

**CIVIL ANTITRUST EXEMPTIONS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: John Dougall**

**This act modifies the Utah Antitrust Act by providing that activities of all political subdivisions and the state may not be prohibited by the antitrust act, to the extent the activities are authorized or directed by state law.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**76-10-913**, as enacted by Chapter 79, Laws of Utah 1979

**76-10-915**, as last amended by Chapter 141, Laws of Utah 1999

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-10-913** is amended to read:

**76-10-913. Definitions.**

As used in this act:

(1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.

(2) "Commodity" includes any product of the soil, any article of merchandise or trade or commerce, and any other kind of real or personal property.

(3) "Manufacturer" means the producer or originator of any commodity or service.

(4) "Political subdivision" has the same definition as in Section 63-30-2.

~~[(4)]~~ (5) "Service" includes any activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing or licensing for use.

~~[(5)]~~ (6) "Trade or commerce" includes all economic activity involving, or relating to,



any commodity, service, or business activity, including the cost of exchange or transportation.

Section 2. Section **76-10-915** is amended to read:

**76-10-915. Exempt activities.**

(1) ~~[No provision of this act shall]~~ This act may not be construed to prohibit:

(a) the activities of any public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of any insurer, insurance agent, insurance broker, independent insurance adjuster or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of any state or national banking institution, to the extent that ~~[such]~~ the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of any state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of ~~[a municipality]~~ the state and any political subdivision to the extent authorized or directed by state law; or

(g) the activities of an emergency medical service provider licensed under Title 26, Chapter 8a, Utah Emergency Medical Service System Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2) (a) The labor of a human being is not a commodity or article of commerce.

~~[Nothing contained in the antitrust laws shall]~~

(b) This act may not be construed to:

(i) forbid the existence and operation of labor, agricultural, or horticultural

59 organizations[;] instituted for the purpose of mutual help and not having capital stock or  
60 conducted for profit[~~;-or to~~];  
61 (ii) forbid or restrain individual members of [~~such~~] these organizations from lawfully  
62 carrying out the legitimate object [~~thereof~~] of the organizations; [~~nor shall such~~] or  
63 (iii) determine that organizations or membership in them [~~be held to be~~] are illegal  
64 combinations or conspiracies in restraint of trade under [~~the antitrust laws~~] this act.

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**Legislative Review Note**  
**as of 1-22-03 8:45 AM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Civil Antitrust Exemptions***04-Feb-03***Bill Number HB0236***2:46 PM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**