

Utah Insurance Department
 2019 Legislative Session
 Department's proposed amendments and statement of their nature

Technical change: Formatting, numbering, word order or language changes only

Codifies practice: Changed language but no change in practice

Policy Change: New language and new practice

To save space, Subsections not affected or only being renumbering are not included.

Lines	Amendment text	Nature of change
307-309	31A-1-301. Definitions As used in this title, unless otherwise specified: <u>(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.</u>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p>
601-603	<u>(77) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.</u>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC</p>
747-48	<u>(96) "Insurance group" means the persons that comprise an insurance holding company system.</u>	<p>Model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC</p>

784-785	<p>(100)(b) "Insurer" does not include a governmental entity [to the extent the governmental entity is engaged in an activity described in Section 31A-12-107].</p>	<p>Model #440, Holding Company Model amendments)</p>
788-96	<p><u>(102) "Internationally active insurance group" means an insurance holding company system:</u> <u>(a) that includes an insurer registered under Section 34A-16-105;</u> <u>(b) that has premiums written in at least three countries;</u> <u>(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and</u> <u>(d) that, based on a three-year rolling average, has:</u> <u>(i) total assets of at least \$50,000,000,000; or</u> <u>(ii) total gross written premiums of at least \$10,000,000,000.</u></p>	<p>Technical change</p> <p>Policy change: Necessary for Utah’s accreditation by National Association of Insurance Commissioners. See above.</p>
1017-19	<p><u>(132) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.</u></p>	<p>Policy change: Necessary for Utah’s accreditation by National Association of Insurance Commissioners. See above.</p>
1020-21	<p><u>(133) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.</u></p>	<p>Policy change: Necessary for Utah’s accreditation by National Association of Insurance Commissioners. See above.</p>
1024-32	<p><u>(135) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:</u> <u>(a) (i) of each material and relevant risk associated with the insurer or insurance group;</u> <u>(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection (135)(a)(i); and</u> <u>(iii) of the sufficiency of capital resources to support each risk described in Subsection (135)(a)(i); and</u></p>	<p>Policy change: Necessary for Utah’s accreditation by National Association of Insurance Commissioners. See above.</p>

1270-75	<p><u>(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.</u></p> <p><u>(172) "Short-term limited duration health insurance" means a health benefit product that:</u></p> <p><u>(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and</u></p> <p><u>(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.</u></p>	<p>Technical change: Moves definition from 31A-30-103 and expands the amount of time a person can be covered under a short term plan. Language is modified to be consistent with federal law.</p>
Lines	Amendment Text	Nature of change
1418-1421	<p>31A-2-308</p> <p>(1)(a) A person who violates any insurance statute or rule or any order issued under Subsection 31A-2-201(4) shall forfeit to the state <u>up to twice</u> the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.</p>	<p>Codifies practice: Current practice is to order forfeitures up to twice the profit because requiring forfeiture of twice the profit would, in some cases, put the licensee out of business.</p>
Lines	Amendment text	Nature of change
1575-1590	<p>31A-2-403(6)</p> <p>(6) (a) <u>(i) [The] Except as provided in Subsection (6)(b), the commission shall meet at least monthly.</u></p> <p><u>(ii)(A) The commissioner shall, with the concurrence of the chair of the commission, designate at least one monthly meeting per quarter as an in-person meeting.</u></p> <p><u>(B) Notwithstanding Section 52-4-207, a commission member shall physically attend [a regularly scheduled monthly meeting of the commission] a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through electronic means. A commission member may attend any other commission meeting, subcommittee [meetings, emergency meetings, or other not regularly</u></p>	<p>Policy change: The Title and Escrow Commission may meet less than monthly if its workload permits.</p>

	<p>scheduled meetings electronically] <u>meeting, or emergency meeting by electronic means</u> in accordance with Section <u>52-4-207</u>.</p> <p><u>(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.</u></p> <p><u>(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).</u></p>	
Lines	Amendment text	Nature of change
1641-1644	<p>31A-3-304(5)(e)</p> <p>An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of the following shall be treated as free revenue in the General Fund:</p> <p>(i) for fiscal year [2017-2018] <u>2018-2019</u> and subsequent fiscal years, in excess of [\$1,850,000] <u>\$1,600,000</u>; and</p> <p>(ii) for fiscal year [2018-2019] <u>2019-2020</u> and subsequent fiscal years, in excess of [\$1,600,000] <u>\$1,450,000</u>.</p>	Policy change: <i>Reduces the amount of Captive fund excess that lapses to the General Fund.</i>
Lines	Amendment text	Nature of change
1646-1769	<p>31A-16-108.6</p> <p><u>(1) (a) Except as otherwise provided in this section, the commissioner shall act as the group-wide supervisor for each internationally active insurance group.</u></p> <p><u>(b) In lieu of acting as the group-wide supervisor for an internationally active insurance company, the commissioner may acknowledge a regulatory official from another jurisdiction as the internationally active insurance group's group-wide supervisor, if the internationally active insurance group:</u></p> <p><u>(i) does not have substantial insurance operations in the United States;</u></p>	Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners (“NAIC”) for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)

(ii) has substantial insurance operations in the United States, but does not have substantial insurance operations in the state; or
(iii) has substantial insurance operations in the United State and in the state, but in accordance with the provisions of this section, the commissioner determines that a regulatory official from another jurisdiction is an appropriate group-wide supervisor.
(2) In deciding whether to acknowledge another regulatory official as an internationally active insurance group's group-wide supervisor in lieu of acting as the group-wide supervisor, the commissioner shall:
(a) consult and cooperate with other state, federal, and international regulatory agencies; and
(b) consider:
(i) the domicile of the insurer or insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;
(ii) the domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group;
(iii) the location of the executive office or largest operational office of the internationally active insurance group;
(iv) whether another regulatory official acts or seeks to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:
(A) substantially similar to the system of regulation provided under the laws of this state; or
(B) sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and
(v) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.
(3) (a) Before acting as the group-wide supervisor for an internationally active insurance group, the commissioner shall notify:

(i) the insurer registered under Section 31A-16-105; and
(ii) the ultimate controlling person within the internationally active insurance group.
(b) Within 30 days after the day on which an internationally active insurance group receives a notification described in Subsection (3)(a), the internationally active insurance group may provide the commissioner additional information relevant to whether the commissioner should act as the internationally active insurance group's group-wide supervisor.
(4) If the commissioner acts as the group-wide supervisor for an internationally active insurance group, the commissioner may later acknowledge a regulatory official from another jurisdiction as the group-wide supervisor for the internationally active insurance group if the commissioner:
(a) considers the factors described in Subsection (2)(b);
(b) cooperates with other regulatory officials involved with the supervision of the members of the internationally active insurance group;
and
(c) consults with the internationally active insurance group.
(5) Notwithstanding any other provision of law, when a regulatory official from another jurisdiction is acting as the group-wide supervisor for an internationally active insurance group, the commissioner shall:
(a) acknowledge the regulatory official as the group-wide supervisor; and
(b) in accordance with Subsection (2), reevaluate whether it is appropriate to acknowledge a regulatory official from another jurisdiction as the group-wide supervisor if a change in circumstances results in:
(i) the insurer or insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities being domiciled in the state; or
(ii) the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group being domiciled in the state.

(6) In accordance with Section 31A-16-107.5, upon request from the commissioner, an insurer subject to this chapter shall provide the commissioner any information necessary to determine the appropriate group-wide supervisor for an internationally active insurance group.

(7) The commissioner shall publish on the department's website the identity of each internationally active insurance group for which the commissioner acts as the group-wide supervisor.

(8) If the commissioner is the group-wide supervisor of an internationally active insurance group, the commissioner may:

(a) assess the enterprise risks within the internationally active insurance group to ensure that:

(i) management of the internationally active insurance group identifies the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance; and

(ii) reasonable and effective mitigation measures are in place;

(b) request, from any member of the internationally active insurance group, subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:

(i) governance, risk assessment, and management;

(ii) capital adequacy; or

(iii) material intercompany transactions;

(c) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(d) communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group;
(e) subject to the confidentiality provisions of Section 31A-16-109, share relevant information:
(i) through a supervisory college in accordance with Section 31A-16-108.5;
or
(ii) by entering into an agreement or obtaining documentation:
(A) with or from an insurer registered under Section 31A-16-105, a member of the internationally active insurance group, or a state, federal or international regulatory agency for members of the internationally active insurance group; and
(B) that provides the basis for or otherwise clarifies the commissioner's role as group-wide supervisor, including a provision for resolving disputes with another regulatory official; and
(f) engage in any other group-wide supervision activity, consistent with an authority and purpose enumerated in this section, as the commissioner determines necessary.
(9) An agreement or documentation described in Subsection (8)(e) may not serve as evidence in any proceeding that an insurer or person within an insurance holding company system not domiciled or incorporated in the state:
(a) is doing business in the state; or
(b) is subject to jurisdiction in the state.
(10) (a) If the commissioner acknowledges as a group-wide supervisor another regulatory official from a jurisdiction that the NAIC does not accredit as a group-wide supervisor, the commissioner may reasonably cooperate, through supervisory colleges or otherwise, with the group-wide supervision undertaken by the group-wide supervisor, provided that:
(i) the commissioner's cooperation is in compliance with the laws of this state; and

	<p><u>(ii) the group-wide supervisor also recognizes and cooperates with the commissioner's activities as the group-wide supervisor for other internationally active insurance groups where applicable.</u></p> <p><u>(b) Where the recognition and cooperation described in Subsection (10)(a)(ii) is not reasonably reciprocal, the commissioner may refuse recognition and cooperation.</u></p> <p><u>(11) The commissioner may in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the administration of this section.</u></p> <p><u>(12) An insurer subject to this section is liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including:</u></p> <p><u>(a) the engagement of an attorney, actuary, or other professional; and</u></p> <p><u>(b) all reasonable travel expenses.</u></p>	
Lines	Amendment text	Nature of change
<p>1771-1843</p>	<p>31A-16-109(1), (2), (3), (4)</p> <p>(1) (a) [Information, documents, and copies of these that are] <u>Documents, materials, or information</u> obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section <u>31A-16-107.5</u>, and all information reported <u>or provided to the department</u> under Section <u>31A-16-105</u> or <u>31A-16-108.6</u>, is confidential. [It is]</p> <p><u>(b) Any confidential document, material, or information described in Subsection (1)(a) is not subject to subpoena and may not be made public by the commissioner or any other person without the permission of the insurer, except [it] the confidential document, material, or information may be provided to the insurance departments of other states, without the prior written consent of the insurer to which [it] the confidential document, material, or information pertains.</u></p> <p>(2) The commissioner and any person who [received] <u>receives</u></p>	<p>Policy Change: This change follows <u>model legislation</u> adopted by the National Association of Insurance Commissioners (“NAIC”) for internationally significant insurance holding companies. Adoption is required for accreditation by the NAIC. (NAIC Model #440, Holding Company Model amendments)</p>

<p>documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any confidential documents, materials, or information subject to Subsection (1).</p> <p>(3) (a) To assist in the performance of the commissioner's duties, the commissioner:</p> <p>(i) may share documents, materials, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:</p> <p>(A) [other] <u>a state, federal, [and] or international regulatory [agencies] agency;</u></p> <p>(B) the National Association of Insurance Commissioners [and its affiliates and subsidiaries; and] or an NAIC affiliate or subsidiary; or</p> <p>(C) <u>a state, federal, [and] or international law enforcement [authorities] authority, including [members] a member of a supervisory college described in Section 31A-16-108.5;</u></p> <p>(ii) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section <u>31A-16-105 or 31A-16-108.6</u> with [commissioners of states] <u>a commissioner of a state</u> having statutes or regulations substantially similar to Subsection (1) and who [have] <u>has</u> agreed in writing not to disclose the documents, material, or information;</p> <p>(iii) may receive documents, materials, or information, including otherwise confidential documents, materials, or information from:</p> <p>(A) the National Association of Insurance Commissioners [and its affiliates and subsidiaries and from] or an NAIC affiliate or subsidiary; or</p> <p>(B) <u>a regulatory [and] or law enforcement [officials] official of [other] a foreign or domestic [jurisdictions, and] jurisdiction;</u></p>	
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(iv) shall maintain as confidential any document, material, or information received under this section with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and

~~(iv)~~ (v) shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:

(A) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;

(B) specify that ownership of information shared with the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the National Association of Insurance Commissioner's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners pursuant to this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(D) require the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries pursuant to this

	<p>chapter.</p> <p>(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.</p>	
Line	Amendment text	Nature of change
1846-2052	<p><u>31A-16b-101. Title.</u> <u>This chapter is known as the "Corporate Governance Annual Disclosure Act."</u> <u>Section 8. Section 31A-16b-102 is enacted to read:</u> <u>31A-16b-102. Administration and scope.</u> <u>(1) The commissioner is solely responsible for the administration and enforcement of the provisions of this chapter.</u> <u>(2) This chapter does not:(a)</u> <u> prescribe or impose corporate governance standards or internal procedures beyond what is required under applicable state corporate law;</u> <u>or</u> <u>(b) limit the commissioner's authority, or the rights or obligations of third parties, under Chapter 2, Administration of the Insurance Laws.</u> <u>(3) The requirements of this Chapter apply to each insurer domiciled in the state.</u> <u>Section 9. Section 31A-16b-103 is enacted to read:</u> <u>31A-16b-103. Disclosure requirement.</u> <u>(1) An insurer, or the insurance group of which the insurer is a member, shall on or before June 1 of each year submit to the commissioner a corporate governance annual disclosure that contains the information required under Section 31A-16b-105.</u> <u>(2) Notwithstanding a request from the commissioner described in Subsection (4), if an</u></p>	<p>Policy Change: This change follows model legislation adopted by the National Association of Insurance Commissioners ("NAIC") for corporate governance disclosures. Adoption no later than 1/1/20 will be needed for accreditation by the NAIC. (NAIC Model #305, Corporate Governance Annual Disclosure Model Act)</p>

	<p><u>insurer is a member of an insurance group, the insurer shall submit the report required under this section to the commissioner of the lead state for the insurance group in accordance with:</u></p> <p><u>(a) the laws of the lead state; and</u></p> <p><u>(b) the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.</u></p> <p><u>(3) The corporate governance annual disclosure described in Subsection (1) shall include a signature:</u></p> <p><u>(a) of the insurer's or insurance group's chief executive officer or corporate secretary; and</u></p> <p><u>(b) attesting to the best of the signatory's belief and knowledge that:</u></p> <p><u>(i) the insurer or insurance group has implemented the corporate governance practices; and</u></p> <p><u>(ii) a copy of the disclosure has been provided to the insurer's or insurance group's board of directors or the appropriate committee thereof.</u></p> <p><u>(4) An insurer not required to submit a corporate governance annual disclosure under this section shall submit a corporate governance annual disclosure to the commissioner upon the commissioner's request.</u></p> <p><u>(5) (a) For purposes of completing a corporate governance annual disclosure, an insurer or insurance group may provide information regarding corporate governance at one of the following levels:</u></p> <p><u>(i) at the ultimate controlling parent level;</u></p> <p><u>(ii) at an intermediate holding company level; or</u></p> <p><u>(iii) at the individual legal entity level.</u></p> <p><u>(b) An insurer or insurance group shall consider making each corporate governance annual disclosure at the level at which the insurer or insurance group:</u></p> <p><u>(i) determines the insurer or insurance group's risk appetite;</u></p> <p><u>(ii) (A) collectively oversees the earnings, capital, liquidity, operations, and reputation of the insurer; and</u></p>	
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(B) coordinates and exercises the supervision of earnings, capital, liquidity, operations and reputation of the insurer; or
(iii) places legal liability for failure of general corporate governance duties.
(6) If an insurer or insurance group chooses a level of reporting described in Subsection (5), it shall indicate:
(a) which of the three levels the insurer or insurance group chose; and
(b) explain any subsequent change in the level of reporting.
(7) An insurer may choose not to include certain information in a corporate governance annual disclosure, if:
(a) the information is substantially similar to information included in another document submitted to the commissioner, including a proxy statement filed in conjunction with Section 31A-16-105 or another state or federal filing provided to the department; and
(b) the insurer cross references the document described in Subsection (7)(a) in the corporate governance annual disclosure.
(8) A review of a corporate governance annual disclosure or any additional request for information related to a corporate governance annual disclosure shall be made through the lead state as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.
Section 10. Section 31A-16b-104 is enacted to read:
31A-16b-104. Rulemaking.
(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to implement and administer this chapter.
(2) The commissioner may issue orders as is necessary to carry out this chapter.
Section 11. Section 31A-16b-105 is enacted to read:
31A-16b-105. Contents of corporate governance annual disclosure.
(1) (a) A corporate governance annual disclosure shall include information sufficient to provide the commissioner a clear understanding of the

	<p><u>insurer's or insurance group's corporate governance structure, policies, and practices.</u></p> <p><u>(b) An insurer or insurance group has discretion to determine the information the insurer or insurance group includes in a corporate governance annual disclosure, provided the information complies with Subsection (1)(a).</u></p> <p><u>(2) The commissioner may request additional information that the commissioner determines material and necessary to provide the commissioner with a clear understanding of the insurer's or insurance group's:</u></p> <p><u>(a) corporate governance policies;</u></p> <p><u>(b) reporting and information systems; or</u></p> <p><u>(c) controls implementing the items described in Subsection (2)(a) or (b).</u></p> <p><u>(3) An insurer or insurance group shall maintain and make available upon request of the commissioner:</u></p> <p><u>(a) documentation; and</u></p> <p><u>(b) supporting information.</u></p> <p><u>Section 12. Section 31A-16b-106 is enacted to read:</u></p> <p><u>31A-16b-106. Confidentiality.</u></p> <p><u>(1) A document, material, or other information, including a corporate governance annual disclosure, is considered proprietary and to contain a trade secret if the document, material, or other information is:</u></p> <p><u>(a) in the control or possession of the department; and</u></p> <p><u>(b) obtained by, created by, or disclosed to the commissioner or any other person in accordance with this chapter.</u></p> <p><u>(2) A document, material, or other information described in Subsection (1) is:</u></p> <p><u>(a) confidential and privileged;</u></p> <p><u>(b) classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act;</u></p> <p><u>(c) not subject to:</u></p>	
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<p><u>(i) subpoena; or</u> <u>(ii) discovery; and</u> <u>(d) no admissible as evidence in any private civil action.</u> <u>(3)(a) The commissioner may use a document, material or other information described in Subsection (1) in the furtherance of a regulatory or legal action brought as a part of the commissioner's duties.</u> <u>(b) Except as described in Subsection (3)(a), the commissioner may not make a document, material, or other information described in Subsection (1) public without the prior written consent of the insurer or insurance group.</u> <u>(4) Nothing in this section requires written consent of the insurer or insurance group before the commissioner shares or receives, in accordance with Subsection (6), a document, material, or other information described in Subsection (1) to assist in the performance of the commissioner's duties.</u> <u>(5) The following may not testify in any private civil action regarding a document ,material, or other information described in Subsection (1):</u> <u>(a) the commissioner; or</u> <u>(b) a person:</u> <u>(i) who receives the document, material, or other information, through examination or otherwise, while acting under the authority of the commissioner; or</u> <u>(ii) with whom the document, material, or other information is shared in accordance with this chapter.</u> <u>(6) To carry out the commissioner's duties, the commissioner may:</u> <u>(a) upon request, share a document, material, or other information described in Subsection (1) with:</u> <u>(i) a state, federal, or international financial regulatory agency, including a member of a supervisory college as defined in Section 31A-16-108.5; or</u> <u>(ii) the NAIC or a third-party consultant retained in accordance with Section31A-16b-107, if the recipient:</u></p>	
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(A) agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and
(B) verifies in writing the legal authority to maintain confidentiality; or
(b) receive documents, materials, or other information related to a corporate governance annual disclosure, including:
(i) otherwise confidential and privileged documents, materials, or other information; and
(ii) proprietary and trade secret information or documents from:
(A) a regulatory official of a state, federal, or international financial regulatory agency, including a member of a supervisory college as defined in Section 31A-16-108.5; or
(B) the NAIC.
(7) A written agreement governing the sharing of a document, material, or other information described in Subsection (1) with the NAIC or a third-party consultant shall contain the following:
(a) specific procedures and protocols for maintaining the confidentiality and privileged status of the document, material, or other information in accordance with this chapter;
(b) procedures and protocols ensuring the NAIC shares information only with a state regulator from a state in which the insurance group has a domiciled insurer;
(c) verification that the recipient has legal authority to maintain the confidentiality and privileged status of the document, material, or other information;
(d) a provision specifying that:
(i) ownership of the document, material, or other information remains with the department; and
(ii) the NAIC's or third-party consultant's use of the document, material, or other information shared with the NAIC or third-party consultant is subject to the direction of the commissioner;

(e) a provision prohibiting the NAIC or third-party consultant from storing the document, material, or other information in a permanent database after the underlying analysis is complete;

(f) a provision requiring the NAIC or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the document, material, or other information;

(g) a provision requiring the NAIC or third-party consultant consent to the insurer or insurance group intervening in any judicial or administrative action in which the NAIC or third-party consultant may be required to disclose the document, material, or other information; and

(h) a provision requiring the written consent of the insurer or insurance group before making public the document, material, or other information.

(8) (a) The commissioner shall maintain as confidential or privileged any documents, materials, or other information received with notice or with the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(b) The NAIC and a third-party consultant are subject to the same confidentiality standards and requirements as the commissioner.

(9) The sharing of a document, material, or other information described in Subsection(1) by the commissioner in accordance with this chapter is not a delegation of regulatory authority or rulemaking.

(10) Disclosing or sharing a document, material, or other information described in Subsection (1) in accordance with this chapter does not waive any privilege or claim of confidentiality, propriety, or trade secret related to the document, material, or other information.

Section 13. Section 31A-16b-107 is enacted to read:

31A-16b-107. Third-party consultants.

(1) The commissioner may retain a third-party consultant, including an attorney, actuary, accountant, or other expert not otherwise a part of the commissioner's staff:

(a) at the insurer's or insurance group's expense; and

(b) as is reasonably necessary to assist the commissioner in reviewing the insurer's or insurance group's:

(i) corporate governance annual disclosure and related information; or

(ii) compliance with this chapter.

(2) A person the commissioner retains under Subsection (1):

(a) is under the direction and control of the commissioner; and

(b) shall act in a purely advisory capacity.

(3) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer or insurance group, that the third-party consultant:

(a) is free of a conflict of interest; and

(b) has internal procedures in place to:

(i) monitor compliance with Subsection (3)(a); and

(ii) comply with the confidentiality standards and requirements of this chapter.

Section 14. Section 31A-16b-108 is enacted to read:

31A-16b-108. Penalties.

(1) An insurer or insurance group that, without just cause, fails to timely file a corporate governance annual disclosure as required in this chapter shall, after notice and hearing, pay a penalty of \$10,000 for each day's delay, up to \$300,000.

(2) Any penalty recovered by the commissioner under this section shall be deposited into the General Fund.

(3) The commissioner may reduce a penalty under this section if the insurer or insurance group demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Lines	Amendment text	Nature of change
2054-2088	<p>31A-17-519</p> <p>(1) A company that is licensed and doing business in Utah, and whose reserves are computed subject to the requirements of Subsection 31A-17-502(2), <u>in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515</u>, may hold reserves for <u>ordinary life insurance policies issued directly, or assumed, during the current calendar year</u>, based on the mortality tables and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in Sections 31A-17-507 through 31A-17-512 as they apply to ordinary life insurance in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515, provided that all of the following conditions have been met:</p> <p>(a) the company has less than \$300,000,000 of ordinary life premium;</p> <p>(b) if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than \$600,000,000;</p> <p>(c) the company reported total adjusted capital of at least 450% of Authorized Control Level Risk Based Capital in the risk-based capital report for the prior calendar year;</p> <p>(d) the appointed actuary has provided an unqualified opinion on the reserves in accordance with Subsection 31A-17-503(2) for the prior calendar year;</p> <p>(e) the company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued <u>on or after the operative date of the valuation manual January 1, 2020 and in force on the company's annual financial statement for the current calendar year-end valuation date</u>, <u>only has secondary guarantees that</u> meets the definition of a non-material secondary guarantee universal life product as defined in the valuation manual;</p> <p>(f) the company has filed by July 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required a statement with its domiciliary commissioner certifying that these conditions are met and that</p>	<p>Policy change: Clarifies that the exemption applies to any policy so long as that policy is issued in a year in which the company qualifies for the exemption. Brings the statute in line with the updated NAIC Valuation Manual.</p> <p>Policy change: Removes the RBC requirement as a condition for exemption.</p> <p>Technical change: Clarifies that this requirement applies to policies that remain in force.</p>

	<p>the company intends to calculate reserves as described in this section; and (gf) the company's domiciliary commissioner has not informed the company in writing before September 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required that the company must comply with the valuation manual requirements for life insurance reserves.</p> <p>(2) For purposes of Subsections (1)(a) and (b), ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement, <u>excluding premiums for guaranteed issue policies and pre-need life contracts and excluding amounts that represent the transfer of reserves in-force as of the effective date of a reinsurance assumed transaction.</u></p>	<p>Technical change: Excludes premium for pre-need and guaranteed issue policies. NAIC Valuation Manual does not consider transferred reserves in determining life premium.</p>
Lines	Amendment text	Nature of change
2123	<p>31A-21-201(3)(b) (3(b) Subsection (3)(a)(iii) does not apply to an endorsement to an insurance policy.</p>	<p>Codifies practice: Requires an endorsement to a policy to provide the name and domicile of the insurer.</p>
Lines	Amendment text	Nature of change
2159-2211	<p>31A-21-311 <u>(1)(a)(i) An insurer issuing an individual or group life insurance policy or accident and health insurance policy, shall as soon as practicable deliver the policy to the policyholder, but no later than 90 days after the day on which coverage is effective.</u> <u>(b) The policy required by this Subsection (1) shall:</u> <u>(A) provide the exact name of the insurer;</u> <u>(B) state the state of domicile of the insurer.</u> (2)(a) Except under Subsection (2)(d), an insurer issuing a group insurance policy, other than a blanket insurance policy, shall, as soon as practicable after the coverage is effective, <u>but no later than 90 days after the participant's coverage is effective,</u> provide a certificate for each member</p>	<p>Policy change: Current law requires an insurer to deliver a health or life insurance policy, but does not clarify a time frame. This change requires delivery within 90 days of the effective date.</p>

	<p>of the insured group, except that only one certificate need be provided for the members of a family unit.</p> <p>(ii) The certificate required by described in this Subsection (2) shall:</p> <p>(A) provide the exact name of the insurer;</p> <p>(B) state the state of domicile of the insurer; and</p> <p>(C) contain a summary of the essential features of the insurance coverage, including:</p> <p>(I) any rights of conversion to an individual policy;</p> <p>(II) in the case of group life insurance, any continuation of coverage during total disability; and</p> <p>(III) in the case of group life insurance, the incontestability provision.</p> <p>(iii) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the insured:</p> <p>(A) a copy of the policy; or</p> <p>(B) a summary of the policy containing all the details that are relevant to the certificate holder.</p> <p>(b) The commissioner may by rule impose a requirement similar to Subsection (1)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.</p> <p>(c)(i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.</p> <p>(ii) The insurer may deliver or mail a certificate:</p> <p>(A) directly to the certificate holders; or</p> <p>(B) in bulk to the policyholder to transmit to certificate holders.</p> <p>(iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:</p> <p>(A) a certificate holder; or</p> <p>(B) a policyholder as provided in Subsection (2) (1)(c)(ii)(B).</p>	
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	<p>(d) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:</p> <p>(i) booklets describing the coverage;</p> <p>(ii) the posting of notices in the place of business; or</p> <p>(iii) publication in a house organ.</p> <p>(2)(3) Unless a <u>policy</u>, certificate or an authorized substitute has been made available to the <u>policyholder</u> or certificate holder, <u>as applicable</u>, when required by this section, an act or omission forbidden to or required of the <u>policyholder</u> or certificate holder by the <u>policy</u> or certificate after the coverage has become effective as to the <u>policyholder</u> or certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium payments, may not affect the insurer's obligations under the insurance contract.</p>	
Lines	Amendment text	Nature of change
2218-2219	<p>31A-22-501</p> <p>A group or blanket policy of life insurance may not be delivered in Utah unless the insured group:</p> <p>(1) falls within at least one of the classifications under Sections 31A-22-501.1 through 31A-22-509; and</p> <p>(2) is formed for a reason other than the purchase of insurance and maintained in good faith for purposes other than obtaining insurance.</p>	Technical change: Revises terminology for consistency with references related to accident and health insurance, 31A-22-701(1)(b) and (2)(a).
Lines	Amendment text	Nature of change
2236-2237	<p>31A-22-605.1(4), (5)</p> <p>(4)(a) Except as provided in this Subsection (4), <u>otherwise provided in this section</u>, a health benefit plan may impose a preexisting condition exclusion only if:</p> <p>(i) the exclusion relates to a preexisting condition for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date from an individual</p>	

<p>2262</p>	<p>licensed or similarly authorized to provide those services under state law and operating within the scope of practice authorized by state law;</p> <p>(ii) the exclusion period ends no later than 12 months after the enrollment date, or in the case of a late enrollee, 18 months after the enrollment date; and</p> <p>(iii) the exclusion period is reduced by the number of days of creditable coverage the enrollee has as of the enrollment date, in accordance with Subsection (4)(b).</p> <p>(b)(i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is determined by counting all the days on which the individual has one or more types of creditable coverage.</p> <p>(ii) Days of creditable coverage that occur before a significant break in coverage are not required to be counted.</p> <p>(A) Days in a waiting period or affiliation period are not taken into account in determining whether a significant break in coverage has occurred.</p> <p>(B) For an individual who elects federal COBRA continuation coverage during the second election period provided under the federal Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period are not taken into account in determining whether a significant break in coverage has occurred.</p> <p>(c) A group health benefit plan may not impose a preexisting condition exclusion relating to pregnancy.</p> <p>(d)(i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion as part of any written application materials.</p> <p>(ii) The general notice <u>under this subsection</u> shall include:</p> <p>(A) a description of the existence and terms of any preexisting condition exclusion under the plan, including the six-month period ending on the enrollment date, the maximum preexisting condition exclusion period, and</p>	
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<p>2279- 2292</p>	<p>how the insurer will reduce the maximum preexisting condition exclusion period by creditable coverage;</p> <p>(B) a description of the rights of individuals:</p> <p>(I) to demonstrate creditable coverage, including any applicable waiting periods, through a certificate of creditable coverage or through other means; and</p> <p>(II) to request a certificate of creditable coverage from a prior plan;</p> <p>(C) a statement that the current plan will assist in obtaining a certificate of creditable coverage from any prior plan or issuer if necessary; and</p> <p>(D) a person to contact, and an address and telephone number for the person, for obtaining additional information or assistance regarding the preexisting condition exclusion.</p> <p>(e) An insurer may not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage.</p> <p>(f) This Subsection (4) does not preclude application of any waiting period applicable to all new enrollees under the plan.</p> <p><u>(5)(a) If a short-term limited duration plan policy provides for an extension or renewal of the policy, the insurer may not exclude coverage for a loss due to a preexisting condition for a period greater than 12 months following the original effective date of the coverage, unless the insurer specifically and expressly excludes in the preexisting condition in the terms of the policy or certificate.</u></p> <p><u>(b)(i) An insurer that includes a preexisting condition exclusion in a short-term limited duration health insurance policy shall provide a written general notice of preexisting condition exclusion as part of the written application materials.</u></p> <p><u>(ii) A written general notice described in this subsection shall:</u></p> <p><u>(A) include a description of the existence and terms of any preexisting condition exclusion under the policy, including the maximum preexisting exclusion period; and</u></p>	<p>Policy change: This bill extends the availability of short-term limited duration coverage. If an insurer selects to extend such policies beyond 12 months this change provisions for limitations on the use of pre-existing condition limitations.</p>
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	(B) the exclusion period ends no later than 12 months after the original effective date of the coverage.	
Lines	Amendment text	Nature of change
2322	31A-22-611(2) (2) The insurer may require proof of the incapacity <u>impairment</u> and dependency be furnished by the person insured under the policy within 30 days of the effective date or the date the child attains the age specified in Subsection 31A-22-610.5(2), and at any time thereafter, except that the insurer may not require proof more often than annually after the two-year period immediately following attainment of the limiting age by the dependent with a disability.	Codifies practice: Revised for consistent terminology within the statute using the term, impairment rather than incapacity.
Lines	Amendment text	Nature of change
2355	31A-22-627(3) (3) For purposes of this section: (a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention at <u>through</u> a hospital emergency department to result in: (i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy; (ii) serious impairment to bodily functions; or (iii) serious dysfunction of any bodily organ or part. (b) "Hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis. (c) "Stabilize" means the same as that term is defined in 42 U.S.C. Sec. 1395dd(e)(3).	Codifies practice: Revised definition of emergency medical condition for compliance with the Emergency Medical Treatment & Labor Act (EMTALA) and 45 CFR 147.138(b).
Lines	Amendment text	Nature of change
2426-2427	31A-22-638(4)	Technical change: Corrects reference to Chapter 45, Managed Care Organizations,

	(4) If the coverage described in this section is provided through a managed care plan, offered under Chapter 8, Health Maintenance Organizations and Limited Health Plans, or under a preferred provider plan under this chapter, <u>45, Managed Care Organizations,</u> the insured shall have access to medically necessary prosthetic clinical care, and to prosthetic devices and technology, from one or more prosthetic providers in the managed care plan's provider network.	which should have been changed in HB336, Health Reform Amendments, 2017 General Session.
Lines	Amendment text	Nature of change
2432-2514	31A-22-701(3)(d)(vii) (3)(d)(viii) <u>a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder;</u> (ix) an association, including a labor union, that has a constitution and bylaws and that is organized in good faith for purposes other than that of obtaining insurance, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; and <u>or</u> (ix) any other class of risks that, in the judgment of the commissioner, may be properly eligible for blanket accident and health insurance.	Technical change: Removes requirement for a labor union to have a constitution and bylaws, and moved it to its own subsection.
Lines	Amendment text	Nature of change
2517-2518	31A-22-722(1) (1) An insured may extend the <u>employer's group policy shall offer an</u> employee's coverage <u>to be extended</u> under the current employer's group policy for a period of 12 months, except as provided in Subsection (2). The right to extend coverage includes: (a) voluntary termination; (b) involuntary termination; (c) retirement; (d) death; (e) divorce or legal separation;	Codifies practice: Provides clarification that an employer group policy is required to offer continuation of coverage.

	(f) loss of dependent status; (g) sabbatical; (h) a disability; (i) leave of absence; or (j) reduction of hours.	
Lines	Amendment text	Nature of change
2625-2627	31A-22-726(3) (3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title 63N, Chapter 11, Health System Reform Act, unless the coverage is a type of permitted abortion coverage. (4) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.	Technical change: Removes reference to a state created insurance exchange, Avenue H, which was repealed during the 2017 General Session, HB336, Health Reform Amendments. Avenue H ceased business effective July 1, 2018.
Lines	Amendment text	Nature of change
2633-2802	31A-23a-111(5)(b) (5)(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee: (i) is unqualified for a license or line of authority under Section 31A-23a-104 , 31A-23a-105 , or 31A-23a-107 ; (ii) violates: (A) an insurance statute; (B) a rule that is valid under Subsection 31A-2-201(3) ; or (C) an order that is valid under Subsection 31A-2-201(4) ; (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state; (iv) fails to pay a final judgment rendered against the person in this state within 60days after the day on which the judgment became final; (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;	Technical change: Most of the changes remove awkward present tense wording and replace it with past tense wording. Those changes make (5)(b) consistent with similar past-tense language in 31A-23b-401.

	<p>(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;</p> <p>(vii) refuses:</p> <p>(A) to be examined; or</p> <p>(B) to produce its accounts, records, and files for examination;</p> <p>(viii) has an officer who refuses to:</p> <p>(A) give information with respect to the insurance producer's affairs; or</p> <p>(B) perform any other legal obligation as to an examination;</p> <p>(ix) provides information in the license application that is:</p> <p>(A) incorrect;</p> <p>(B) misleading;</p> <p>(C) incomplete; or</p> <p>(D) materially untrue;</p> <p>(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;</p> <p>(xi) obtains or attempts to obtain a license through misrepresentation or fraud;</p> <p>(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;</p> <p>(xiii) intentionally misrepresents the terms of an actual or proposed:</p> <p>(A) insurance contract;</p> <p>(B) application for insurance; or</p> <p>(C) life settlement</p> <p>(xiv) is <u>has been</u> convicted of:</p> <p>(A) a felony; or</p> <p>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</p> <p>(xv) admits or is found to have committed an insurance unfair trade practice or fraud;</p> <p>(xvi) in the conduct of business in this state or elsewhere:</p>	
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<p>2730-2731</p>	<p>(A) uses fraudulent, coercive, or dishonest practices; or (B) demonstrates incompetence, untrustworthiness, or financial irresponsibility; (xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license <u>or registration</u>, or other professional or occupational license <u>or registration</u>: (A) denied; (B) suspended; (C) revoked; or (D) surrendered to resolve an administrative action; (xviii) forges another's name to: (A) an application for insurance; or (B) a document related to an insurance transaction; (xix) improperly uses notes or another reference material to complete an examination for an insurance license; (xx) knowingly accepts insurance business from an individual who is not licensed; (xxi) fails to comply with an administrative or court order imposing a child support obligation; (xxii) fails to: (A) pay state income tax; or (B) comply with an administrative or court order directing payment of state income tax;</p>	<p>Codifies practice: This change codifies current practice of holding a person with a denied, suspended, revoked or surrendered insurance or other professional or occupational <i>registration</i> to the same standard as a person with an insurance or other professional or occupational <i>license</i>.</p>
<p>2748-2757</p>	<p>(xxiii) [violates or permits others to violate] <u>has been convicted of violating</u> the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and [therefore under] <u>has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033</u> [is prohibited from engaging in the business of insurance; or]; (xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public[.]; <u>or</u></p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the written consent required by federal law.</p>

2755-2757	<u>(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u>	Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the written consent required by federal law.
Lines	Amendment text	Nature of change
2829	31A-23a-402(1)(a)(iii) (1)(a)(iii) A licensee under this title may not: (A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or (B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, including Utah's small employer health insurance exchange known as "Avenue H," and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act: (I) is responsible for the insurance sales activities of the person; (II) stands behind the credit of the person; (III) guarantees any returns on insurance products of or sold by the person; or (IV) is a source of payment of any insurance obligation of or sold by the person.	Technical change: Removes reference to Avenue H, which was repealed during the 2017 General Session, HB336, Health Reform Amendments. Avenue H ceased business effective July 1, 2018.
Lines	Amendment text	Nature of change
2930	31A-23a-411.1. A person commits insurance fraud as described in Subsection 31A-31-103(1) (f) (g) if 2772 that person knowingly fails to forward to the insurer a premium: 2773 (1) received from one of the following in partial or total payment of the premium due 2774 from: 2775 (a) an applicant;	Technical change: Necessitated by amendment to 31A-31-103

	2776 (b) a policyholder; or 2777 (c) a certificate holder; or 2778 (2) collected from or on behalf of an insured employee under an insured employee 2779 benefit plan.	
Lines	Amendment text	Nature of change
3015-3018	31A-23a-415(3) (3)(a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account. (b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account." (c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section. (d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of [this part and Part 5, Compensation of Producers and Consultants, related to:] <u>laws governing individual title insurance producers, agency title insurance producers and title insurers.</u> [(i) the marketing of title insurance; and] [(ii) audits of agency title insurance producers.]	Codifies practice: Changed language confirms current practice of using the Title Licensee Restricted Account to pay costs incurred in administering, investigating and enforcing laws applicable to the title insurance industry.
Lines	Amendment text	Nature of change
3089-3091	31A-23b-401(4)(a)(xii)-(xxiii) (4)(a)(xii) is <u>has</u> been convicted of: <u>(A) a felony; or</u> <u>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</u> (xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;	Codifies practice: This change codifies existing practice of taking action against a licensee or applicant who is convicted of a misdemeanor involving dishonesty. This is consistent trustworthiness requirement

<p>3097-3100</p>	<p>(xiv) in the conduct of business in this state or elsewhere: (A) used fraudulent, coercive, or dishonest practices; or (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility; (xv) <u>has had an insurance license, navigator license, or its equivalent or other professional or occupational license or registration, or an equivalent of same to an insurance license</u> denied, suspended, or revoked or surrendered to resolve an administrative action in another state, province, district, or territory; (xvi) forged another's name to: (A) an application for insurance; (B) a document related to an insurance transaction; (C) a document related to an application for a public program; or (D) a document related to an application for premium subsidies; (xvii) improperly used notes or another reference material to complete an examination for a license; (xviii) knowingly accepted insurance business from an individual who is not licensed; (xix) failed to comply with an administrative or court order imposing a child support obligation; (xx) failed to: (A) pay state income tax; or (B) comply with an administrative or court order directing payment of state income tax;</p>	<p>in 31A-23b-204 and a 2018 change in 31A-23a-111(5)(b)(xiv).</p> <p>Codifies practice: The change codifies existing practice of applying the same standard to persons holding professional or occupational licenses or registrations and persons holding insurance licenses or registrations. The change is consistent with a 2018 change to 31A-23a-111(5)(b)(xvii) and a proposed 2019 change to 31A-23a-111(5)(b)(xvii).</p>
<p>3115-3119</p>	<p>(xxi) <u>has been convicted of violating</u> the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and <u>has not obtained written consent to engage in the business of insurance or participate in such business as required by</u> therefore under 18 U.S.C. Sec. 1033 <u>therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</u></p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>

<p>3402-3404</p>	<p><u>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</u> (xv) has admitted or been found to have committed an insurance unfair trade practice or fraud; (xvi) in the conduct of business in this state or elsewhere has: (A) used fraudulent, coercive, or dishonest practices; or (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility; (xvii) has had an insurance license or its equivalent, other professional or occupational license or registration, or an equivalent of same denied, suspended, or revoked or surrendered to resolve an administrative action in any other state, province, district, or territory; (xviii) has forged another's name to: (A) an application for insurance; or (B) a document related to an insurance transaction; (xix) has improperly used notes or any other reference material to complete an examination for an insurance license; (xx) has knowingly accepted insurance business from an individual who is not licensed; (xxi) has failed to comply with an administrative or court order imposing a child support obligation; (xxii) has failed to: (A) pay state income tax; or (B) comply with an administrative or court order directing payment of state income tax;</p>	<p>a misdemeanor involving dishonesty. This is consistent with the trustworthiness requirement in 31A-23b-204 and a 2018 change in 31A-23a-111(5)(b)(xiv).</p> <p>Codifies practice: The change codifies existing practice of applying the same standard to persons holding professional or occupational licenses or registrations and persons holding insurance licenses or registrations. The change is consistent with a 2018 change to 31A-23a-111(5)(b)(xvii) and a proposed 2019 change to 31A-23a-111(5)(b)(xvii).</p>
<p>3418-3422</p>	<p>(xxiii) <u>has been convicted of violating</u> the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and <u>has not obtained written consent to engage in the business of insurance or participate in such business as required by therefore under 18 U.S.C. Sec. 1033</u> therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or</p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>

<p>3425-3427</p>	<p>(xxiv) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public; (xxv) <u>has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.</u></p>	<p>Codifies practice: Reflects practice of denying license application if convicted applicant has not obtained the requisite written consent.</p>
<p>Line</p>	<p>Amendment text</p>	<p>Nature of change</p>
<p>3474-3530</p>	<p><u>31A-27a-512.1. Indemnitor liability.</u> <u>(1)(a) Except as otherwise provided in this chapter, the amount recoverable by the receiver from an indemnitor may not be reduced as a result of a delinquency proceeding with a finding of insolvency, regardless of any provision in the indemnity contract or other agreement.</u> <u>(b) An agreement, written, oral, or otherwise, may not be enforced to the extent it is in conflict, or not in strict compliance with this section.</u> <u>(c) Except as expressly provided in this section, a person other than the receiver whether as a creditor, third party beneficiary, or otherwise does not have a direct right to indemnity proceeds from any indemnitor of the insolvent insurer:</u> <u>(i) on the basis of any written or oral agreement; or</u> <u>(ii) pursuant to an action or cause of action seeking any equitable or legal remedy.</u> <u>(d) This section applies to all the insurer's indemnity contracts.</u> <u>(2) The amount recoverable by the liquidator from an indemnitor is payable under one or more contracts of indemnity on the basis of:</u> <u>(a) proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver, to the extent of the payment; or</u> <u>(b) the allowance of the claim pursuant to:</u> <u>(i) Section 31A-27a-608;</u> <u>(ii) an order of the receivership court; or</u> <u>(iii) a plan of rehabilitation.</u></p>	<p>Policy change: A loophole in Utah law makes it possible for a company to avoid its duty to indemnify an insolvent Utah insurance company. The Utah Insurance Commissioner's deputy receiver recommends that Utah adopt this statute to close the loophole. This proposal closely tracks the language of a similar statute (Section 31A-27a-512) that applies to reinsurers of insolvent Utah insurance companies.</p>

(3) If the insurer takes credit for an indemnity contract in a filing or submission made to the commissioner and the indemnity contract does not contain the provisions required with respect to the obligations of indemnitor in the event of insolvency of the principal, the indemnity contract is considered to contain the provisions required with respect to:

- (a) the obligations of indemnitors in the event of insolvency of the principal in order to obtain indemnity; or
- (b) other applicable statutes.

(4) An indemnity contract that under Subsection (3) is considered to contain certain provisions, is considered to contain a provision that:

- (a) In the event of insolvency and the appointment of a receiver, the indemnity obligation is payable to the indemnified insurer or to its receiver without diminution because of the insolvency or because the receiver fails to pay all or a portion of the claim;
- (b) payment shall be made upon either:
 - (i) to the extent of the payment, proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver; or
 - (ii) the allowance of the claim pursuant to:
 - (A) Section 31A-27a-608;
 - (B) an order of the receivership court; or
 - (C) a plan of rehabilitation; and
- (c) if an indemnitor does not pay the amount billed by the receiver within 60 days after the mailing by the receiver, interest on the unpaid billed amount will begin to accrue at the statutory legal rate provided in Subsection 15-1-1(2), except that all or a portion of the interest may be waived.

(5)(a) The receiver shall notify in writing, in accordance with the terms of the indemnity contract, each indemnitor obligated in relation to an indemnified claim or the pendency of an indemnified claim against the indemnified company.

(b) The receiver's failure to give notice of a pending claim:

	<p><u>(i) does not excuse the obligation of the indemnitor unless the indemnitor is prejudiced by the receiver's failure; and</u></p> <p><u>(ii) if the indemnitor is prejudiced, reduces the indemnitor's obligations only to the extent of the prejudice.</u></p> <p><u>(c) An indemnitor may interpose, at its own expense, in a proceeding in which an indemnified claim is to be adjudicated, any one or more defenses that the indemnitor considers available to the indemnified company or its receiver.</u></p> <p><u>(6) The entry of an order of rehabilitation or liquidation:</u></p> <p><u>(a) may not be considered a breach or an anticipatory breach of an indemnity contract; and</u></p> <p><u>(b) is not grounds for retroactive revocation or retroactive cancellation of an indemnity contract by the indemnitor.</u></p>	
Lines	Amendment text	Nature of change
3620-3623	<p>31A-30-103(19)</p> <p>(19) "Short term limited duration insurance" means a health benefit product that:</p> <p>(a) is not renewable; and</p> <p>(b) has an expiration date specified in the contract that is less than 364 days <u>12 months</u> after the date the plan became effective.</p>	Technical change: This definition has been moved to Section 31A=1-301.
Lines	Amendment text	Nature of change
3685	<p>31A-30-104(6)</p> <p>(6) <u>The provisions of Chapter 45, Managed Care Organizations, and Sections 31A-22-618.6, 31A-30-106, 31A-30-106.1, 31A-30-106.5, 31A-30-106.7, and 31A-30-108, apply to:</u></p> <p>(a) any insurer engaging in the business of insurance related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit; and</p> <p>(b) any contract of an insurer, other than a workers' compensation policy, related to the risk of a small employer for medical, surgical, hospital, or</p>	Technical change: Clarifies the provisions of Title 31A, Chapter 45 applies the same entities as Title 31A, Chapter 30.

	ancillary health care expenses of the small employer's employees provided as an employee benefit.	
Lines	Amendment text	Nature of changes
3738-3739 3743-3746	<p>31A-30-118(3)-(4)</p> <p>(3) A payment required under 45 C.F.R. 155.170(c) shall:</p> <p>(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. 155.70; and</p> <p>(b) be submitted to an issuer through a process established and administered by [(i)] the federal marketplace exchange for the state under PPACA for individual health plans [-or-].</p> <p>[(ii) Avenue H small employer market exchange for qualified health plans offered on the exchange.]</p> <p>(4) The commissioner <u>may</u>:</p> <p>(a) [may] adopt rules as necessary to administer the provisions of this section and 45 C.F.R. 155.170; and</p> <p>(b) [may not] establish or implement [the] a process for submitting [the payments] a <u>payment</u> to an issuer under Subsection (3)(b)(i) [unless the cost of establishing and implementing the process for submitting payments is paid for by the federal exchange marketplace.]</p>	<p>Technical change: Removes reference to Avenue H, which ceased business July 1, 2018.</p> <p>Policy change: Modifies how the state will make reimbursements related to health insurance mandates enacted after January 1, 2012, as required by 45 CFR 155.170. Changes allow the commissioner to establish a process for the state to defray the mandated benefit cost.</p>
Lines	Amendment text	Nature of change
	<p>31A-31-103(1)</p> <p>(1) A person commits a fraudulent insurance act if that person with intent to deceive or defraud:</p> <p>(a) knowingly presents or causes to be presented to an insurer any oral or written statement or representation knowing that the statement or representation contains false, incomplete, or misleading information</p>	

<p>3755-3759</p> <p>3770-3773</p>	<p>concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract; <u>as part or in support of:</u></p> <p><u>(i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to that person or entity;</u></p> <p><u>(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to that person or entity; or</u></p> <p><u>(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred.</u></p> <p>(b) knowingly presents or causes to be presented to an insurer any oral or written statement or representation:</p> <p>(i)(A) as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or</p> <p>(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and</p> <p>(ii) knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact or thing material to the claim;</p> <p>(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act;</p> <p><u>(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;</u></p> <p>(e) <u>knowingly</u> assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;</p> <p>(f) <u>knowingly</u> supplies false or fraudulent material information in any document or statement required by the department;</p> <p>(g) <u>knowingly</u> fails to forward a premium to an insurer in violation of Section 31A-23a-411.1; or</p> <p>(h) <u>knowingly</u> employs, uses, or acts as a runner for the purpose of committing a fraudulent insurance act.</p>	<p>Change in policy: The changes are needed to address: (a) new developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss values involved in those new kinds of fraud.</p> <p>Technical change: Adds to the Insurance Code's anti-fraud statute a provision in the Criminal Code's insurance fraud statute (76-6-512(1)(d)).</p> <p>Technical change: Adds to the Insurance Code's anti-fraud statute a term from the Criminal Code's insurance fraud statute (76-6-512(1)(f)).</p>
<p>Lines</p>	<p>Amendment text</p>	<p>Nature of change</p>

3812-3814	<p>31A-31-107 (1) In any action involving workers' compensation insurance, Section 34A-2-110 supersedes this chapter. <u>(2) Nothing in this section prohibits the department from investigating and pursuing civil or criminal penalties in accordance with Section 31A-31-109 and Title 34A, Utah Labor Code, for violations of Section 34A-2-110.</u></p>	<p>Codifies practice: This amendment confirms the department's current practice of enforcing 34A-2-110.</p>
Lines	Amendment text	Nature of change
3817-3826 3827-3847	<p>31A-35-405 <u>(1) After the commissioner receives a complete application, fee and any information in accordance with Section 31A-35-401, the board shall determine whether the applicant meets the requirements for issuance of a license under this chapter.</u> [(1) Upon a determination by the board that a person applying for a bail bond agency license] <u>(2) (a) If the board determines that the applicant meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license.</u> <u>(b) If the board determines that the applicant does not meet the requirements for issuance of a license under this chapter, the commissioner shall make a final determination as to whether to issue a license under this chapter.</u> [(2)] <u>(3) (a) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification [to the person applying for licensure:] of the denial by commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.</u> <u>(b) An applicant may request a hearing on a denial of an application for a bail bond agency license within 15 days after the day on which the commissioner issues the denial.</u> <u>(c) The commissioner shall hold a hearing no later than 60 days after the day on which the commissioner receives a request for a hearing as described in Subsection (3)(b).</u></p>	<p>Codifies practice: Changed language confirms current practice in which Board approves agency licenses and commissioner has final authority if Board disapproves.</p> <p>Technical change: Word changes still require compliance with Utah Administrative Procedures Act, still require compliance with Utah Admin. Code R590-160, and still require a hearing within 60 days.</p>

	<p>[(i) stating the grounds for denial; and] [(ii) notifying the person applying for licensure as a bail bond agency that:] [(A) the person is entitled to a hearing if that person wants to contest the denial; and] [(B) if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.] [(b) The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.] [(c) The department shall hear the appeal, and may:] [(i) return the case to the commissioner for reconsideration;] [(ii) modify the commissioner's decision; or] [(iii) reverse the commissioner's decision.] [(3) A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act.]</p>	
Line	Amendment text	Nature of change
3866-3868	<p>31A-37-102 As used in this chapter: <u>(3) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.</u></p>	<p>Codifies practice: The current version of Chapter 37, Part 2 contains separate but identical provisions for captive insurers that are formed as corporations and those that are formed as limited liability companies. The Department proposed amendments to Chapter 37 consolidate the separate provisions and create one set that applies to both corporations and LLCs. The added definitions in this section are needed to support consolidation.</p>
3960	<p><u>(15) "Establisher" means a person who establishes a business entity or a trust.</u></p>	
3961-3962	<p><u>(16) "Governing body" means the persons who hold the ultimate authority to direct and manage the affairs of an entity.</u></p>	

3996-4000	<p>[(19)] (21) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of[:] the outstanding securities of an organization.</p> <p>[(a) the outstanding voting securities of a pure captive insurance company; or]</p> <p>[(b) the pure captive insurance company, if the pure captive insurance company is formed as a limited liability company.]</p>	
Line	Amendment text	Nature of change
4041	<p>31A-37-103</p> <p>(1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a provision of this title other than this chapter does not apply to a captive insurance company.</p> <p>(2) To the extent that a provision of the following does not contradict this chapter, the provision applies to a captive insurance company that receives a certificate of authority under this chapter:</p> <p><u>(a) Chapter 1, General Provisions;</u></p> <p><u>(ab) Chapter 2, Administration of the Insurance Laws;</u></p> <p><u>(bc) Chapter 4, Insurers in General;</u></p> <p><u>(cd) Chapter 5, Domestic Stock and Mutual Insurance Corporations;</u></p> <p><u>(de) Chapter 14, Foreign Insurers;</u></p> <p><u>(ef) Chapter 16, Insurance Holding Companies;</u></p> <p><u>(fg) Chapter 17, Determination of Financial Condition;</u></p> <p><u>(gh) Chapter 18, Investments;</u></p> <p><u>(hi) Chapter 19a, Utah Rate Regulation Act;</u></p> <p><u>(ij) Chapter 27, Delinquency Administrative Action Provisions; and</u></p> <p><u>(jk) Chapter 27a, Insurer Receivership Act.</u></p> <p>(3) In addition to this chapter, and subject to Section 31A-37a-103:</p> <p><u>(a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a special purpose financial captive insurance company; and</u></p>	<p><i>Codifies practice:</i> The addition of Chapter 1 makes it clear that captive insurers are governed by the definitions of Chapter 1. Those definitions aid in the consolidation effort described above.</p>

	<p>(b) for purposes of a special purpose financial captive insurance company, a reference in this chapter to “this chapter” includes a reference to Chapter 37a, Special Purpose Financial Captive Insurance Company Act.</p> <p>(4) In addition to this chapter, an industrial group captive insurance company formed as a risk retention group captive is subject to Chapter 15, Part 2, Risk Retention Groups Act, to the extent that this chapter is silent regarding regulation of risk retention groups conducting business in the state.</p>	
Line	Amendment text	Nature of change
4071	<p>31A-37-106</p> <p>(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules to:</p> <p>(a) determine circumstances under which a branch captive insurance company is not required to be a pure captive insurance company;</p> <p>(b) require a statement, document, or information that a captive insurance company shall provide to the commissioner to obtain a certificate of authority;</p> <p>(c) determine a factor a captive insurance company shall provide evidence of under Subsection <u>31A-37-201(4)(b)</u>;</p> <p>(d) prescribe one or more capital requirements for a captive insurance company in addition to those required under Section 31A-37-204 based on the type, volume, and nature of insurance business transacted by the captive insurance company;</p> <p>(e) waive or modify a requirement for public notice and hearing for the following by a captive insurance company:</p> <p>(i) merger;</p> <p>(ii) consolidation;</p> <p>(iii) conversion;</p> <p>(iv) mutualization;</p> <p>(v) redomestication; or</p> <p>(vi) acquisition;</p>	

<p>4103</p>	<p>(f) approve the use of one or more reliable methods of valuation and rating for:</p> <ul style="list-style-type: none"> (i) an association captive insurance company; (ii) a sponsored captive insurance company; or (iii) an industrial insured group; <p>(g) prohibit or limit an investment that threatens the solvency or liquidity of:</p> <ul style="list-style-type: none"> (i) a pure captive insurance company; or (ii) an industrial insured captive insurance company; <p>(h) determine the financial reports a sponsored captive insurance company shall annually file with the commissioner;</p> <p>(i) prescribe the required forms and reports under Section 31A-37-501; and</p> <p>(j) establish one or more standards to ensure that:</p> <ul style="list-style-type: none"> (i) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by a pure captive insurance company: <ul style="list-style-type: none"> (A) a parent; or (B) an affiliated company of a parent; or (ii) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by an industrial insured captive insurance company: <ul style="list-style-type: none"> (A) an industrial insured; or (B) an affiliated company of the industrial insured; <u>and</u> <p><u>(k) establish requirements for obtaining and maintaining a certificate of dormancy.</u></p> <p>(2) Notwithstanding Subsection (1)(j), until the commissioner adopts the rules authorized under Subsection (1)(j), the commissioner may by temporary order grant authority to insure risks to:</p> <ul style="list-style-type: none"> (a) a pure captive insurance company; or (b) an industrial insured captive insurance company. 	<p>Policy change: A certificate of dormancy (see part 7 infra) allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>
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Line	Amendment text	Nature of change
4114-4199	<p>31A-37-201</p> <p><u>(1) The commissioner may issue a certificate of authority to act as an insurer in this state to a captive insurance company that meets the requirements of this chapter.</u></p> <p><u>(2) To conduct insurance business in this state, a captive insurance company shall:</u></p> <p><u>(a) obtain from the commissioner a certificate of authority to conduct insurance;</u></p> <p><u>(b) hold at least once each year in this state a meeting of the governing body;</u></p> <p><u>(c) maintain in this state:</u></p> <p><u>(i) the principal place of business of the captive insurance company; or</u></p> <p><u>(ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and</u></p> <p><u>(d) except as provided in Subsection (3), appoint a resident registered agent to accept service of process and to otherwise act on behalf of the captive insurance company in the state.</u></p> <p><u>(3) In the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.</u></p> <p><u>(4) (a) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:</u></p> <p><u>(i) a certified copy of the captive insurance company's organizational charter;</u></p> <p><u>(ii) a statement under oath of the captive insurance company's president and secretary or their equivalents showing the captive insurance company's financial condition; and</u></p>	<p><i>Codifies practice:</i> This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

(iii) any other statement or document required by the commissioner under Section 31A-37-106.

(b) In addition to the information required under Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:

(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;

(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;

(iii) the overall soundness of the plan of operation of the applicant captive insurance company;

(iv) the adequacy of the loss prevention programs for the prospective insureds of the applicant captive insurance company as the commissioner deems necessary; and

(v) any other factor the commissioner:

(A) adopts by rule under section 31A-37-106; and

(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.

(c) In addition to the information required by Subsections (4)(a) and (b), an applicant sponsored captive insurance company shall file with the commissioner:

(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:

(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each protected cell; and

(B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each protected cell;

<p><u>(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a protected cell, available for inspection or examination by the commissioner;</u></p> <p><u>(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and</u></p> <p><u>(iv) evidence that expenses will be allocated to each protected cell in an equitable manner.</u></p> <p><u>(5) (a) Information submitted pursuant to this section is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.</u></p> <p><u>(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted pursuant to this section to a public official having jurisdiction over the regulation of insurance in another state if:</u></p> <p><u>(i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and</u></p> <p><u>(ii) the laws of the state in which the public official serves require the information to be confidential.</u></p> <p><u>(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.</u></p> <p><u>(6)(a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:</u></p> <p><u>(i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by an applicant captive insurance company;</u></p>	
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	<p><u>(ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and</u></p> <p><u>(iii) a certificate of authority renewal fee assessed annually.</u></p> <p><u>(b) the commissioner may:</u></p> <p><u>(i) assign a department employee or retain legal, financial, and examination services from outside the department to perform the services described in:</u></p> <p><u>(A) Subsection (6)(a); and</u></p> <p><u>(B) Section 31A-37-502; and</u></p> <p><u>(ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.</u></p> <p><u>(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in the state.</u></p> <p><u>(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.</u></p>	
Line	Amendment	Nature of change
<p>4201-</p> <p>4230</p>	<p>31A-37-202 (repealed and reenacted to read)</p> <p><u>(1) Except as provided in Subsections (2) and 3, a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.</u></p> <p><u>(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:</u></p> <p><u>(a) a member organization of the association captive insurance company's association; or</u></p> <p><u>(b) an affiliate of a member organization of the association captive insurance company's association.</u></p> <p><u>(3) The following may insure a risk of a controlled unaffiliated business:</u></p> <p><u>(a) an industrial insured captive insurance company;</u></p>	<p><i>Codifies practice:</i> This section represents the Department's effort to consolidate the provisions that separately govern corporations and LLCs.</p>

	<p><u>(b) a protected cell;</u> <u>(c) a pure captive insurance company; or</u> <u>(d) a sponsored captive insurance company.</u> <u>(4) To the extent allowed by a captive insurance company's organizational charter, a captive insurance company may provide any type of insurance described in this title, except:</u> <u>(a) workers' compensation insurance;</u> <u>(b) personal motor vehicle insurance;</u> <u>(c) homeowners' insurance; and</u> <u>(d) any component of the types of insurance described in Subsections (34)(a) through (c).</u> <u>(5) A captive insurance company may not provide coverage for:</u> <u>(a) a wager or gaming risk;</u> <u>(b) loss of an election;</u> <u>(c) the penal consequences of a crime; or</u> <u>(d) punitive damages.</u> <u>(6) Notwithstanding Subsection (4)(a), if approved by the commissioner, a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage.</u></p>	
Line	Amendment text	Nature of change
4240-4243	<p>31A-37-203 <u>(1) A captive insurance company may not adopt a name that is:</u> <u>(a) the same as any other existing business name registered in this state;</u> <u>(b) deceptively similar to any other existing business name registered in this state; or</u> <u>(c) likely to be:</u> <u>(i) confused with any other existing business name registered in this state;</u> <u>or</u> <u>(ii) mistaken for any other existing business name registered in this state.</u> <u>(2) An applicant captive insurance company that submits an application for a certificate of authority on or after May 14, 2019, or a captive</u></p>	<p>Policy change: Makes captive insurers subject to the name requirements applicable to all other insurers.</p>

	insurance company that changes its name on or after May 14, 2019, shall include the word “insurance” or a term or equivalent meaning its name.	
Line	Amendment text	Nature of change
4244-4461	<p>31A-37-301</p> <p>(1) A [pure] captive insurance company [or a sponsored captive insurance company formed as a stock insurer shall be incorporated as a stock insurer with the capital of the pure captive insurance company or sponsored captive insurance company;], <u>other than a branch captive insurance company, may be formed as a corporation or a limited liability company.</u></p> <p>[(a) divided into shares; and]</p> <p>[(b) held by the stockholders of the pure captive insurance company or sponsored captive insurance company.]</p> <p>[(2) A pure captive insurance company or a sponsored captive insurance company formed as a limited liability company shall be organized as a members' interest insurer with the capital of the pure captive insurance company or sponsored captive insurance company:]</p> <p>[(a) divided into interests; and]</p> <p>[(b) held by the members of the pure captive insurance company or sponsored captive insurance company.]</p> <p>[(3) An association captive insurance company or an industrial insured captive insurance company may be:]</p> <p>[(a) incorporated as a stock insurer with the capital of the association captive insurance company or industrial insured captive insurance company:]</p> <p>[(i) divided into shares; and]</p> <p>[(ii) held by the stockholders of the association captive insurance company or industrial insured captive insurance company;]</p> <p>[(b) incorporated as a mutual insurer without capital stock, with a governing body elected by the member organizations of the association captive insurance company or industrial insured captive insurance company; or]</p>	<p>Codifies practice: This section represents the Department’s effort to consolidate the provisions that separately govern corporations and LLCs.</p>

<p>[(c) organized as a limited liability company with the capital of the association captive insurance company or industrial insured captive insurance company;]</p> <p>[(i) divided into interests; and]</p> <p>[(ii) held by the members of the association captive insurance company or industrial insured captive insurance company.]</p> <p>(2) The capital of a captive insurance company shall be held by:</p> <p><u>(a) the interest holders of the captive insurance company; or</u></p> <p><u>(b) a governing body elected by:</u></p> <p><u>(i) the insureds;</u></p> <p><u>(ii) one or more affiliates; or</u></p> <p><u>(iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).</u></p> <p>[(4)] <u>(3) A captive insurance company formed [as a corporation may not have fewer than three incorporators of whom one shall be a resident of this state] in this state shall have at least one establisher who is an individual and a resident of the state.</u></p> <p>[(5) A captive insurance company formed as a limited liability company may not have fewer than three organizers of whom one shall be a resident of this state.]</p> <p>[(6) (a) Before a captive insurance company formed as a corporation files the corporation's articles of incorporation with the Division of Corporations and Commercial Code, the incorporators shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed corporation will promote the general good of the state.]</p> <p><u>(4) (a) An applicant captive insurance company's establishers shall obtain a certificate of public good from the commissioner before filing its governing documents with the Division of Corporations and Commercial Code.</u></p> <p>(b) In considering a request for a certificate under Subsection [(6)] <u>(4)(a)</u>, the commissioner shall consider:</p>	
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<p>(i) the character, reputation, financial standing, and purposes of the [incorporators] <u>establishers</u>;</p> <p>(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the <u>principal</u> officers [and directors] <u>or members of the governing body</u>;</p> <p>(iii) any information in:</p> <p>(A) the application for a certificate of authority; or</p> <p>(B) the department's files; and</p> <p>(iv) other aspects that the commissioner considers advisable.</p> <p>(7)(a) Before a captive insurance company formed as a limited liability company files the limited liability company's certificate of organization with the Division of Corporations and Commercial Code, the limited liability company shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed limited liability company will promote the general good of the state.</p> <p>[(b) In considering a request for a certificate under Subsection (7)(a), the commissioner shall consider:]</p> <p>[(i) the character, reputation, financial standing, and purposes of the organizers;]</p> <p>[(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the managers;]</p> <p>[(iii) any information in:]</p> <p>[(A) the application for a certificate of authority; or]</p> <p>[(B) the department's files; and]</p> <p>[(iv) other aspects that the commissioner considers advisable.]</p> <p>[(8) (a) A captive insurance company formed as a corporation shall file with the Division of Corporations and Commercial Code:]</p> <p>[(i) the captive insurance company's articles of incorporation;]</p> <p>[(ii) the certificate issued pursuant to Subsection (6); and]</p> <p>[(iii) the fees required by the Division of Corporations and Commercial</p>	
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	<p>Code.}]</p> <p>[(b) The Division of Corporations and Commercial Code shall file both the articles of incorporation and the certificate described in Subsection (6) for a captive insurance company that complies with this section.]</p> <p>[(9) (a) A captive insurance company formed as a limited liability company shall file with the Division of Corporations and Commercial Code:]</p> <p>[(i) the captive insurance company's certificate of organization;]</p> <p>[(ii) the certificate issued pursuant to Subsection (7); and]</p> <p>[(iii) the fees required by the Division of Corporations and Commercial Code.]</p> <p>[(b) The Division of Corporations and Commercial Code shall file both the certificate of organization and the certificate described in Subsection (7) for a captive insurance company that complies with this section.]</p> <p>[(10) (a) The organizers of a captive insurance company formed as a reciprocal insurer shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed association will promote the general good of the state.]</p> <p>[(b) In considering a request for a certificate under Subsection (10)(a), the commissioner shall consider:]</p> <p>[(i) the character, reputation, financial standing, and purposes of the incorporators;]</p> <p>[(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;]</p> <p>[(iii) any information in:]</p> <p>[(A) the application for a certificate of authority; or]</p> <p>[(B) the department's files; and]</p> <p>[(iv) other aspects that the commissioner considers advisable.]</p> <p>[(11) (a) An alien captive insurance company that has received a certificate of authority to act as a branch captive insurance company shall obtain from the commissioner a certificate finding that:]</p> <p>[(i) the home jurisdiction of the alien captive insurance company imposes</p>	
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~~statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that state; and]~~

~~[(ii) after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, and other relevant information, the establishment and maintenance of the branch operations will promote the general good of the state.]~~

~~[(b) After the commissioner issues a certificate under Subsection (11)(a) to an alien captive insurance company, the alien captive insurance company may register to do business in this state.]~~

~~[(12) At least one of the members of the board of directors of a captive insurance company formed as a corporation shall be a resident of this state.]~~

~~[(13) At least one of the managers of a limited liability company shall be a resident of this state.]~~

(5) (a) Except as otherwise provided in this title, the governing body of a captive insurance company shall consist of at least three individuals as members, at least one of whom is a resident of the state.

(b) One-third of the members of the governing body of a captive insurance company constitutes a quorum of the governing body.

(6) A captive insurance company shall have at least three individuals as principal officers with duties comparable to those of president, treasurer, and secretary.

~~[(14)]~~ (7) (a) A captive insurance company formed as a corporation [under this chapter has the privileges and is subject to the provisions of the general corporation law as well as the applicable provisions contained in this chapter. (b) If] is subject to the provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and this chapter. If a conflict exists between a provision of [the general corporation law] Title 16, Chapter 10a, Utah Revised Business Corporation Act, and a provision of this chapter,

this chapter ~~[shall control]~~ controls.

(b) A captive insurance company formed as a limited liability company is subject to the provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and a provision of this chapter, this chapter controls.

(c) Except as provided in Subsection ~~[(14)]~~ (7)(d), the provisions of this title ~~[pertaining to]~~ that govern a merger, consolidation, conversion, mutualization, and redomestication apply ~~[in determining the procedures to be followed by]~~ to a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection ~~[(14)]~~ (7)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

~~[(15) (a) A captive insurance company formed as a limited liability company under this chapter has the privileges and is subject to Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as well as the applicable provisions in this chapter.]~~

~~[(b) If a conflict exists between a provision of the limited liability company law and a provision of this chapter, this chapter controls.]~~

~~[(c) The provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.]~~

~~[(d) Notwithstanding Subsection (15)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.]~~

~~[(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.]~~

	<p>[(16) (a) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may not authorize a quorum of a board of directors to consist of fewer than one third of the fixed or prescribed number of directors as provided in Section 16-10a-824.]</p> <p>[(b) The certificate of organization of a captive insurance company formed as a limited liability company may not authorize a quorum of a board of managers to consist of fewer than one third of the fixed or prescribed number of directors required in Section 16-10a-824.]</p> <p>31A-37-401. Sponsored captive insurance companies -- Formation. (2) A sponsored captive insurance company formed under this chapter may establish and maintain a protected cell to insure risks of a participant if: (a) the [shareholders] <u>interest holders</u> of a sponsored captive insurance company are limited to:</p>	
Line	Amendment text	Nature of change
4468	<p>31A-37-501 (1) A captive insurance company is not required to make a report except those provided in this chapter. (2)(a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of one of the <u>at least two individuals who are executive officers of the captive insurance company.</u> (b) Except as provided in Section 31A-37-204, a captive insurance company shall report: (i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle; (ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and</p>	<p>Policy change: By requiring two officers to verify financial information, the amendment makes that information more trustworthy.</p>

<p>(iii) supplemental or additional information required by the commissioner.</p> <p>(c) Except as otherwise provided:</p> <p>(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and</p> <p>(ii) an industrial insured group shall comply with Section 31A-4-113.5.</p> <p>(3)(a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.</p> <p>(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.</p> <p>(4)(a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.</p> <p>(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.</p> <p>(c) A waiver by the commissioner under Subsection (4)(b):</p> <p>(i) shall be in writing; and</p> <p>(ii) is subject to public inspection.</p> <p>(5) Before March 1 of each year, a sponsored-cell captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each individual protected cell, including a financial statement for each protected cell.</p> <p><u>(6) (a) A captive insurance company shall notify the commissioner in</u></p>	
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4504-4513	<p><u>writing if there is:</u></p> <p><u>(i) a material change to the captive insurance company's most recently filed report of financial condition; or</u></p> <p><u>(ii) an adverse material change in the financial condition of a captive insurance company since the captive insurance company's most recently filed report of financial condition.</u></p> <p><u>(b) A captive insurance company shall submit a notification described in this subsection within 20 days after the day on which the captive insurance company learns of the material change.</u></p>	<p>Policy change: Requires captive insurers to self-report financial problems to the Department.</p>
Line	Amendment text	Nature of change
4539	<p>31A-37-502(4)</p> <p>(4) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection [31A-37-202] 31A-37-201(6)(b), the expenses and charges of an inspection and examination.</p>	<p>Technical change: Prompted by re-numbering of another section of code.</p>
Line	Amendment text	Nature of change
4542-4554	<p>31A-37-503(1)</p> <p>(1) The following shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act:</p> <p>(a) <u>examination, analysis, and licensing application</u> reports under this section <u>chapter</u>;</p> <p>(b) <u>preliminary examination, analysis, and licensing application</u> reports or results under this section <u>chapter</u>;</p> <p>(c) <u>working papers for an examination, analysis, and licensing application review</u> conducted under this section <u>chapter</u>;</p> <p>(d) <u>recorded information for an examination, analysis, and licensing application review</u> conducted under this section <u>chapter</u>; and</p> <p>(e) documents and copies of documents produced by, obtained by, or disclosed to the commissioner or any other person in the course of an <u>examination, analysis, and licensing application review</u> conducted under this section <u>chapter</u>.</p>	<p>Policy change: Expands confidentiality of captive insurer's financial information and the Department's analyses of that information. Without this express protection, captives are reticent to produce accurate information that's necessary for proper regulation.</p>
Line	Amendment text	Nature of change

<p>4567-4602</p>	<p><u>31A-37-701. Certificate of dormancy.</u></p> <p><u>(1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group may apply, without fee, to the commissioner for a certificate of dormancy.</u></p> <p><u>(2) (a) A captive insurance company, other than a risk retention group, is eligible for a certificate of dormancy if the captive insurance company:</u></p> <p><u>(i) has ceased transacting the business of insurance, including the issuance of insurance policies; and</u></p> <p><u>(ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.</u></p> <p><u>(b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.</u></p> <p><u>(3) Except as provided in Subsection (5), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.</u></p> <p><u>(4) A captive insurance company that holds a certificate of dormancy:</u></p> <p><u>(a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:</u></p> <p><u>(i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than \$25,000;</u></p> <p><u>(ii) in the case of an association captive insurance company, not less than \$75,000; or</u></p> <p><u>(iii) in the case of a sponsored captive insurance company, not less than \$100,000, of which at least \$35,000 is provided by the sponsor; and</u></p> <p><u>(b) is not required to:</u></p> <p><u>(i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;</u></p> <p><u>(ii) maintain an active agreement with an independent auditor or actuary;</u></p> <p><u>or</u></p> <p><u>(iii) hold an annual meeting of the captive insurance company in the state.</u></p>	<p>Policy change: A certificate of dormancy allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>
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	<p><u>(5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.</u></p> <p><u>(6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance's company's certificate of authority renewal fee.</u></p> <p><u>(7) A captive insurance company may consecutively renew a certificate or dormancy no more than five times.</u></p>	
Line	Amendment text	Nature of change
4604-4607	<p><u>31A-37-702. Cancelling a certificate of dormancy.</u></p> <p><u>A captive insurance company may apply to cancel its certificate of dormancy by complying with the procedures established in rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.</u></p>	<p><i>Policy change:</i> A certificate of dormancy allows a captive insurer to remain in existence without conducting business. Many other states provide something similar. Utah needs this provision to maintain its position as a leader in the captive insurance industry.</p>
Line	Amendment text	Nature of change
4612-4613	<p>31A-45-102(1)</p> <p>(1) "Covered benefit" or "benefit" means the health care services to which a covered person is entitled under the terms of a health [benefit]-care <u>insurance plan offered by a managed care organization.</u></p>	<p><i>Technical change:</i> Clarification covered benefit is not limited to a health benefit plan, but includes health care insurance plans offered by a managed care organization. The change is a clean-up item related to HB336, Health Reform Amendments, passed during the 2017 General Session.</p>
Line	Amendment text	Nature of change
4618-4705	<p>31A-45-303(1)</p> <p>(1) Managed care organizations may provide for enrollees to receive</p>	<p><i>Technical change:</i> Clarification covered benefit is not limited to a health benefit</p>

	services or reimbursement under the health benefit plans in accordance with this section.	plan, but includes health care insurance plans offered by a managed care organization.
Line	Amendment text	Nature of change
4710	31A-45-401(1) (1)(a) The requirements of Subsection (2) apply to a managed care organization if the managed care organization health benefit plan : (i) restricts coverage for nonemergency services to services provided by contracted providers within the organization's service area; and (ii) does not offer a benefit that permits members the option of obtaining covered services from a non-network provider. (b) The requirements of Subsection (2) do not apply to a managed care organization if:	Technical change: Clarification covered benefit is not limited to a health benefit plan, but includes health care insurance plans offered by a managed care organization.
4717-4743	(i) the child that is the no longer the subject of a court or administrative support order is over the age of 18 and is no longer enrolled in high school ; or (ii) a parent's employer offers the parent a choice to select health insurance coverage that is not a managed care organization plan either at the time of the court or administrative support order, or at a subsequent open enrollment period. This exemption from Subsection (2) applies even if the parent ultimately chooses the managed care organization plan.	Codifying Existing Practice: Clarifies coverage limitations is based on a court order, rather than the child's age and high school enrollment status.
Line	Amendment text	Nature of change
4745-4872	34A-2-110(7) (7)(a) In an action involving workers' compensation, this chapter supersedes Title 31A, Chapter 31, Insurance Fraud Act. (b) <u>Nothing in this section prohibits the Insurance Department from investigating violations of this Section or from pursuing civil and criminal penalties based on those violations pursuant to Section 31A-31-109 and this Title.</u>	Codifies practice: This amendment confirms the department's current practice of enforcing 34A-2-110.
Line	Amendment text	Nature of change

<p>4874-4903</p>	<p><u>36-29-106. Health Reform Task Force.</u></p> <p><u>(1) There is created the Health Reform Task Force consisting of the following 11 members:</u></p> <p><u>(a) four members of the Senate appointed by the president of the Senate, no more than three of whom are from the same political party; and</u></p> <p><u>(b) seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than five of whom are from the same political party.</u></p> <p><u>(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.</u></p> <p><u>(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.</u></p> <p><u>(3) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.</u></p> <p><u>(4) The Office of Legislative Research and General Counsel shall provide staff support to the task force.</u></p> <p><u>(5) The task force shall review and make recommendations on health system reform, including the following issues:</u></p> <p><u>(a) the need for state statutory and regulatory changes in response to federal actions affecting health care;</u></p> <p><u>(b) Medicaid and reforms to the Medicaid program;</u></p> <p><u>(c) options for increasing state flexibility, including the use of federal waivers;</u></p> <p><u>(d) the state's health insurance marketplace;</u></p> <p><u>(e) health insurance code modifications;</u></p> <p><u>(f) insurance network adequacy standards and balance billing;</u></p> <p><u>(g) health care provider workforce in the state;</u></p> <p><u>(h) rising health care costs; and</u></p> <p><u>(i) non-opiate pain management options.</u></p>	<p>Reauthorizes the Health Reform Task Force</p>
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	<u>(6) A final report, including any proposed legislation, shall be presented to the Business and Labor Interim Committee and Health and Human Services Interim Committee before November 30, 2019, and November 30, 2020.</u>	
Lines	Amendment text	Nature of change
4944-4957	<p>58-1-501.7(3)</p> <p>(3) (a) For purposes of this Subsection, "accident and health [insurer <u>insurance</u>":</p> <p>(i) [is as] <u>means the same as that term is defined in Section 31A-1-301; and</u></p> <p>(ii) <u>includes a self-funded health benefit plan and an administrator for a self-funded health benefit plan.</u></p> <p>(b) This section does not apply to a person who engages in academic detailing if that person is engaged in academic detailing on behalf of:</p> <p>(i) [an] <u>a person who provides accident and health [insurer <u>insurance</u>, including when [an accident and health insurer] <u>the person who provides accident and health insurance contracts with or offers:</u></u></p> <p>(A) the state Medicaid program, including the Primary Care Network within the state's Medicaid program;</p> <p>(B) the Children's Health Insurance Program created in Section 26-40-103;</p> <p>(C) the state's high risk insurance program created in Section 31A-29-104;</p> <p>(D) a Medicare plan; [and] <u>or</u></p> <p>(E) a Medicare supplement plan;</p> <p>(ii) a hospital as defined in Section 26-21-2;</p> <p>(iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;</p> <p>(iv) an integrated health system as defined in Section 13-5b-102; or</p> <p>(v) a medical clinic.</p> <p>(c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section 26-21-2, or a medical clinic.</p>	Technical change: Changes reference from insurer to a person who provides insurance.

Lines	Amendment text	Nature of change
5050	62A-2-101(2) (20) "Health benefit plan" means the same as that term is defined in Section [31A-22-619.6] 31A-1-301.	Technical change: Corrects reference to a health benefit plan.
5579-5581	63G-2-305. Protected records. The following records are protected if properly classified by a governmental entity: *** <u>(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and</u> <u>(72) a record described in Section 31A-37-503.</u>	Policy change: This provision makes confidential documents submitted by captive insurers during department financial examinations. It also makes confidential records generated by the department in conducting those financial examinations.
5585	63I-1-236. Repeal dates, Title 36. (1) Section 36-12-20 is repealed June 30, 2023. <u>(2) Section 36-29-106 is repealed June 1, 2021.</u> [(2)] (3) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2021.	Repeals Health Reform Task Force as of June 1, 2021
5594-5699	76-6-521 (1) A person commits a fraudulent insurance act if that person with intent to defraud: (a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract; <u>as part of or in support of:</u> (i) <u>obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to that person or entity;</u>	Policy change: The changes are needed to address: (a) new developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss

<p>5605</p> <p>5617</p>	<p><u>(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person or entity; or</u></p> <p><u>(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;</u></p> <p>(b) presents, or causes to be presented, any oral or written statement or representation:</p> <p>(i)(A) As part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or</p> <p>(B) In connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and</p> <p>(ii) Knowing that the statement or representation contains false, <u>incomplete</u>, or fraudulent information concerning any fact or thing material to the claim;</p> <p>(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;</p> <p>(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;</p> <p>(e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;</p> <p>(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act; or</p> <p>(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance; <u>or</u></p> <p><u>(h) knowingly fails to forward premium to an insurer in violation of Section 31A-23a-411.1.</u></p> <p>(2)(a) A violation of Subsection (1)(a)<u>(i)</u> is a class B <u>A</u> misdemeanor.</p> <p>(b) A violation of Subsections <u>(1)(a)(ii)</u> and (1)(b) through (1)(g<u>h</u>) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.</p>	<p>values involved in those new kinds of fraud.</p> <p>Technical change: Adds to the Criminal Code's insurance anti-fraud statute a provision from the Insurance Code's anti-fraud statute (31A-31-103(1)(f)).</p>
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<p>5623-5627</p>	<p>(c) A violation of Subsection (1)(a)(iii): <i>(i) is a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be determined; or</i> <i>(ii) if the value of the loss \$1,500 or more, is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.</i> (d) A violation of Subsections (1)(b) through (1)(g) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value. (3) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204. (4) The determination of the degree of any offense under Subsections <u>(1)(a)(ii) and (1)(b) through (1)(gh)</u> shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections <u>(1)(a)(ii) and (1)(b) through (1)(gh)</u>.</p>	<p>Policy change: The change is needed to address: (a) new developments in the kinds of fraud being committed in applying for insurance or insurance benefits; and (b) the increase in the loss values involved in those new kinds of fraud.</p>
<p>5634-5636</p>	<p>31A-16a-102</p>	<p>Technical change: Repeals this section and moves the definitions to 31A-1-301.</p>