

Part 3 Rate Service Organizations

31A-19a-301 Operation and control of rate service organizations.

- (1)
 - (a) A rate service organization may not provide any service relating to statistical collection or the rates of any insurance subject to this chapter unless the organization is licensed under Section 31A-19a-302.
 - (b) An insurer may not use the services of the organization for the purposes described in Subsection (1)(a), unless the organization is licensed under Section 31A-19a-302.
- (2) A rate service organization may not refuse to supply any services for which it is licensed in this state to any insurer:
 - (a) authorized to do business in this state; and
 - (b) that offers to pay the fair and usual compensation for the services.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-302 Licensing of rate service organizations.

- (1) A rate service organization applying for a license shall include with its application:
 - (a) a copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;
 - (b) a list of its members and subscribers;
 - (c) the name and address of one or more residents of Utah upon whom notices, processes affecting it, or orders of the commissioner may be served;
 - (d) a statement explaining in what capacity it plans to function and showing its technical qualifications for acting in the capacity for which it seeks a license;
 - (e) biographical information, as defined by the department, of the officers and directors of the organization; and
 - (f) any other relevant information and documents that the commissioner requires.
- (2) A rate service organization that applies for a license under Subsection (1) shall promptly notify the commissioner of every material change in the facts or in the documents on which its application was based.
- (3)
 - (a) The commissioner shall issue a license specifying the authorized activity of an applicant, if the commissioner finds that:
 - (i) the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed; and
 - (ii) all the requirements of law are met.
 - (b) The commissioner may not issue a license if the proposed activity would tend to:
 - (i) create a monopoly; or
 - (ii) lessen or substantially lessen the competition in any market.
- (4)
 - (a) Any license issued under this chapter shall be subject to annual renewal.
 - (b) A fee shall be charged for the initial license and for renewal. The fee shall be set by the Legislature under Section 31A-3-103.

- (5) Any amendment to a document filed under Subsection (1)(a) shall be filed within at least 30 calendar days after the day the document becomes effective. Failure to comply with this Subsection (5) is a ground for revocation of the license granted under Subsection (3).
- (6) The license of each rate service organization licensed under former Title 31, Chapter 18, is continued under this chapter.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-303 Termination of license.

- (1) A license issued under this chapter remains in force until:
 - (a) revoked, suspended, or limited under Subsection (2);
 - (b) lapsed under Subsection (3); or
 - (c) surrendered to and accepted by the commissioner.
- (2)
 - (a) After a hearing, the commissioner may revoke, suspend, or limit in whole or in part, the license of any person licensed under this part, if:
 - (i) the licensee is found to be unqualified;
 - (ii) the licensee is found to have violated:
 - (A) an insurance statute;
 - (B) a valid rule under Subsection 31A-2-201(3); or
 - (C) a valid order under Subsection 31A-2-201(4); or
 - (iii) the licensee's methods and practices in the conduct of business endanger the legitimate interests of policyholders, insurers, or the public.
 - (b) An order suspending a license issued under this chapter shall specify the period of suspension, but in no event may the suspension period exceed 12 months.
- (3)
 - (a) Any license issued under this chapter shall lapse if the licensee fails to pay a fee when due.
 - (b) A license that lapses under this Subsection (3) may be reinstated if the licensee, within 90 calendar days from the day the license lapsed, pays twice the usual license renewal fee.
- (4) A licensee whose license is suspended or revoked, but who continues to act as a licensee is subject to the penalties applicable to violating Subsection 31A-19a-301(1).
- (5)
 - (a) An order revoking a license under Subsection (2) may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
 - (b) If under Subsection (5)(a) no time is specified, the former licensee may not apply for five years, without the express approval of the commissioner.
- (6)
 - (a) Any person whose license is suspended or revoked shall, when the suspension ends or a new license is issued, pay all fees that would have been payable if the license had not been suspended or revoked, unless the commissioner, by order, waives the payment of the interim fees.
 - (b) If a new license is issued more than three years after the revocation of a similar license, Subsection (6)(a) applies only to the fees that would have accrued during the three years immediately following the revocation.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-304 Probation.

- (1)
 - (a) In any circumstances that would justify a suspension under Section 31A-19a-303, instead of a suspension, the commissioner may, after a hearing, put the licensee on probation for a specified period not to exceed 12 months from the date of probation.
 - (b) The probation order shall state the conditions for retention of the license, which shall be reasonable.
- (2) Violation of the probation constitutes grounds for revocation pursuant to a proceeding authorized under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

31A-19a-305 Anti-competitive agreements prohibited.

- (1)
 - (a) An insurer may not assume any obligation to any person other than a policyholder or other company under common control, to use or adhere to certain rates or rating procedures.
 - (b) Except for a policyholder or other company under common control, a person may not impose any penalty or other adverse consequence for failure of an insurer to adhere to certain rates or rating procedures.
- (2) This section does not apply to rates used:
 - (a) by a joint underwriting group;
 - (b) by a pool;
 - (c) under quota share reinsurance treaties; or
 - (d) by a residual market mechanism.

Renumbered and Amended by Chapter 130, 1999 General Session

31A-19a-306 Insurers and rate service organizations -- Prohibited activity.

- (1) An insurer or rate service organization may not:
 - (a) attempt to monopolize, or combine or conspire with any other person to monopolize an insurance market; or
 - (b) engage in a boycott of an insurance market on a concerted basis.
- (2)
 - (a) Except as provided in Subsection (2)(c), an insurer may not agree with any other insurer or with a rate service organization to mandate adherence to or to mandate use of any:
 - (i) rate;
 - (ii) prospective loss cost;
 - (iii) rating plan;
 - (iv) rating schedule;
 - (v) rating rule;
 - (vi) policy or bond form;
 - (vii) rate classification;
 - (viii) rate territory;
 - (ix) underwriting rule;
 - (x) survey;
 - (xi) inspection; or
 - (xii) material similar to those described in Subsections (2)(a)(i) through (xi).

- (b) The fact that two or more insurers, whether or not members or subscribers of a rate service organization, use consistently or intermittently the same materials described in Subsection (2)(a) is not sufficient in itself to support a finding that an agreement exists.
- (c) An insurer may enter into an agreement prohibited by Subsection (2)(a):
 - (i) to the extent needed to facilitate the reporting of statistics to:
 - (A) a rate service organization;
 - (B) a statistical agent; or
 - (C) the commissioner; or
 - (ii) as provided in Part 4, Workers' Compensation Rates.
- (3) Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this section as if they constituted a single insurer.
- (4) An insurer or rate service organization may not make any arrangement with any other insurer, rate service organization, or other person that has the purpose or effect of unreasonably restraining trade or unreasonably lessening competition in the business of insurance.

Enacted by Chapter 130, 1999 General Session

31A-19a-307 Rate service organizations -- Permitted activity.

A rate service organization may on behalf of its members and subscribers:

- (1) develop statistical plans including territorial and class definitions;
- (2) collect statistical data from:
 - (a) members;
 - (b) subscribers; or
 - (c) any other source;
- (3) prepare, file, and distribute prospective loss costs which may include provisions for special assessments;
- (4) prepare, file, and distribute:
 - (a) factors;
 - (b) calculations;
 - (c) formulas pertaining to classification; or
 - (d) territory, increased limits, and other variables;
- (5) prepare, file, and distribute supplementary rating information;
- (6) distribute information that is required or directed to be filed with the commissioner;
- (7) conduct research and on-site inspections to prepare classifications of public fire defenses;
- (8) consult with public officials regarding public fire protection as it would affect members, subscribers, and others;
- (9) conduct research and onsite inspections to discover, identify, and classify information relating to causes or prevention of losses;
- (10) conduct research relating to the impact of statutory changes upon prospective loss costs;
- (11) prepare, file, and distribute policy forms and endorsements;
- (12) consult with members, subscribers, and others concerning use and application of the policy forms and endorsements described in Subsection (11);
- (13) conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;
- (14) conduct on-site inspections to determine rating classifications for individual insureds;

- (15) collect, compile, and publish past and current prices of individual insurers, provided the information is also made available to the general public at a reasonable cost;
- (16) collect and compile exposure and loss experience for the purpose of individual risk experience ratings;
- (17) furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section; and
- (18) engage in any other activity not prohibited by this title.

Enacted by Chapter 130, 1999 General Session

31A-19a-308 Rate service organizations -- Filing requirements.

- (1) A rate service organization shall file with the commissioner any of the following that is used in this state:
 - (a) any statistical plan;
 - (b) all prospective loss costs;
 - (c) provisions for special assessments;
 - (d) all supplementary rating information; and
 - (e) any change, amendment, or modification of an item described in Subsections (1)(a) through (d).
- (2) The filings required under Subsection (1) shall be subject to Sections 31A-19a-203 and 31A-19a-206 and other provisions of this chapter relating to filings made by insurers.

Enacted by Chapter 130, 1999 General Session

31A-19a-309 Recording and reporting of experience.

- (1)
 - (a) The commissioner may adopt rules for the development of statistical plans, for use by all insurers in recording and reporting their loss and expense experience, in order that the experience of those insurers may be made available to the commissioner.
 - (b) The rules provided for in Subsection (1) may include:
 - (i) the data that shall be reported by an insurer;
 - (ii) definitions of data elements;
 - (iii) the timing and frequency of data reporting by an insurer;
 - (iv) data quality standards;
 - (v) data edit and audit requirements;
 - (vi) data retention requirements;
 - (vii) reports to be generated; and
 - (viii) the timing of reports to be generated.
 - (c) Except for workers' compensation insurance under Section 31A-19a-404, an insurer may not be required to record or report its experience on a classification basis that is inconsistent with its own rating system.
- (2)
 - (a) The commissioner may designate one or more rate service organizations to assist the commissioner in gathering that experience and making compilations of the experience.
 - (b) The compilations developed under Subsection (2)(a) shall be made available to the public.
- (3) The commissioner may make rules and plans for the interchange of data necessary for the application of rating plans.

- (4) To further uniform administration of rate regulatory laws, the commissioner and every insurer and rate service organization may:
- (a) exchange information and experience data with insurance supervisory officials, insurers, and rate service organizations in other states; and
 - (b) consult with the persons described in Subsection (4)(a) with respect to the application of rating systems and the reporting of statistical data.

Amended by Chapter 297, 2011 General Session