

Part 1

Purposes, Scope, and Application

31A-1-101 Short title.

This title is known as the "Insurance Code."

Enacted by Chapter 242, 1985 General Session

31A-1-102 Purposes.

The purposes of the Insurance Code are to:

- (1) ensure the solidity of insurers doing business in Utah;
- (2) ensure that policyholders, claimants, and insurers are treated fairly and equitably;
- (3) ensure that Utah has an adequate and healthy insurance market, characterized by competitive conditions, the spirit of innovation, and the exercise of initiative;
- (4) provide for an insurance department that is expert in the field of insurance and able to enforce the Insurance Code effectively;
- (5) encourage cooperation between the Insurance Department and other Utah regulatory bodies, as well as other federal and state governmental entities;
- (6) preserve and improve state regulation of insurance;
- (7) maintain freedom of contract and enterprise;
- (8) encourage self regulation of the insurance industry;
- (9) encourage loss prevention as part of the insurance industry;
- (10) keep the public informed on insurance matters; and
- (11) achieve other purposes stated elsewhere in the Insurance Code.

Enacted by Chapter 242, 1985 General Session

31A-1-103 Scope and applicability of title.

- (1) This title does not apply to:
 - (a) a retainer contract made by an attorney-at-law:
 - (i) with an individual client; and
 - (ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;
 - (b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;
 - (c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;
 - (d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;
 - (e) legal assistance by employee organizations to their members in matters relating to employment; or
 - (f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:
 - (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;

- (ii) the person is not an employee of the organization; and
 - (iii)
 - (A) substantially all the person's time in the organization is spent providing voluntary services:
 - (I) in furtherance of the organization's purposes;
 - (II) for a designated period of time; and
 - (III) for which no compensation, other than expenses, is paid; or
 - (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months.
- (2)
- (a) This title restricts otherwise legitimate business activity.
 - (b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.
- (3) Except as otherwise expressly provided, this title does not apply to:
- (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;
 - (b) ocean marine insurance;
 - (c) death, accident, health, or disability benefits provided by an organization if the organization:
 - (i) has as its principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;
 - (ii) does not incur a legal obligation to pay a specified amount; and
 - (iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person;
 - (d) other business specified in rules adopted by the commissioner on a finding that:
 - (i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or
 - (ii) it would be impracticable to require compliance with this title;
 - (e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;
 - (f) self-insurance;
 - (g) reinsurance;
 - (h) subject to Subsection (5), employee and labor union group or blanket insurance covering risks in this state if:
 - (i) the policyholder exists primarily for purposes other than to procure insurance;
 - (ii) the policyholder:
 - (A) is not a resident of this state;
 - (B) is not a domestic corporation; or
 - (C) does not have its principal office in this state;
 - (iii) no more than 25% of the certificate holders or insureds are residents of this state;
 - (iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and
 - (v)
 - (A) the insurer agrees to pay premium taxes on the Utah portion of its business, as if it were authorized to do business in this state; and
 - (B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;
- (i) to the extent provided in Subsection (6):
- (i) a manufacturer's or seller's warranty; and
 - (ii) a manufacturer's or seller's service contract;

- (j) except to the extent provided in Subsection (7), a public agency insurance mutual; or
 - (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver.
- (4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.
- (5)
- (a) After a hearing, the commissioner may order an insurer of certain group or blanket contracts to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.
 - (b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:
 - (i) the insurer to be authorized to do business in this state; or
 - (ii) that any of the insurer's transactions be subject to this title.
- (6)
- (a) As used in Subsection (3)(i) and this Subsection (6):
 - (i) "manufacturer's or seller's service contract" means a service contract:
 - (A) made available by:
 - (I) a manufacturer of a product;
 - (II) a seller of a product; or
 - (III) an affiliate of a manufacturer or seller of a product;
 - (B) made available:
 - (I) on one or more specific products; or
 - (II) on products that are components of a system; and
 - (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;
 - (ii) "manufacturer's or seller's warranty" means the guaranty of:
 - (A)
 - (I) the manufacturer of a product;
 - (II) a seller of a product; or
 - (III) an affiliate of a manufacturer or seller of a product;
 - (B)
 - (I) on one or more specific products; or
 - (II) on products that are components of a system; and
 - (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor; and
 - (iii) "service contract" is as defined in Section 31A-6a-101.
 - (b) A manufacturer's or seller's warranty may be designated as:
 - (i) a warranty;
 - (ii) a guaranty; or
 - (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
 - (c) This title does not apply to:
 - (i) a manufacturer's or seller's warranty;
 - (ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and
 - (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

- (A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;
 - (B) the service contract is for the repair or maintenance of goods;
 - (C) the cost of the product is equal to an amount determined in accordance with Subsection (6)(e); and
 - (D) the product is not a motor vehicle.
- (d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:
- (i) at the time of the purchase of the product; or
 - (ii) at a time other than the time of the purchase of the product.
- (e)
- (i) For fiscal year 2001-02, the amount described in Subsection (6)(c)(iii)(C) shall be equal to \$3,700 or less.
 - (ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually determine whether the amount described in Subsection (6)(c)(iii)(C) should be adjusted in accordance with changes in the Consumer Price Index published by the United States Bureau of Labor Statistics selected by the commissioner by rule, between:
 - (A) the Consumer Price Index for the February immediately preceding the adjustment; and
 - (B) the Consumer Price Index for February 2001.
 - (iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment should be made, the commissioner shall make the adjustment by rule.
- (7)
- (a) For purposes of this Subsection (7), "public agency insurance mutual" means an entity formed by two or more political subdivisions or public agencies of the state:
 - (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
 - (ii) for the purpose of providing for the political subdivisions or public agencies:
 - (A) subject to Subsection (7)(b), insurance coverage; or
 - (B) risk management.
 - (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not provide health insurance unless the public agency insurance mutual provides the health insurance using:
 - (i) a third party administrator licensed under Chapter 25, Third Party Administrators;
 - (ii) an admitted insurer; or
 - (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.
 - (c) Except for this Subsection (7), a public agency insurance mutual is exempt from this title.
 - (d) A public agency insurance mutual is considered to be a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 274, 2010 General Session

31A-1-104 Authorization to do insurance business.

A person may not engage in the following without complying with this title:

- (1) do an insurance business as defined under Section 31A-1-301;
- (2) act as an insurance producer or consultant as defined under Section 31A-1-301; or

(3) engage in insurance adjusting as defined under Section 31A-26-102.

Amended by Chapter 298, 2003 General Session

31A-1-105 Presumption of jurisdiction.

- (1) Any insurer, including the Workers' Compensation Fund created under Chapter 33, Workers' Compensation Fund, that provides coverage of a resident of this state, property located in this state, or a business activity conducted in this state, or that engages in any activity described in Subsections 31A-15-102(2)(a) through (h), is:
 - (a) doing an insurance business in this state; and
 - (b) subject to the jurisdiction of the insurance commissioner and the courts of this state under Sections 31A-2-309 and 31A-2-310 to the extent of that coverage or activity.
- (2) Any person doing or purporting to do an insurance business in this state as defined in Section 31A-1-301 is subject to the jurisdiction of the insurance commissioner and this title, unless the insurer can establish that the exemptions of Section 31A-1-103 apply.
- (3) This section does not limit the jurisdiction of the courts of this state under other applicable law.

Amended by Chapter 222, 2000 General Session

31A-1-106 Residual unlicensed domestic insurers.

- (1) Every person doing an insurance business in Utah not covered under another section of this title, that does not hold a valid certificate of authority or license under this title shall, by July 1, 1987, complete one of the actions prescribed in Subsections (2) through (5). This section does not apply to an unauthorized foreign insurer doing an insurance business in Utah in full compliance with Section 31A-15-103.
- (2) An insurer under Subsection (1) may incorporate and apply, or if already incorporated, may apply for a certificate of authority under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, or Chapter 9, Insurance Fraternal. If the commissioner is satisfied that the insurer substantially complies with the requirements of the appropriate chapter necessary for the protection of insureds and the public, the commissioner shall issue a certificate of authority.
- (3) An insurer under Subsection (1) may transfer all its obligations to a corporation authorized under this title to assume them, according to a plan approved by the commissioner. The commissioner may disapprove the plan on a finding, after a hearing, that it is contrary to the interests of insureds, the public, or the law.
- (4) An insurer under Subsection (1) may adopt a plan to run off existing obligations without accepting any new policyholders or new obligations. The commissioner may disapprove the plan on a finding, after a hearing, that it is contrary to the interests of insureds, the public, or the law.
- (5) The commissioner may, by order, exempt an insurer from the requirements of Subsection (1) or extend the deadline under Subsection (1) on a finding that:
 - (a) incorporation, licensing, reinsurance, or run off would cause disproportionate expense, loss, or substantial hardship; and
 - (b) the nature of the existing and prospective business, the assets, or the business plan of the insurer can be reasonably expected to continue to operate in a sound manner and can be subjected to adequate regulatory controls.

- (6) Whenever the commissioner grants an exemption under Subsection (5), the commissioner shall issue to the insurer a certificate of authority. The commissioner may amend the certificate at any time, specifying the business that the insurer may transact and specifying in detail the controls to which the insurer shall be subject. These controls shall correspond as nearly as practicable to the controls applicable to corporations transacting a like business.
- (7) It is a ground for liquidation under Section 31A-27a-207 if an insurer has not completed action under one of Subsections (2) through (4) and has not applied for and been granted exemption under Subsection (5) before July 1, 1987.

Amended by Chapter 340, 2011 General Session

31A-1-107 Licensees under former Title 31.

Every holder of a license under former Title 31, Insurance, at the time Title 31A, Insurance Code, takes effect shall continue to be a licensee of the Insurance Department, subject to the provisions of this title. If a licensee must make changes in its articles, bylaws, or manner of doing business to be in full compliance with this title, and the transition is not specifically provided for under this title, the licensee shall apply for, and the commissioner shall automatically grant, a reasonable, but determinate, time period to enable the licensee to conform to this title.

Amended by Chapter 204, 1986 General Session

31A-1-108 Corporations in the process of organizing.

Corporations in the process of organizing on July 1, 1986, may continue to organize under former Title 31, Insurance. Any corporation so organizing that does not obtain a certificate of authority by July 1, 1987, shall make appropriate refunds and reimbursements to subscribers, incorporators, and creditors in accordance with a plan approved by the commissioner. This plan shall specify the date that the legal existence of the corporation terminates.

Enacted by Chapter 242, 1985 General Session

31A-1-109 Name of licensee.

- (1) The name of any licensee who is not a natural person may not be the same as or deceptively similar to the name of any licensee existing under the laws of the state or licensee authorized to transact business in this state.
- (2) Notwithstanding Subsection (1), the department may authorize the use of a name that is deceptively similar to the name of a licensee described in Subsection (1) if the name requested is not identical with any name already on file and either:
 - (a) the owner of the other name consents to the use with the department; or
 - (b) the department is provided a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

Enacted by Chapter 344, 1995 General Session

31A-1-110 Scope of a license.

Unless a license is designated as limited, a license authorizes the person holding the license to transact business for all products within a line of authority.

Enacted by Chapter 298, 2003 General Session

