

Utah Insurance Department
 2023 Legislative Session
 Department’s proposed amendments and statement of the nature of each

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

Lines	Amendment text	Nature of change
85-180	<p>31A-2-204. Conducting examinations. (1) As used in this section, "work papers" means a record that is created or relied upon: (a) during the course of an examination conducted under Section 31A-2-3; [or] (b) in drafting an examination report[.]; <u>or</u> (c) <u>in requesting, responding to a request, or reviewing a response to a request under Section 31A-2-202.</u></p>	<p>Codifies practice: The Department has always taken the position that the records described in Subsection (c) are protected workpapers under Section 31A-2-204(12) or are protected under Section 63G-2-305(10). The amendment makes it clear that the records are protected workpapers.</p>
182-206	<p>31A-2-310. Procedure for service of process through state officer. (1) Service upon the commissioner or lieutenant governor under Section 31A-2-309 is service on the principal, if: (a) [two copies of] the <u>following [process]</u> are delivered personally or to the office of the official designated in Section 31A-2-309[-and]; <u>(i) two copies of the process to be served; and</u> <u>(ii) a certificate of proof of service meeting the requirements of Subsection (3) to be dated and signed by the official designated in Section 31A-2-309; and</u> (b) that official mails a copy of the process to the person to be served according to Subsection (2)(b).</p>	<p>Policy change: This change requires the person seeking service of process to prepare the certificate of proof of service. Previously, the commissioner was required to prepare the certificate.</p>
Lines	Amendment text	Nature of change

208-252	<p>31A-3-304. Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account. *****</p> <p>(5)(e) 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 2018-2019 and subsequent fiscal years, in excess of \$1,600,000; and</p> <p>(ii) for fiscal year 2019-2020 and subsequent fiscal years, in excess of \$1,450,000[.]; and</p> <p><u>(iii) for fiscal year 2023-2024 and subsequent fiscal years, in excess of \$1,650,000.</u></p>	<p>Policy Change: The department seeks an increase in the annual appropriation for the Captive Insurance Division. The increase is needed to ensure that all captive-related costs are fully contained within the Division’s budget. The current appropriation for the program is \$1,450,000 but with increasing costs the Division will not meet its expenses within that appropriation amount. The increase will come from revenues already collected from the insurance industry. The increase is commensurate with fee increases that were approved in the 2021 and 2022 General Sessions.</p>
Lines	Amendment text	Nature of change
254-296	<p>31A-4-113.5. Filing requirements -- National Association of Insurance Commissioners.</p> <p>(1)</p> <p>(a) Each domestic, foreign, and alien insurer who is authorized to transact insurance business in this state shall annually[, on or before March 1,] <u>file with the NAIC [National Association of Insurance Commissioners]</u> a copy of the insurer's:</p> <p>(i) annual statement convention blank <u>on or before March 1;</u></p> <p><u>(ii) market conduct annual statements:</u></p> <p><u>(A) on or before April 30 for all lines of business except health; and</u></p> <p><u>(B) on or before June 30 for the health line of business; and</u></p> <p>[(#)] (iii) any additional filings required by the commissioner for the preceding year.</p> <p>(b)<u>(i)</u> The information filed with the [National Association of Insurance Commissioners (NAIC)] <u>NAIC</u> under Subsection (1)(a)(i) shall:</p>	<p>Technical change: The current statute requires insurers to file an annual statement and related documents with the commissioner according to the commissioner’s directions. However, the commissioner’s directions are always consistent with the NAIC’s annual statement instructions and the NAIC’s Accounting Practices and Procedures Manual. The amendment permits filing requirements to be updated, but the commissioner is no longer required to spend time communicating those requirements to insurers.</p>

<p>[(i) be in the format and scope required by the commissioner] <u>(A) be prepared in accordance with the NAIC's:</u></p> <p><u>(I) annual statement instructions; and</u></p> <p><u>(II) Accounting Practices and Procedures Manual; and</u></p> <p>[(ii)] <u>(B) include:</u></p> <p>[(A)] <u>(I) the signed jurat page; and</u></p> <p>[(B)] <u>(II) the actuarial certification.</u></p> <p>[(c)] <u>(ii) An insurer shall file with the NAIC amendments and addenda to information filed with the commissioner under Subsection (1)(a)(i) [Any amendments and addendums to an annual statement that are filed with the commissioner shall be filed by the insurer with the National Association of Insurance Commissioners].</u></p> <p><u>(c) The information filed with the NAIC under Subsection (1)(a)(ii) shall be prepared in accordance with the NAIC's Market Conduct Annual Statement Industry User Guide.</u></p> <p>(d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay any filing fees assessed by the NAIC [National Association of Insurance Commissioners].</p> <p>(e) A foreign insurer that is domiciled in a state that has a law substantially similar to this section shall be considered to be in compliance with this section.</p> <p>(2) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the Insurance Regulatory Information System are confidential and may not be disclosed by the department.</p> <p>(3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to:</p> <p>(a) <u>submit the filings [file the annual statement as required by] under Subsection (1)(a) when due or within any extension of time granted for good cause by:</u></p> <p>(i) the commissioner; or</p>	<p>Codifies practice: Specifies the filing requirements for insurers to submit market conduct annual statements with the NAIC.</p>
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	<p>(ii) the <u>NAIC</u> [National Association of Insurance Commissioners]; or</p> <p>(b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay under this section to:</p> <p>(i) the commissioner; or</p> <p>(ii) the <u>NAIC</u> [National Association of Insurance Commissioners].</p>	
Lines	Amendment text	Nature of change
298-671	<p>31A-16-103. Acquisition of control of, divestiture of control of, or merger with domestic insurer.</p> <p>*****</p> <p>(10) (a) [The commissioner shall hold a public hearing under Subsection (9) no later 540 than 45 days after the day on which the statement required by Subsection (1) is filed.] <u>If the commissioner does not hold a hearing described in Subsection (9), the commissioner shall approve or deny the merger or other acquisition within 30 days after the day on which the department deems the statement required under Subsection (1) complete.</u></p> <p>(b) (i) The commissioner shall give at least 20 days notice of [the hearing to the person filing the statement] <u>a hearing described in Subsection (9) to the person filing the statement described in Subsection (1).</u></p> <p>(ii) [Affected parties may waive the notice required by this Subsection (9)(b).] <u>The commissioner shall hold a hearing described in Subsection (9) within 30 days after the day on which the department deems the statement required under Subsection (1) complete.</u></p> <p>(iii) Not less than seven [days] days' notice of the [public] hearing shall be given by the person filing the statement <u>under Subsection (1)</u> to:</p> <p>(A) the insurer; and</p> <p>(B) any person designated by the commissioner.</p> <p>(iv) <u>Affected parties may waive the notice required under this Subsection (10)(b).</u></p>	<p>Technical change: Formatting, numbering, word order and language changes only.</p>

	<p><u>(v) At the hearing, the person filing the statement under Subsection (1), the insurer, any 556 person to whom notice of hearing was sent, and any person whose interest may be affected by 557 the hearing may:</u></p> <p><u>(A) present evidence;</u></p> <p><u>(B) examine and cross-examine witnesses; and</u></p> <p><u>(C) offer oral and written arguments.</u></p> <p><u>(vi) (A) A person or insurer described in Subsection (10)(b)(v) may conduct discovery in the same manner as is allowed in the district courts of this state.</u></p> <p><u>(B) All discovery shall be concluded not later than three days before the commencement of the hearing.</u></p> <p>[(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.</p> <p>(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:</p> <p>(i) present evidence;</p> <p>(ii) examine and cross-examine witnesses; and</p> <p>(iii) offer oral and written arguments.</p> <p>(e) (i) A person or insurer described in Subsection (10)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.</p> <p>(ii) All discovery proceedings shall be concluded not later than three days before the 576 commencement of the public hearing.]</p>	
Lines	Amendment text	Nature of change
672-1261	<p>31A-17-404. Credit allowed a domestic ceding insurer against reserves for reinsurance.</p> <p>*****</p> <p>(16) A ceding insurer licensed under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and</p>	<p>Policy Change: The statute was enacted two years ago to allow domestic insurers to reinsure with captive insurers if certain regulatory reporting requirements could be met. Since then, the Department has realized that those reporting</p>

	<p>Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers [is not] <u>may be</u> allowed credit if the reinsurance is ceded to an assuming domestic [or foreign] captive insurer unless and the insurer complies with and is subject to:</p> <p><u>(a) Section 31A-2-202 through Section 31A-2-205;</u> [(a)]<u>(b)</u> Chapter 4, Insurers in General; [(b)]<u>(c)</u> Chapter 16, Insurance Holding Companies; [(c)]<u>(d)</u> Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act; [(d)]<u>(e)</u> Chapter 17, Determination of Financial Condition; [and] [(e)]<u>(f)</u> Chapter 18, Investments; <u>and</u> <u>(g) any other requirement that, in the commissioner’s discretion, is necessary to promote the captive insurer’s solvency.</u></p>	<p>requirements may not be satisfied or enforceable when a Utah-based insurer cedes a risk to a captive insurer that is domiciled in another state (a “foreign” captive). The problem exists because the insurance industry is regulated on a state level. Under this system, the Department has authority to monitor the financial condition of Utah-based captive insurers but not foreign ones. Only the regulator in the foreign state has that control. And because the foreign regulator may not have adequate regulations, or may not be willing to act for, or even cooperate with, the Department, the Department could be unable to determine the adequacy of the Utah insurer's reinsurance for the purpose of giving reinsurance credit. On the other hand, if a Utah insurer ceded a risk to a Utah captive, those regulatory problems would disappear. The Department would directly regulate the ceding insurer and its assuming captive. For this reason, the Department believes that the better course of action is to: (a) disallow reinsurance credit when a risk is ceded to an out-of-state captive; and (b) strengthen the financial regulation of Utah captives that act as reinsurers.</p>
Lines	Amendment text	Nature of change

<p>1263-1324</p>	<p>31A-19a-209. Special provisions for title insurance.</p> <p>(1)(a)(i) The Title and Escrow Commission [shall adopt rules] <u>may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and</u> subject to Section 31A-2-404, establishing rate standards and rating methods [for individual title insurance producers and agency title insurance producers].</p> <p>(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurers, individual title insurance producers, and agency title insurance producers.</p> <p>(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title insurers, individual title insurance producers, and agency title insurance producers [peculiar] <u>pertaining</u> to the business of title insurance including:</p> <p>(i) the maintenance of title plants; and</p> <p>(ii) the examining of public records to determine insurability of title to real [redevelopment] property.</p> <p>[(2) —</p> <p>(a) — A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall file with the commissioner:</p> <p>(i) — a schedule of the escrow charges that the title insurer, individual title insurance producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and</p> <p>(ii) — any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).</p>	<p>Technical Change: Eliminates unnecessary language.</p> <p>Technical change</p> <p>Technical change</p> <p>Policy change: The Insurance Code now imposes a requirement that each title insurance licensee file with the Department a statement of its lowest charges for escrow services. This requirement often leads to consumer confusion because licensees rarely use their lowest charges. And because the charges are rarely used, the requirement does not help the Department monitor for predatory pricing. The proposed</p>
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<p>(b) — Except for a schedule filed by a title insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.</p> <p>(c) —</p> <p>(i) — The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.</p> <p>(ii) — Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.]</p> <p>[(3)](2) A title insurer, individual title insurance producer, or agency title insurance producer may not [file or] use any rate or other charge relating to the business of title insurance, including rates or charges [filed] for escrow, that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:</p> <p>(a) operate at less than the cost of doing:</p> <p>[(+)] the insurance business; or</p> <p>(ii) — the escrow business; or]</p> <p>(b) fail to adequately underwrite a title insurance policy.</p> <p>[(4) —</p> <p>(a) — All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).</p> <p>(b) — Each change or amendment shall:</p> <p>(i) — be filed with the commissioner, subject to review by the Title and Escrow Commission; and</p> <p>(ii) — state the effective date of the change or amendment, which may not be less than 30 calendar days after the day on which the change or amendment is filed.</p>	<p>amendment eliminates the requirement to file the lowest charges because the filing serves no purpose.</p>
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	<p>(c) — Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.</p> <p>(5) — While the schedule of rates and schedule of charges are effective, a copy of each shall be:</p> <p>(a) — retained in each of the offices of:</p> <p>(i) — the title insurer in this state;</p> <p>(ii) — the title insurer's individual title insurance producers or agency title insurance producers in this state; and</p> <p>(b) — upon request, furnished to the public.</p> <p>(6) — Except in accordance with the schedules of rates and charges filed with the commissioner, a title insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:</p> <p>(a) — in connection with the issuance of a policy of title insurance; or</p> <p>(b) — for escrow services performed in connection with the issuance of a policy of title insurance.]</p>	
Line	Amendment text	Nature of change
1326-1415	<p>31A-23a-106. License types.</p> <p>*****</p> <p>(2)(c) A limited line producer license type includes the following limited lines of authority:</p> <ul style="list-style-type: none"> (i) limited line credit insurance; (ii) travel insurance, as set forth in Part 9, Travel Insurance Act; (iii) motor club insurance; (iv) car rental related insurance; (v) legal expense insurance; (vi) crop insurance; (vii) self-service storage insurance; (viii) bail bond producer; (ix) guaranteed asset protection waiver; and (x) portable electronics insurance[.]; <u>and</u> 	

	(xi) <u>pet insurance.</u>	Codifies practice: This amendment reflects the Department's rule, R590-288, that adds a limited line insurance producer license for pet insurance.
Line	Amendment text	Nature of change
1417-1585	<p>31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.</p> <p>*****</p> <p>(5)</p> <p>*****</p> <p>(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:</p> <p>*****</p> <p>(xiv) <u>has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:</u></p> <p>(A) a felony; or</p> <p>(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;</p> <p>*****</p>	<p>Policy change: Utah courts are increasingly relying on pleas in abeyance to dispose of criminal cases. A plea in abeyance allows a criminal defendant to admit to criminal conduct and at the same time avoid a conviction for that conduct if certain conditions are satisfied. This amendment permits the department to take action against its licensees for criminal conduct without the need for a formal criminal conviction.</p>
Line	Amendment text	Nature of change
1587-1719	<p>31A-23a-406. Title insurance producer's business.</p> <p><u>(1) As used in this section:</u></p> <p><u>(a) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.</u></p> <p><u>(b) "Depository institution" means the same as that term is defined in Section 7-1-103.</u></p> <p><u>(c) "Funds transfer system" means the same as that term is defined in Section 7-1-103.</u></p>	

	<p>[(4)] (2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:</p> <p>(a) the individual title insurance producer or agency title insurance producer is licensed with:</p> <p>(i) the title line of authority; and</p> <p>(ii) the escrow subline of authority;</p> <p>(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;</p> <p>(c) except as provided in Subsection (3), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:</p> <p>(i) an owner's policy offering title insurance; (ii) a lender's policy offering title insurance; or</p> <p>(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;</p> <p>(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:</p> <p>(i) in a federally insured depository institution, as defined in Section 7-1-103, that:</p> <p>(A) has [an office] <u>a branch</u> in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and</p> <p>(B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and</p> <p>(ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;</p> <p>(e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of</p>	<p>Codifies practice: Title insurance agencies that provide escrow services hold money in trust for their clients. The law requires that the trust money be deposited in a federally-insured depository institution in Utah. This requirement assures that the money held in trust remains in Utah. However, the statute refers to an institution with “an office” in Utah, so some have contended</p>
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<p>the one or more persons entitled to the money under the provisions of the escrow; and</p> <p>(f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;</p> <p>(g) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;</p> <p>(h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:</p> <p>(i) construction money; or</p> <p>(ii) money held for exchange under Section 1031, Internal Revenue Code; and</p> <p>(i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.</p> <p>*****</p> <p>[(6)] (7) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.</p> <p>(b) As used in this Subsection (6), money is considered to be "collected and cleared," and may be disbursed as follows:</p> <p>(i) cash may be disbursed on the same day the cash is deposited;</p> <p>(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; [and]</p> <p>(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the</p>	<p>that any type of "office" of an out-of-state institution is sufficient. This argument is contrary to the "depository institution" requirement because, under Utah law, only a "branch" of an institution may accept deposits. The amendment fixes the problem with the word "office" by replacing it with "branch".</p>
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<p>aggregate of the financial instruments for the real 1664 estate transaction is less than \$10,000:</p> <p>(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;</p> <p>(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;</p> <p>(C) a personal check not to exceed \$500 per closing; or</p> <p>(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction[-];</p> <p><u>(iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:</u></p> <p><u>(A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network transfer process;</u></p> <p><u>(B) except as a function of the ACH network process, the transferred funds are not subject to comingling or third party access during the transfer process;</u></p> <p><u>(C) the transferred funds are deposited into the title insurance producer's escrow account and are available for disbursement; and</u></p>	<p><i>Policy change:</i> Technological advances have produced new processes for safely sending and receiving money. The amendment describes the circumstances under which escrow companies may disburse funds received through one of the new processes.</p>
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	<p><u>(D) either the ACH network payment type or the title insurance producer's systems prevent the transaction from being unilaterally canceled or reversed by the consumer once the transferred funds are deposited to the individual title insurance producer or agency title producer;</u></p> <p><u>(v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:</u></p> <p><u>(A) the Federal Reserve Bank through the Federal Reserve's funds transfer system; or</u></p> <p><u>(B) a funds transfer system provided by an association of banks.</u></p> <p>(c) A check or deposit not described in Subsection (6)(b) may be disbursed:</p> <p>(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or</p> <p>(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.</p>	
Line	Amendment	Nature of change
1721-1766	<p>31A-23a-409. Trust obligation for money collected.</p> <p>*****</p> <p>(2) Money required to be deposited under Subsection (1) shall be deposited:</p> <p>(a) in a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:</p> <p>(i) has [an office] <u>a branch</u> in this state, if the <u>individual title insurance producer or agency title insurance producer</u> depositing the money is a resident licensee;</p> <p>(ii) has federal deposit insurance; and</p> <p>(iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or</p> <p>(b) in some other account, that:</p> <p>(i) the commissioner approves by rule or order; and</p>	<p><i>Codifies practice:</i> Title insurance agencies that provide escrow services hold money in trust for their clients. The law requires that the trust money be deposited in a federally-insured depository institution in Utah. This requirement assures that the money held in trust remains in Utah. However, the statute refers to an institution with “an office” in Utah, so some have contended that any type of “office” of an out-of-state institution is sufficient. This argument is contrary to the “depository institution” requirement because, under</p>

	(ii) provides safety comparable to an account described in Subsection (2)(a). *****	Utah law, only a “branch” of an institution may accept deposits. The amendment fixes the problem with the word “office” by replacing it with “branch”.
Line	Amendment	Nature of change
1768-1849	<p>31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created. *****</p> <p>(2)(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, <u>during the first quarter of each fiscal year</u> the Title and Escrow Commission [by rule shall establish] <u>shall approve</u> the amount of costs and expenses described under Subsection (3) <u>for the prior fiscal year</u> that will be covered by the assessment [, except the costs or expenses to be covered by the assessment may not exceed the cost of one full-time equivalent position].</p>	<p>Policy Change:</p> <p>1. The requirement that the Commission use the rulemaking process to establish an amount of costs and expenses is unnecessarily time consuming and costly. Allowing the Commission to approving those costs and expenses is sufficient.</p> <p>2. The current statute limits the assessment amount to the equivalent of one FTE. This limitation is no longer financially feasible because the costs and expenses under Subsection (3) (“the administration, investigation, and enforcement of laws governing individual title insurance producers, agency title insurance producers, or title insurers”) include the part-time work of 6 other department employees. During FY22, the cost of that work exceeded the one-FTE cap by nearly \$50K. The Department’s main account has been subsidizing title insurance work.</p>
Line	Amendment	Nature of change

<p>1851-1993</p>	<p>31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement. ***** (4) ***** (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant: ***** (xii) has been convicted of, <u>or has entered a plea in abeyance as defined in Section 77-2a-1 to:</u> (A) a felony; or (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty; *****</p>	<p>Policy change: Utah courts are increasingly relying on pleas in abeyance to dispose of criminal cases. A plea in abeyance allows a criminal defendant to admit to criminal conduct and at the same time avoid a conviction for that conduct if certain conditions are satisfied. This amendment permits the department to take action against its licensees for an admission of criminal conduct without the need for a formal criminal conviction.</p>
<p>Line</p>	<p>Amendment</p>	<p>Nature of change</p>
<p>1995-2139</p>	<p>31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement. ***** (4) ***** (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee or license applicant: ***** (xiv) has been convicted of, <u>or has entered a plea in abeyance as defined in Section 77-2a-1 to:</u> (A) a felony; or (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty; *****</p>	<p>Policy change: Utah courts are increasingly relying on pleas in abeyance to dispose of criminal cases. A plea in abeyance allows a criminal defendant to admit to criminal conduct and at the same time avoid a conviction for that conduct if certain conditions are satisfied. This amendment permits the department to take action against its licensees for criminal conduct without the need for a formal criminal conviction.</p>

Line	Amendment	Nature of change
2141-2301	<p>31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement. ***** (5) ***** (b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant: ***** (xiv) <u>has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:</u> (A) a felony; or (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty; *****</p>	<p>Policy change: Utah courts are increasingly relying on pleas in abeyance to dispose of criminal cases. A plea in abeyance allows a criminal defendant to admit to criminal conduct and at the same time avoid a conviction for that conduct if certain conditions are satisfied. This amendment permits the department to take action against its licensees for criminal conduct without the need for a formal criminal conviction.</p>
Line	Amendment text	Nature of change
2303-2352	<p>31A-30-118 Patient Protection and Affordable Care Act -- State insurance mandates -- Cost of additional benefits. ***** (4) (a) As used in this Subsection (4), "account" means the State Mandated Insurer Payments Restricted Account created in Subsection (4)(b). (b) There is created in the General Fund a restricted account known as the "State Mandated Insurer Payments Restricted Account." (c) The account shall consist of: (i) money appropriated to the account by the Legislature; and (ii) interest earned on money in the account. (d) The commissioner shall administer the account for the sole benefit of a qualified health plan issuer who is eligible to receive payments under this section. (e) An appropriation from the account is nonlapsing.</p>	<p>Technical change: This amendment creates an account into which General Funds may be placed to pay for state-mandated autism benefits.</p>

	<p>(5) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:</p> <p>(a) administer the provisions of this section and 45 C.F.R. 155.170; and</p> <p>(b) establish or implement a process for submitting a payment to an issuer under Subsection (3)(b).</p>	
Line	Amendment text	Nature of change
2354-2401	<p>31A-31-110. Mandatory reporting of fraudulent insurance acts.</p> <p>(1)(a) A person shall report a fraudulent insurance act to the department if:</p> <p>(i) the person has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed by a person other than the person making the report; and</p> <p>(ii) the person is:</p> <p>(A) an insurer; or</p> <p>(B) in relation to the business of title insurance, an auditor that is employed by a title insurer.</p> <p>(b) The report required by this Subsection (1) shall:</p> <p>(i) be in writing;</p> <p><u>(ii) be submitted through:</u></p> <p><u>(A) the National Insurance Crime Bureau fraud reporting system;</u></p> <p><u>(B) the NAIC's online fraud reporting system; or</u></p> <p><u>(C) using an email address established by the department for the purpose of submitting the report required by this Subsection (1);</u></p> <p>[(ii)](iii) provide information in detail relating to:</p> <p>(A) the fraudulent insurance act; and</p> <p>(B) the perpetrator of the fraudulent insurance act; and</p> <p>[(iii)](iv)(A) state whether the person required to report under Subsection (1)(a) also reported the fraudulent insurance act in writing to:</p> <p>(I) the attorney general;</p> <p>(II) a state law enforcement agency;</p> <p>(III) a criminal investigative department or agency of the United States;</p>	<p>Technical Change: The Department's administrative rule, R590-248, is nearly substantively identical to this statute. This statutory amendment adds one requirement that is in the rule but not in the statute – a statement about who should report insurance fraud and how to file a report. If the statute is enacted, the rule may be repealed.</p>

	<p>(IV) a district attorney; or</p> <p>(V) the prosecuting attorney of a municipality or county; and</p> <p>(B) if the person reported the fraudulent insurance act as provided in Subsection (1)(b)(iii)(A), state the agency to which the person reported the fraudulent insurance act.</p> <p>(c) A person required to submit a written report under this Subsection (1) shall submit the written report to the department by no later than 90 days from the day on which the person required to report the fraudulent insurance act has a good faith belief on the basis of a preponderance of the evidence that the fraudulent insurance act is being, will be, or has been committed.</p> <p>(2) An action brought under Section 31A-2-201, 31A-2-308, or 31A-31-109, for failure to comply with Subsection (1) shall be commenced within four years from the date on which a person described in Subsection (1):</p> <p>(a) has a good faith belief on the basis of a preponderance of the evidence that a fraudulent insurance act is being, will be, or has been committed; and</p> <p>(b) willfully fails to report the fraudulent insurance act.</p> <p>(3) The department may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide a process by which a person described in Subsection (1)(a)(ii)(B) may comply with the requirements of Subsection (1) by reporting a fraudulent insurance act to the insurer with whom the person is employed, except that the rule shall provide that if the person reports the fraudulent insurance act to the insurer, the insurer is required to report the fraudulent insurance act to the department.</p> <p>(4) A person described in Subsection (1)(a)(ii) who in good faith makes a report under this section, in accordance with Section 31A-31-105, is immune from civil action, civil penalty, or damages for making that report.</p>	
Line	Amendment text	Nature of change

<p>2403-2452</p>	<p>31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license. *****</p> <p>(2)</p> <p>(a)</p> <p>(i) An agency shall pay a judgment not later than 15 days following service of notice upon the agency from a prosecutor of the entry of the judgment.</p> <p>(ii) An agency may pay a bail bond forfeiture to the court prior to judgment.</p> <p>(b)</p> <p>(i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the agency of a judgment shall notify the commissioner of the failure to pay the judgment.</p> <p>(ii) The commissioner shall notify the agency, by the most expeditious means available, of the nonpayment of the judgment.</p> <p>(iii) The agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). [If the judgment is not satisfied at the end of the five days, the commissioner may suspend the agency's license under Subsection (3).]</p> <p>(c) If notice of entry of judgment is served upon the agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).</p> <p>(d) A prosecutor may not proceed under Subsection (2)(b) if an agency, within 15 days after service of notice of the entry of judgment is served:</p> <p>(i) files a motion to set aside the judgment or files an application for an extraordinary writ; and</p> <p>(ii) provides proof that the agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.</p>	<p>Codifies practice: The statement in Subsection (2)(b)(iii) (“If the judgment is not satisfied at the end of the five days, the commissioner <i>may</i> suspend the agency's license under Subsection (3)”) contradicts the statement in Subsection (3) (“The commissioner <i>shall</i> suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b)”). The amendment eliminates the contradiction by deleting the statement in Subsection (2)(b)(iii).</p>
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	<p>(e) As used in this section, the filing of the following tolls the time within which an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:</p> <p>(i) a motion to set aside a judgment; or</p> <p>(ii) an application for extraordinary writ.</p> <p>(3) The commissioner shall suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b).</p> <p>*****</p>	
Line	Amendment text	Nature of change
2454-2638	<p>31A-37-102. Definitions.</p> <p>*****</p> <p>(4) "Association" means a legal association of two or more persons that [has been in continuous existence for at least one year if] <u>meets the following requirements:</u></p> <p><u>(a) the persons are exposed to similar or related liability because of related, similar, or common business trade, products, services, premises, or operations; and</u></p> <p>[(a)](b)(i) <u>(b)(i)</u> the association or [its] the association's member organizations: [(+)](A) <u>(A)</u> own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; [or]</p> <p>[(+)](B) <u>(B)</u> have complete voting control over an association captive insurance company incorporated as a mutual insurer; <u>or</u></p> <p><u>(C) have complete voting control over an association captive insurance company formed as a limited liability company; or</u></p> <p>[(b)](ii) <u>(ii)</u> the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer. [; or</p> <p>(c) the association or the association's member organizations have</p>	<p>Policy change: For an association of captives, this amendment eliminates the requirement that an association be in continuous existence for at least one year. The Department has determined that this requirement serves no purpose in protecting the public interest.</p>

	complete voting control over an association captive insurance company formed as a limited liability company.] *****	
Line	Amendment text	Nature of change
2640-2674	<p>31A-37-202. Permissive areas of insurance. *****</p> <p>(6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:</p> <p>(a) parent; (b) affiliated company; [or] [(c) controlled unaffiliated business.] *****</p>	<p>Codifies practice: Due to concerns about creating an incentive to engage in conduct that warrants a punitive damage award, the Department has never allowed a captive to insure a third party, such as a controlled unaffiliated business, from liability for punitive damages. This amendment codifies that practice.</p>
Line	Amendment text	Nature of change
2676-2776	<p>31A-37-204. Paid-in capital -- Other capital.</p> <p>(1)(a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:</p> <p>(i) in the case of a pure captive insurance company[;]: <u>(A) except as provided in Subsection (1)(a)(i)(B), not less than \$250,000; or</u> <u>(B) if the pure captive insurance company is not acting as a pool that facilitates risk distribution for other captive insurers, an amount that is the greater of:</u> <u>(I) not less than 20% of the company's total aggregate risk; or</u> <u>(II) \$50,000.</u></p> <p>(ii) in the case of an association captive insurance company, not less than \$750,000; (iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$700,000;</p>	<p>Policy change: The amendment reduces the initial capitalization requirement for a pool captive insurer that doesn't facilitate risk distribution for other captives. The lower capitalization requirement makes a captive insurer an option for a broader range of businesses.</p>

	<p>(iv) in the case of a sponsored captive insurance company, not less than \$500,000, of which a minimum of \$200,000 is provided by the sponsor; or</p> <p>(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.</p> <p>(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:</p> <p>(i)</p> <p>(A) cash; or</p> <p>(B) cash equivalent;</p> <p>(ii) an irrevocable letter of credit:</p> <p>(A) issued by:</p> <p>(I) a bank chartered by this state; or</p> <p>(II) a member bank of the Federal Reserve System; and <u>or</u></p> <p><u>(III) a member bank of the Federal Deposit Insurance Corporation;</u></p> <p>(B) approved by the commissioner;</p> <p>(iii) marketable securities as determined by Subsection (5); or</p> <p>(iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant to an approved plan of liquidation and reorganization of another captive insurance company or alien captive insurance company in another jurisdiction.</p> <p>*****</p>	<p><i>Technical change</i></p>
Line	Amendment text	Nature of change

<p>2778-2865</p>	<p>49-20-401. Program -- Powers and duties.</p> <p>(1) The program shall:</p> <p>(a) act as a self-insurer of employee benefit plans and administer those plans;</p> <p>(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;</p> <p>(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;</p> <p>(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;</p> <p>(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;</p> <p>(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;</p> <p>(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;</p> <p>(h) annually submit a budget and audited financial statements to the governor and Legislature that includes total projected benefit costs and administrative costs;</p> <p>(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;</p> <p>(j) submit, in advance, the program's recommended benefit <u>and rate</u> adjustments for state employees, <u>which may include actuarially substantiated member premium differentials between networks</u> to:</p> <p>(i) the Legislature; and</p> <p>(ii) the director of the state Division of Human Resource Management;</p> <p>(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;</p> <p>(l) determine benefits and rates based on the total estimated costs and</p>	<p>Policy change: The change is included at the request of PEHP.</p>
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	<p>the employee premium share established by the Legislature, upon approval of the board, for state employees;</p> <p>(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;</p> <p>(n) request proposals for one or more out-of-state provider networks and a dental health plan administered by a third-party carrier at least once every three years for the purposes of:</p> <p>(i) stimulating competition for the benefit of covered individuals;</p> <p>(ii) establishing better geographical coverage of medical care services; and</p> <p>(iii) providing coverage for both active and retired covered individuals;</p> <p>(o) for a proposal that meets the criteria specified in a request for proposals and is accepted by the program:</p> <p>(i) offer the proposal to active and retired state-covered individuals; and</p> <p>(ii) at the option of the covered employer, offer the proposal to active and retired covered individuals of other covered employers;</p> <p>(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's 2765 Health Insurance Act;</p> <p>(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;</p> <p>(r) (i) contract directly with medical providers to provide services for covered individuals at commercially competitive rates; and 2770 (ii) (A) discontinue the preferred network, which offers in-network access to all in-state hospitals, for the state risk pool created in Subsection 49-20-202(1)(a) for plan years starting on or after July 1, 2022; and (B) for an employee in the state risk pool who fails to elect one of the remaining networks before July 1, 2022, enroll the employee and the employee's dependents into the network that best reflects the utilization</p>	
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	<p>pattern of that employee and the employee's dependents;</p> <p>(s) (i) require state employees and the state employees' dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and</p> <p>(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time;</p> <p>(t) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health 2786 Code, provide services for:</p> <p>(i) drugs;</p> <p>(ii) medical devices; or</p> <p>(iii) other types of medical care; and</p> <p>(u) take additional actions necessary or appropriate to carry out the purposes of this chapter.</p> <p>(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.</p> <p>(b) The board shall approve administrative costs and report the administrative costs to the governor and the Legislature.</p> <p>(3) The Division of Human Resource Management shall include the benefit <u>and rate</u> adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 63A-17-307(5)(a).</p> <p>(4) The program may establish a partnership with a public entity in a different state to purchase or share services related to the administration of medical benefits if:</p> <p>(a) the program receives approval for the partnership from the board; and</p>	
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	(b) the partnership: (i) creates cost savings for Utah; (ii) does not commingle state funds with funds of the public entity in the other state; and (iii) does not pose a greater actuarial risk to Utah than the program has already assumed.	
Line	Amendment text	Nature of change
2867-3017	63J-1-602.1 List of nonlapsing appropriations from accounts and funds. ***** <u>(22) The State Mandated Insurer Payments Restricted Account created in 31A-30-118.</u>	Technical change: This amendment designates the restricted account created for state mandated autism payments to be a non-lapsing account.