 is issued;
- 3240 (8) records that would identify real property or the appraisal or estimated value of real or
- 3241 personal property, including intellectual property, under consideration for public
- 3242 acquisition before any rights to the property are acquired unless:
- 3243 (a) public interest in obtaining access to the information is greater than or equal to the
- 3244 governmental entity's need to acquire the property on the best terms possible;
- 3245 (b) the information has already been disclosed to persons not employed by or under a
- 3246 duty of confidentiality to the entity;
- 3247 (c) in the case of records that would identify property, potential sellers of the described
- 3248 property have already learned of the governmental entity's plans to acquire the
- 3249 property;
- 3250 (d) in the case of records that would identify the appraisal or estimated value of
- 3251 property, the potential sellers have already learned of the governmental entity's
- 3252 estimated value of the property; or
- 3253 (e) the property under consideration for public acquisition is a single family residence
- 3254 and the governmental entity seeking to acquire the property has initiated negotiations
- 3255 to acquire the property as required under Section 78B-6-505;
- 3256 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
- 3257 transaction of real or personal property including intellectual property, which, if
- 3258 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
- 3259 value of the subject property, unless:

- 3260 (a) the public interest in access is greater than or equal to the interests in restricting
3261 access, including the governmental entity's interest in maximizing the financial
3262 benefit of the transaction; or
- 3263 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
3264 the value of the subject property have already been disclosed to persons not
3265 employed by or under a duty of confidentiality to the entity;
- 3266 (10) records created or maintained for civil, criminal, or administrative enforcement
3267 purposes or audit purposes, or for discipline, licensing, certification, or registration
3268 purposes, if release of the records:
- 3269 (a) reasonably could be expected to interfere with investigations undertaken for
3270 enforcement, discipline, licensing, certification, or registration purposes;
- 3271 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
3272 proceedings;
- 3273 (c) would create a danger of depriving a person of a right to a fair trial or impartial
3274 hearing;
- 3275 (d) reasonably could be expected to disclose the identity of a source who is not generally
3276 known outside of government and, in the case of a record compiled in the course of
3277 an investigation, disclose information furnished by a source not generally known
3278 outside of government if disclosure would compromise the source; or
- 3279 (e) reasonably could be expected to disclose investigative or audit techniques,
3280 procedures, policies, or orders not generally known outside of government if
3281 disclosure would interfere with enforcement or audit efforts;
- 3282 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 3283 (12) records the disclosure of which would jeopardize the security of governmental
3284 property, governmental programs, or governmental recordkeeping systems from
3285 damage, theft, or other appropriation or use contrary to law or public policy;
- 3286 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
3287 facility, or records relating to incarceration, treatment, probation, or parole, that would
3288 interfere with the control and supervision of an offender's incarceration, treatment,
3289 probation, or parole;
- 3290 (14) records that, if disclosed, would reveal recommendations made to the Board of
3291 Pardons and Parole by an employee of or contractor for the Department of Corrections,
3292 the Board of Pardons and Parole, or the Department of Health and Human Services that
3293 are based on the employee's or contractor's supervision, diagnosis, or treatment of any

- 3294 person within the board's jurisdiction;
- 3295 (15) records and audit workpapers that identify audit, collection, and operational procedures
3296 and methods used by the State Tax Commission, if disclosure would interfere with
3297 audits or collections;
- 3298 (16) records of a governmental audit agency relating to an ongoing or planned audit until
3299 the final audit is released;
- 3300 (17) records that are subject to the attorney client privilege;
- 3301 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
3302 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
3303 judicial, quasi-judicial, or administrative proceeding;
- 3304 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
3305 from a member of the Legislature; and
- 3306 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
3307 legislative action or policy may not be classified as protected under this section;
3308 and
- 3309 (b)(i) an internal communication that is part of the deliberative process in connection
3310 with the preparation of legislation between:
- 3311 (A) members of a legislative body;
- 3312 (B) a member of a legislative body and a member of the legislative body's staff; or
- 3313 (C) members of a legislative body's staff; and
- 3314 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
3315 legislative action or policy may not be classified as protected under this section;
- 3316 (20)(a) records in the custody or control of the Office of Legislative Research and
3317 General Counsel, that, if disclosed, would reveal a particular legislator's
3318 contemplated legislation or contemplated course of action before the legislator has
3319 elected to support the legislation or course of action, or made the legislation or course
3320 of action public; and
- 3321 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
3322 Office of Legislative Research and General Counsel is a public document unless a
3323 legislator asks that the records requesting the legislation be maintained as protected
3324 records until such time as the legislator elects to make the legislation or course of
3325 action public;
- 3326 (21) a research request from a legislator to a legislative staff member and research findings
3327 prepared in response to the request;

- 3328 (22) drafts, unless otherwise classified as public;
- 3329 (23) records concerning a governmental entity's strategy about:
- 3330 (a) collective bargaining; or
- 3331 (b) imminent or pending litigation;
- 3332 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
- 3333 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
- 3334 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 3335 (25) records, other than personnel evaluations, that contain a personal recommendation
- 3336 concerning an individual if disclosure would constitute a clearly unwarranted invasion
- 3337 of personal privacy, or disclosure is not in the public interest;
- 3338 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
- 3339 resources that if known would jeopardize the security of those resources or of valuable
- 3340 historic, scientific, educational, or cultural information;
- 3341 (27) records of independent state agencies if the disclosure of the records would conflict
- 3342 with the fiduciary obligations of the agency;
- 3343 (28) records of an institution of higher education defined in Section 53H-1-101 regarding
- 3344 tenure evaluations, appointments, applications for admissions, retention decisions, and
- 3345 promotions, which could be properly discussed in a meeting closed in accordance with
- 3346 Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final
- 3347 decisions about tenure, appointments, retention, promotions, or those students admitted,
- 3348 may not be classified as protected under this section;
- 3349 (29) records of the governor's office, including budget recommendations, legislative
- 3350 proposals, and policy statements, that if disclosed would reveal the governor's
- 3351 contemplated policies or contemplated courses of action before the governor has
- 3352 implemented or rejected those policies or courses of action or made them public;
- 3353 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
- 3354 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
- 3355 recommendations in these areas;
- 3356 (31) records provided by the United States or by a government entity outside the state that
- 3357 are given to the governmental entity with a requirement that they be managed as
- 3358 protected records if the providing entity certifies that the record would not be subject to
- 3359 public disclosure if retained by it;
- 3360 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
- 3361 public body except as provided in Section 52-4-206;

- 3362 (33) records that would reveal the contents of settlement negotiations but not including final
3363 settlements or empirical data to the extent that they are not otherwise exempt from
3364 disclosure;
- 3365 (34) memoranda prepared by staff and used in the decision-making process by an
3366 administrative law judge, a member of the Board of Pardons and Parole, or a member of
3367 any other body charged by law with performing a quasi-judicial function;
- 3368 (35) records that would reveal negotiations regarding assistance or incentives offered by or
3369 requested from a governmental entity for the purpose of encouraging a person to expand
3370 or locate a business in Utah, but only if disclosure would result in actual economic harm
3371 to the person or place the governmental entity at a competitive disadvantage, but this
3372 section may not be used to restrict access to a record evidencing a final contract;
- 3373 (36) materials to which access must be limited for purposes of securing or maintaining the
3374 governmental entity's proprietary protection of intellectual property rights including
3375 patents, copyrights, and trade secrets;
- 3376 (37) the name of a donor or a prospective donor to a governmental entity, including an
3377 institution of higher education defined in Section 53H-1-101, and other information
3378 concerning the donation that could reasonably be expected to reveal the identity of the
3379 donor, provided that:
- 3380 (a) the donor requests anonymity in writing;
- 3381 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
3382 classified protected by the governmental entity under this Subsection (37); and
- 3383 (c) except for an institution of higher education defined in Section 53H-1-101, the
3384 governmental unit to which the donation is made is primarily engaged in educational,
3385 charitable, or artistic endeavors, and has no regulatory or legislative authority over
3386 the donor, a member of the donor's immediate family, or any entity owned or
3387 controlled by the donor or the donor's immediate family;
- 3388 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- 3389 (39) a notification of workers' compensation insurance coverage described in Section
3390 34A-2-205;
- 3391 (40) subject to Subsections (40)(g) and (h), the following records of an institution[-] of
3392 higher education defined in Section 53H-1-101, which have been developed, discovered,
3393 disclosed to, or received by or on behalf of faculty, staff, employees, or students of the
3394 institution:
- 3395 (a) unpublished lecture notes;

- 3396 (b) unpublished notes, data, and information:
- 3397 (i) relating to research; and
- 3398 (ii) of:
- 3399 (A) the institution of higher education defined in Section 53H-1-101; or
- 3400 (B) a sponsor of sponsored research;
- 3401 (c) unpublished manuscripts;
- 3402 (d) creative works in process;
- 3403 (e) scholarly correspondence; and
- 3404 (f) confidential information contained in research proposals;
- 3405 (g) this Subsection (40) may not be construed to prohibit disclosure of public
- 3406 information required [~~pursuant to~~] in accordance with Subsection 53H-14-202(2)(a)
- 3407 or (b); and
- 3408 (h) this Subsection (40) may not be construed to affect the ownership of a record;
- 3409 (41)(a) records in the custody or control of the Office of the Legislative Auditor General
- 3410 that would reveal the name of a particular legislator who requests a legislative audit
- 3411 prior to the date that audit is completed and made public; and
- 3412 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 3413 Office of the Legislative Auditor General is a public document unless the legislator
- 3414 asks that the records in the custody or control of the Office of the Legislative Auditor
- 3415 General that would reveal the name of a particular legislator who requests a
- 3416 legislative audit be maintained as protected records until the audit is completed and
- 3417 made public;
- 3418 (42) records that provide detail as to the location of an explosive, including a map or other
- 3419 document that indicates the location of:
- 3420 (a) a production facility; or
- 3421 (b) a magazine;
- 3422 (43) information contained in the statewide database of the Division of Aging and Adult
- 3423 Services created by Section 26B-6-210;
- 3424 (44) information contained in the Licensing Information System described in Title 80,
- 3425 Chapter 2, Child Welfare Services;
- 3426 (45) information regarding National Guard operations or activities in support of the
- 3427 National Guard's federal mission;
- 3428 (46) records provided by any pawn or secondhand business to a law enforcement agency or
- 3429 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand

- 3430 Merchandise, and Catalytic Converter Transaction Information Act;
- 3431 (47) information regarding food security, risk, and vulnerability assessments performed by
- 3432 the Department of Agriculture and Food;
- 3433 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] in
- 3434 accordance with Section 63G-2-106, records related to an emergency plan or program, a
- 3435 copy of which is provided to or prepared or maintained by the Division of Emergency
- 3436 Management, and the disclosure of which would jeopardize:
- 3437 (a) the safety of the general public; or
- 3438 (b) the security of:
- 3439 (i) governmental property;
- 3440 (ii) governmental programs; or
- 3441 (iii) the property of a private person who provides the Division of Emergency
- 3442 Management information;
- 3443 (49) records of the Department of Agriculture and Food that provides for the identification,
- 3444 tracing, or control of livestock diseases, including any program established under Title
- 3445 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 3446 of Animal Disease;
- 3447 (50) as provided in Section 26B-2-709:
- 3448 (a) information or records held by the Department of Health and Human Services related
- 3449 to a complaint regarding a provider, program, or facility which the department is
- 3450 unable to substantiate; and
- 3451 (b) information or records related to a complaint received by the Department of Health
- 3452 and Human Services from an anonymous complainant regarding a provider, program,
- 3453 or facility;
- 3454 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
- 3455 under Section 41-1a-116, an individual's home address, home telephone number, or
- 3456 personal mobile phone number, if:
- 3457 (a) the individual is required to provide the information in order to comply with a law,
- 3458 ordinance, rule, or order of a government entity; and
- 3459 (b) the subject of the record has a reasonable expectation that this information will be
- 3460 kept confidential due to:
- 3461 (i) the nature of the law, ordinance, rule, or order; and
- 3462 (ii) the individual complying with the law, ordinance, rule, or order;
- 3463 (52) the portion of the following documents that contains a candidate's residential or

- 3464 mailing address, if the candidate provides to the filing officer another address or phone
3465 number where the candidate may be contacted:
- 3466 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
3467 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
3468 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 3469 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
- 3470 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 3471 (53) the name, home address, work addresses, and telephone numbers of an individual that
3472 is engaged in, or that provides goods or services for, medical or scientific research that is:
3473 (a) conducted within the state system of higher education, as described in Section
3474 53H-1-102; and
3475 (b) conducted using animals;
- 3476 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
3477 Evaluation Commission concerning an individual commissioner's vote, in relation to
3478 whether a judge meets or exceeds minimum performance standards under Subsection
3479 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 3480 (55) information collected and a report prepared by the Judicial Performance Evaluation
3481 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,
3482 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes
3483 public, the information or report;
- 3484 (56) records provided or received by the Public Lands Policy Coordinating Office in
3485 furtherance of any contract or other agreement made in accordance with Section
3486 63L-11-202;
- 3487 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
- 3488 (58) in accordance with Section 73-10-33:
- 3489 (a) a management plan for a water conveyance facility in the possession of the Division
3490 of Water Resources or the Board of Water Resources; or
3491 (b) an outline of an emergency response plan in possession of the state or a county or
3492 municipality;
- 3493 (59) the following records in the custody or control of the Office of Inspector General of
3494 Medicaid Services, created in Section 63A-13-201:
- 3495 (a) records that would disclose information relating to allegations of personal
3496 misconduct, gross mismanagement, or illegal activity of a person if the information
3497 or allegation cannot be corroborated by the Office of Inspector General of Medicaid

- 3498 Services through other documents or evidence, and the records relating to the
3499 allegation are not relied upon by the Office of Inspector General of Medicaid
3500 Services in preparing a final investigation report or final audit report;
- 3501 (b) records and audit workpapers to the extent they would disclose the identity of a
3502 person who, during the course of an investigation or audit, communicated the
3503 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected
3504 violation of a law, rule, or regulation adopted under the laws of this state, a political
3505 subdivision of the state, or any recognized entity of the United States, if the
3506 information was disclosed on the condition that the identity of the person be
3507 protected;
- 3508 (c) before the time that an investigation or audit is completed and the final investigation
3509 or final audit report is released, records or drafts circulated to a person who is not an
3510 employee or head of a governmental entity for the person's response or information;
- 3511 (d) records that would disclose an outline or part of any investigation, audit survey plan,
3512 or audit program; or
- 3513 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
3514 investigation or audit;
- 3515 (60) records that reveal methods used by the Office of Inspector General of Medicaid
3516 Services, the fraud unit, or the Department of Health and Human Services, to discover
3517 Medicaid fraud, waste, or abuse;
- 3518 (61) information provided to the Department of Health and Human Services or the Division
3519 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
3520 58-68-304(3) and (4);
- 3521 (62) a record described in Section 63G-12-210;
- 3522 (63) captured plate data that is obtained through an automatic license plate reader system
3523 used by a governmental entity as authorized in Section 41-6a-2003;
- 3524 (64) an audio or video recording created by a body-worn camera, as that term is defined in
3525 Section 77-7a-103, that records sound or images inside a hospital or health care facility
3526 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
3527 as that term is defined in Section 78B-3-403, or inside a human service program as that
3528 term is defined in Section 26B-2-101, except for recordings that:
- 3529 (a) depict the commission of an alleged crime;
- 3530 (b) record any encounter between a law enforcement officer and a person that results in
3531 death or bodily injury, or includes an instance when an officer fires a weapon;

- 3532 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
 3533 law enforcement officer or law enforcement agency;
- 3534 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
 3535 or
- 3536 (e) have been requested for reclassification as a public record by a subject or authorized
 3537 agent of a subject featured in the recording;
- 3538 (65) a record pertaining to the search process for a president of an institution of higher
 3539 education described in Section 53H-3-302;
- 3540 (66) an audio recording that is:
- 3541 (a) produced by an audio recording device that is used in conjunction with a device or
 3542 piece of equipment designed or intended for resuscitating an individual or for treating
 3543 an individual with a life-threatening condition;
- 3544 (b) produced during an emergency event when an individual employed to provide law
 3545 enforcement, fire protection, paramedic, emergency medical, or other first responder
 3546 service:
- 3547 (i) is responding to an individual needing resuscitation or with a life-threatening
 3548 condition; and
- 3549 (ii) uses a device or piece of equipment designed or intended for resuscitating an
 3550 individual or for treating an individual with a life-threatening condition; and
- 3551 (c) intended and used for purposes of training emergency responders how to improve
 3552 their response to an emergency situation;
- 3553 (67) records submitted by or prepared in relation to an applicant seeking a recommendation
 3554 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the
 3555 Legislative Audit Subcommittee, established under Section 36-12-8, for an employment
 3556 position with the Legislature;
- 3557 (68) work papers as defined in Section 31A-2-204;
- 3558 (69) a record made available to Adult Protective Services or a law enforcement agency
 3559 under Section 61-1-206;
- 3560 (70) a record submitted to the Insurance Department in accordance with Section
 3561 31A-37-201;
- 3562 (71) a record described in Section 31A-37-503;
- 3563 (72) any record created by the Division of Professional Licensing as a result of Subsection
 3564 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 3565 (73) a record described in Section 72-16-306 that relates to the reporting of an injury

- 3566 involving an amusement ride;
- 3567 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a
3568 political petition, or on a request to withdraw a signature from a political petition,
3569 including a petition or request described in the following titles:
- 3570 (a) Title 10, Utah Municipal Code;
 - 3571 (b) Title 17, Counties;
 - 3572 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
 - 3573 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
 - 3574 (e) Title 20A, Election Code;
- 3575 (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a
3576 voter registration record;
- 3577 (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature
3578 described in Subsection (74) or (75), in the custody of the lieutenant governor or a local
3579 political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 3580 (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,
3581 Victims Guidelines for Prosecutors Act;
- 3582 (78) a record submitted to the Insurance Department under Section 31A-48-103;
- 3583 (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is
3584 prohibited under Section 63G-26-103;
- 3585 (80) an image taken of an individual during the process of booking the individual into jail,
3586 unless:
- 3587 (a) the individual is convicted of a criminal offense based upon the conduct for which
3588 the individual was incarcerated at the time the image was taken;
 - 3589 (b) a law enforcement agency releases or disseminates the image:
 - 3590 (i) after determining that the individual is a fugitive or an imminent threat to an
3591 individual or to public safety and releasing or disseminating the image will assist
3592 in apprehending the individual or reducing or eliminating the threat; or
 - 3593 (ii) to a potential witness or other individual with direct knowledge of events relevant
3594 to a criminal investigation or criminal proceeding for the purpose of identifying or
3595 locating an individual in connection with the criminal investigation or criminal
3596 proceeding;
 - 3597 (c) a judge orders the release or dissemination of the image based on a finding that the
3598 release or dissemination is in furtherance of a legitimate law enforcement interest; or
 - 3599 (d) the image is displayed to a person who is permitted to view the image under Section

- 3600 17-72-802;
- 3601 (81) a record:
- 3602 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 3603 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
- 3604 representative from another state or the federal government as provided in Section
- 3605 63M-14-205; and
- 3606 (c) the disclosure of which would:
- 3607 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
- 3608 Colorado River system;
- 3609 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
- 3610 negotiate the best terms and conditions regarding the use of water in the Colorado
- 3611 River system; or
- 3612 (iii) give an advantage to another state or to the federal government in negotiations
- 3613 regarding the use of water in the Colorado River system;
- 3614 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
- 3615 of Economic Opportunity determines is nonpublic, confidential information that if
- 3616 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
- 3617 may not be used to restrict access to a record evidencing a final contract or approval
- 3618 decision;
- 3619 (83) the following records of a drinking water or wastewater facility:
- 3620 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
- 3621 and
- 3622 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
- 3623 drinking water or wastewater facility uses to secure, or prohibit access to, the records
- 3624 described in Subsection (83)(a);
- 3625 (84) a statement that an employee of a governmental entity provides to the governmental
- 3626 entity as part of the governmental entity's personnel or administrative investigation into
- 3627 potential misconduct involving the employee if the governmental entity:
- 3628 (a) requires the statement under threat of employment disciplinary action, including
- 3629 possible termination of employment, for the employee's refusal to provide the
- 3630 statement; and
- 3631 (b) provides the employee assurance that the statement cannot be used against the
- 3632 employee in any criminal proceeding;
- 3633 (85) any part of an application for a Utah Fits All Scholarship account described in Section

- 3634 53F-6-402 or other information identifying a scholarship student as defined in Section
3635 53F-6-401;
- 3636 (86) a record:
- 3637 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 3638 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
3639 person concerning the claim, including a representative from another state or the
3640 federal government; and
- 3641 (c) the disclosure of which would:
- 3642 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
3643 Great Salt Lake;
- 3644 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
3645 and conditions regarding the use of water in the Great Salt Lake; or
- 3646 (iii) give an advantage to another person including another state or to the federal
3647 government in negotiations regarding the use of water in the Great Salt Lake;
- 3648 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
3649 reclassified as public as described in Subsection 13-2-11(4);
- 3650 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 3651 (a) concerning a claim to the use of waters;
- 3652 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
3653 representative from another state, a tribe, the federal government, or other
3654 government entity as provided in Title 73, Chapter 10g, Part 7, Utah Water Agent;
3655 and
- 3656 (c) the disclosure of which would:
- 3657 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 3658 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
3659 regarding the use of water; or
- 3660 (iii) give an advantage to another state, a tribe, the federal government, or other
3661 government entity in negotiations regarding the use of water;[~~and~~]
- 3662 (89) a record created or maintained for an investigation of the Prosecutor Conduct
3663 Commission, created in Section 63M-7-1102, that contains any personal identifying
3664 information of a prosecuting attorney, including:
- 3665 (a) a complaint, or a document that is submitted or created for a complaint, received by
3666 the Prosecutor Conduct Commission; or
- 3667 (b) a finding by the Prosecutor Conduct Commission[~~;~~] ; and

3668 (90) the identity of an agency title insurance producer that makes a report to the Insurance
3669 Commissioner in accordance with Subsection 31A-23a-204(11)(a).
3670 Section 51. **Effective Date.**
3671 This bill takes effect on May 6, 2026.