

Effective 5/12/2015

Superseded 5/14/2019

31A-23a-504 Sharing commissions.

- (1)
 - (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:
 - (i) a producer;
 - (ii) a limited line producer;
 - (iii) a consultant;
 - (iv) a managing general agent; or
 - (v) a reinsurance intermediary.
 - (b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).
- (2)
 - (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.
 - (b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:
 - (i) with another consultant licensed under this chapter; and
 - (ii) to the extent that the other consultant contributed to the services performed.
- (3) This section does not prohibit:
 - (a) the payment of renewal commissions to former licensees under this chapter, former Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;
 - (b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:
 - (i) the person is not licensed to sell insurance;
 - (ii) the person does not sell or provide opinions or advice on the product; and
 - (iii) the compensation does not depend on whether the referral results in a purchase or sale; or
 - (c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-402.5.
- (4)
 - (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:
 - (i) an unlawful rebate;
 - (ii) compensation in connection with controlled business; or
 - (iii) payment of a forwarding fee or finder's fee.
 - (b) A person may share compensation for the issuance of a title insurance policy only to the extent that the person contributed to the examination of the title or other services connected with the title insurance policy.
- (5) This section does not apply to:

- (a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102 and as described in Subsection 31A-23a-106(2)(c);
- (b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or
- (c) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):
 - (i) car rental related insurance;
 - (ii) self-service storage insurance;
 - (iii) portable electronics insurance; or
 - (iv) travel insurance.