

- 28 (i) with an individual client; and
- 29 (ii) under which fees are based on estimates of the nature and amount of services to be
- 30 provided to the specific client;
- 31 (b) a contract similar to a contract described in Subsection (1)(a) made with a group of
- 32 clients involved in the same or closely related legal matters;
- 33 (c) an arrangement for providing benefits that do not exceed a limited amount of
- 34 consultations, advice on simple legal matters, either alone or in combination with referral
- 35 services, or the promise of fee discounts for handling other legal matters;
- 36 (d) limited legal assistance on an informal basis involving neither an express
- 37 contractual obligation nor reasonable expectations, in the context of an employment,
- 38 membership, educational, or similar relationship; [~~or~~]
- 39 (e) legal assistance by employee organizations to their members in matters relating to
- 40 employment[-]; or
- 41 (f) death, accident, health, or disability benefits provided to a person by an organization
- 42 or its affiliate if:
- 43 (i) the organization's principal purpose is to achieve charitable, educational, social, or
- 44 religious objectives;
- 45 (ii) the person is not an employee of the organization; and
- 46 (iii) (A) the person is providing substantial uncompensated voluntary service to the
- 47 organization for a designated period of time; or
- 48 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more
- 49 than 18 months.
- 50 (2) (a) This title restricts otherwise legitimate business activity.
- 51 (b) What this title does not prohibit is permitted unless contrary to other provisions of
- 52 Utah law.
- 53 (3) Except as otherwise expressly provided, this title does not apply to:
- 54 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of
- 55 the federal Employee Retirement Income Security Act of 1974, as amended;
- 56 (b) ocean marine insurance;
- 57 (c) death [~~and~~], accident [~~and~~], health, or disability benefits provided by an
- 58 organization if the organization:

- 59 (i) has as its principal purpose to achieve charitable, educational, social, or religious
60 objectives rather than to provide death [~~and~~], accident [~~and~~], health, or disability benefits;
- 61 (ii) does not incur a legal obligation to pay a specified amount; and
- 62 (iii) does not create reasonable expectations of receiving a specified amount on the part
63 of an insured person;
- 64 (d) other business specified in rules adopted by the commissioner on a finding that:
- 65 (i) the transaction of the business in this state does not require regulation for the
66 protection of the interests of the residents of this state; or
- 67 (ii) it would be impracticable to require compliance with this title;
- 68 (e) except as provided in Subsection (4), a transaction independently procured through
69 negotiations under Section 31A-15-104;
- 70 (f) self-insurance;
- 71 (g) reinsurance;
- 72 (h) subject to Subsection (5), employee and labor union group or blanket insurance
73 covering risks in this state if:
- 74 (i) the policyholder exists primarily for purposes other than to procure insurance;
- 75 (ii) the policyholder:
- 76 (A) is not a resident of this state;
- 77 (B) is not a domestic corporation; or
- 78 (C) does not have its principal office in this state;
- 79 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 80 (iv) on request of the commissioner, the insurer files with the department a copy of the
81 policy and a copy of each form or certificate; and
- 82 (v) (A) the insurer agrees to pay premium taxes on the Utah portion of its business, as
83 if it were authorized to do business in this state; and
- 84 (B) the insurer provides the commissioner with the security the commissioner
85 considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of
86 Admitted Insurers;
- 87 (i) to the extent provided in Subsection (6):
- 88 (i) a manufacturer's or seller's warranty; and
- 89 (ii) a manufacturer's or seller's service contract; or

90 (j) except to the extent provided in Subsection (7), a public agency insurance mutual.

91 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
92 31A-3-301.

93 (5) (a) After a hearing, the commissioner may order an insurer of certain group or
94 blanket contracts to transfer the Utah portion of the business otherwise exempted under
95 Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized
96 insurer.

97 (b) If the commissioner finds that the conditions required for the exemption of a group
98 or blanket insurer are not satisfied or that adequate protection to residents of this state is not
99 provided, the commissioner may require:

100 (i) the insurer to be authorized to do business in this state; or

101 (ii) that any of the insurer's transactions be subject to this title.

102 (6) (a) As used in Subsection (3)(i) and this Subsection (6):

103 (i) "manufacturer's or seller's service contract" means a service contract:

104 (A) made available by:

105 (I) a manufacturer of a product;

106 (II) a seller of a product; or

107 (III) an affiliate of a manufacturer or seller of a product;

108 (B) made available:

109 (I) on one or more specific products; or

110 (II) on products that are components of a system; and

111 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to
112 be provided under the service contract including, if the manufacturer's or seller's service
113 contract designates, providing parts and labor;

114 (ii) "manufacturer's or seller's warranty" means the guaranty of:

115 (A) (I) the manufacturer of a product;

116 (II) a seller of a product; or

117 (III) an affiliate of a manufacturer or seller of a product;

118 (B) (I) on one or more specific products; or

119 (II) on products that are components of a system; and

120 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services

121 to be provided under the warranty, including, if the manufacturer's or seller's warranty
122 designates, providing parts and labor; and

123 (iii) "service contract" is as defined in Section 31A-6a-101.

124 (b) A manufacturer's or seller's warranty may be designated as:

125 (i) a warranty;

126 (ii) a guaranty; or

127 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

128 (c) This title does not apply to:

129 (i) a manufacturer's or seller's warranty;

130 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
131 addition to the consideration paid for the product itself; and

132 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's
133 or seller's service contract if:

134 (A) the service contract is paid for with consideration that is in addition to the
135 consideration paid for the product itself;

136 (B) the service contract is for the repair or maintenance of goods;

137 (C) the cost of the product is equal to an amount determined in accordance with
138 Subsection (6)(e); and

139 (D) the product is not a motor vehicle.

140 (d) This title does not apply to a manufacturer's or seller's warranty or service contract
141 paid for with consideration that is in addition to the consideration paid for the product itself
142 regardless of whether the manufacturer's or seller's warranty or service contract is sold:

143 (i) at the time of the purchase of the product; or

144 (ii) at a time other than the time of the purchase of the product.

145 (e) (i) For fiscal year 2001-02, the amount described in Subsection (6)(c)(iii)(C) shall
146 be equal to \$3,700 or less.

147 (ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually
148 determine whether the amount described in Subsection (6)(c)(iii)(C) should be adjusted in
149 accordance with changes in the Consumer Price Index published by the United States Bureau
150 of Labor Statistics selected by the commissioner by rule, between:

151 (A) the Consumer Price Index for the February immediately preceding the adjustment;

152 and

153 (B) the Consumer Price Index for February 2001.

154 (iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment
155 should be made, the commissioner shall make the adjustment by rule.

156 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an
157 entity formed by two or more political subdivisions or public agencies of the state:

158 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

159 (ii) for the purpose of providing for the political subdivisions or public agencies:

160 (A) subject to Subsection (7)(b), insurance coverage; or

161 (B) risk management.

162 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may
163 not provide health insurance unless the public agency insurance mutual provides the health
164 insurance using:

165 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;

166 (ii) an admitted insurer; or

167 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and
168 Insurance Program Act.

169 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from
170 this title.

171 (d) A public agency insurance mutual is considered to be a governmental entity and
172 political subdivision of the state with all of the rights, privileges, and immunities of a
173 governmental entity or political subdivision of the state including all the rights and benefits of
174 Title 63, Chapter 30, Governmental Immunity Act.

Legislative Review Note
as of 11-25-03 8:55 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-10-03 11:12 AM

12-12-03 1:40 PM

S.B. 14

The Health and Human Services Interim Committee recommended this bill.