

Chapter 11 Motor Clubs

31A-11-101 Prohibition of unauthorized motor clubs.

- (1) No person may act as a motor club, except:
 - (a) a corporation authorized under Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, which actually engages in the insurance of automobiles against liability, physical damage, or both; or
 - (b) a corporation or division of a corporation authorized under this chapter.
- (2) No person is acting as a motor club merely by offering travel-related services that do not constitute insurance, or by arranging, through producers qualified under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, for insurance coverages underwritten by insurers authorized to do business in this state.

Amended by Chapter 298, 2003 General Session

31A-11-102 Activities of motor clubs.

- (1) Motor clubs authorized under this chapter may provide or arrange for the following services:
 - (a) service as producer in obtaining insurance coverage from authorized insurers, subject to Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
 - (b) provision of, or payment for, legal services and costs in the defense of traffic offenses or other legal problems connected with the ownership or use of a motor vehicle, provided the maximum amount payable for any one incident is not more than 100 times the annual charge for the motor club contract;
 - (c) guaranteed arrest bond certificates and cash bond guarantees as specified under Section 31A-11-112;
 - (d) payment of specified expenses resulting from an automobile accident, other than expenses for personal injury or for damage to an automobile, provided the maximum amount payable for any one accident is not more than 100 times the annual charge for the motor club contract;
 - (e) towing and emergency road services and theft services; and
 - (f) any services relating to travel not involving the transfer and distribution of risk.
- (2) Unless they are also insurers under Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers, motor clubs may not provide any liability or physical damage insurance or insurance of life or accident and health, whether or not related to motor vehicles.
- (3) If a motor club is a separate division of a corporation, the activities of the other divisions of the corporation are not limited by this section, if the motor club division complies with Subsection 31A-11-106(3).

Amended by Chapter 298, 2003 General Session

31A-11-103 Rates.

- (1) Rates charged to holders of motor club service contracts may not be inadequate, excessive, or unfairly discriminatory.
- (2) If, after a hearing, the commissioner finds a motor club's rates in violation of this section, the commissioner may issue an order to the club to make a filing under Section 31A-19a-203. After

issuance of such an order, the commissioner and the club shall proceed under Chapter 19a, Utah Rate Regulation Act, until the commissioner determines that the club's rates conform to the requirements of this section. Chapter 19a, Utah Rate Regulation Act, is then inapplicable to the club until the issuance of another order under this section.

Amended by Chapter 130, 1999 General Session

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

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

Amended by Chapter 309, 2007 General Session

31A-11-105 Application of Title 16 -- Incorporation of domestic motor clubs.

Domestic corporations acting or applying to act as a motor club under this chapter are subject to Title 16, Chapter 10a, Utah Revised Business Corporation Act, if for profit, or Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, if not for profit. The Division of Corporations and Commercial Code in the Department of Commerce issues certificates of incorporation for domestic corporations acting as motor clubs under this chapter, unless they are Chapter 5, Domestic Stock and Mutual Insurance Corporations, corporations. This section does not negate the requirement of a motor club obtaining a certificate of authority from the commissioner. Section 16-6a-301 does not apply to bar a not-for-profit motor club from organizing under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

Amended by Chapter 300, 2000 General Session

31A-11-106 Application for certificate of authority -- Deposit or bond.

- (1) Any corporation may apply, in the form specified by the commissioner, for a certificate of authority to transact a motor club business. The applicant shall include with the application any documents the commissioner may reasonably require, the deposit described in Subsection (2), which may be waived if net worth exceeds the deposit requirements, and the fee provided for in Section 31A-3-103. No person may engage in the motor club business without complying with this section and receiving a certificate of authority under Section 31A-11-107.

- (2) The deposit required under Subsection (1) shall comply with the requirements of Section 31A-2-206, and is \$100,000. In lieu of the deposit, the applicant may supply a bond of a corporate surety authorized to do a surety business in this state, in the same sum and in a form prescribed by the commissioner, payable to the state. The deposit, or the bond, shall be conditioned upon the corporation's faithful performance in the sale or rendering of motor club service under the provisions of this chapter, and the payment of fines, fees, or penalties imposed on the motor club under this title. Any person with a claim against the deposit or bond arising from the motor club's breach of the conditions of the deposit or bond may bring suit in his own name to make a claim against the deposit or bond, or the commissioner may bring suit on behalf of claimants. In no event shall the liability of the surety exceed the amount of the bond, regardless of the number of claimants or claims made on the bond. Regardless of the number of years the bond continues in force or the number of premiums payable or paid, the limit of the surety's liability, specified as the amount of liability of the bond, is not cumulative from year to year or from period to period. The bond shall be forfeited up to the amount of actual damages sustained by any claimant or claimants. No cause of action shall be filed against the bond after two years from the date of termination of the bond.
- (3) If a motor club is a separate division of a corporation, the commissioner may increase the deposit or bond requirements to take into account the increased risk created by the other business of the corporation. However, the deposit or bond requirement may not be more than twice the amounts required under Subsection (2).

Amended by Chapter 10, 1988 Special Session 2

Amended by Chapter 10, 1988 Special Session 2

31A-11-107 Issuance of certificate of authority -- Reinsurance of excess services.

- (1) The commissioner shall issue a certificate applied for under Section 31A-11-106 if the commissioner finds that:
 - (a) the corporation is able to negotiate, execute, and carry out the motor club business in a sound, reliable, and ongoing manner;
 - (b) the reinsurance requirements of Subsection (2) are satisfied; and
 - (c) all other applicable requirements of law are satisfied.
- (2) If a motor club provides legal expense service other than that authorized in Subsection 31A-11-102(1)(b), or other trip reimbursement service than that authorized in Subsection 31A-11-102(1)(d), or bail service other than that authorized under Section 31A-11-112, it shall fully reinsure the excess service with an insurer authorized under Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers. That insurer shall assume direct liability to the insured, and shall fully comply with Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

Amended by Chapter 297, 2011 General Session

31A-11-108 Denial of certificate of authority.

If the commissioner declines or fails to issue a certificate of authority under Section 31A-11-107 within a reasonable time, he shall issue an order giving a reasonably detailed explanation for the refusal or the delay.

Enacted by Chapter 242, 1985 General Session

31A-11-109 Alteration or revocation of certificate of authority.

If the commissioner issues an order under Chapter 27, Part 5, Administrative Actions, against a motor club, the commissioner may revoke its certificate of authority or issue a new one with the limits the commissioner considers necessary.

Amended by Chapter 309, 2007 General Session

31A-11-110 Registration of agents.

No person may execute, issue, or deliver any motor club service contract to any person or receive anything of value for the contract either before or after its execution, unless he is registered with the commissioner. A person is registered upon filing a statement including his name, home and business address, telephone number, and motor club represented with the commissioner, on a form prescribed by the commissioner, and upon payment of all the fees due under Section 31A-3-103. Registered persons shall give the commissioner notice of any change in registration information.

Enacted by Chapter 242, 1985 General Session

31A-11-111 Reservation and registration of corporate name.

Sections 16-10a-402, 16-10a-403, and 42-2-5 apply to the reservation and registration of the corporate name of motor clubs.

Amended by Chapter 277, 1992 General Session

31A-11-112 Bail for traffic violations.

- (1) Any insurance company that is qualified to transact a surety business in Utah may contract to become surety for any guaranteed arrest bond certificates issued by it or by a motor club, by filing with the commissioner an undertaking to become surety. The undertaking shall be in a form prescribed by the commissioner and shall state the following:
 - (a) The name and address of the motor club or clubs issuing the guaranteed arrest bond certificates on which the company will be surety, and whether the motor club will issue the certificates itself.
 - (b) The unqualified obligation of the company to be surety to pay, up to a specified dollar amount, the fine or forfeiture of any person who fails to make an appearance to answer the charges for which the guaranteed arrest bond certificate is posted.
- (2) Any guaranteed arrest bond certificate under Subsection (1), when posted by the signatory, shall be accepted in lieu of cash bail or other bond in an amount not exceeding the dollar amount specified under Subsection (1)(b), to guarantee the appearance of the person when required by any court in Utah when the person is arrested for violation of any Utah motor vehicle law, or any motor vehicle ordinance of any Utah municipality, except for driving under the influence of drugs or intoxicating liquors or for any felony. A law enforcement officer who issues a citation to an operator of a vehicle who has a valid guaranteed arrest bond certificate in his possession shall obtain the necessary information for the arrest citation, and if the guaranteed arrest bond certificate covers the fine for the violation, the officer shall release the vehicle and operator after serving the citation and receiving the guaranteed arrest bond from the operator. The officer shall deliver the guaranteed arrest bond to the appropriate court to be held as a bail bond.

- (3) A guaranteed arrest bond certificate posted as a bail bond in a district court is subject to the forfeiture and enforcement provisions which govern bail bonds in criminal cases. A guaranteed arrest bond certificate posted as a bail bond in a justice court is subject to the forfeiture and enforcement provisions of the charter or ordinance of the particular municipality which pertains to bail bonds.
- (4) A motor club may not agree to exonerate or indemnify an authorized surety issuing guaranteed arrest bonds under Subsection (1) for losses in connection with these bonds.

Amended by Chapter 10, 1997 General Session
Amended by Chapter 215, 1997 General Session

31A-11-114 Reports in lieu of examination of motor club.

In lieu of all or any part of an examination of a motor club under this title, the commissioner may accept the report of an:

- (1) audit conducted by a certified public accountant; or
- (2) examination made by a government agency.

Enacted by Chapter 344, 1995 General Session