

INSURANCE CONTRACTS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill amends provisions related to insurance contracts.

Highlighted Provisions:

This bill:

- ▶ prohibits discretionary clauses in certain insurance contracts; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-21-314, as last amended by Laws of Utah 2015, Chapter 244

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

Section 1. Section **31A-21-314** is amended to read:

29 **31A-21-314. Prohibited provisions.**

30 (1) As used in this section:

31 (a) "Reserving discretionary authority" means a policy provision that:

32 (i) has the effect of conferring discretion on an insurer, or other claim administrator, to:

33 (A) determine eligibility for benefits; or

34 (B) interpret the terms or provisions of the policy, contract, certificate, or agreement;

35 and

36 (ii) could lead to a deferential standard of review by a reviewing court.

37 (b) "Reserving discretionary authority" does not include a policy provision that:

38 (i) informs an insured that, as part of the insurer's routine operations, the insurer

39 applies the terms of the contract for:

40 (A) making a decision, including making a determination regarding eligibility, or

41 receipt of benefits or claims; or

42 (B) explaining the insurer's policies and procedures; and

43 (ii) does not give rise to a deferential standard of review by a reviewing court.

44 ~~[(+)]~~ (2) An insurance policy subject to this chapter may not contain [~~any~~] a provision:

45 (a) requiring [~~it~~] the insurance policy to be construed according to the laws of another
46 jurisdiction except as necessary to meet the requirements of compulsory insurance laws of
47 other jurisdictions;

48 (b) depriving Utah courts of jurisdiction over an action against the insurer, except as
49 provided in permissible arbitration provisions; [~~or~~]

50 (c) limiting the right of action against the insurer to less than three years from the date
51 the cause of action accrues[~~-~~]; or

52 (d) for life insurance or accident and health insurance, reserving discretionary
53 authority.

54 ~~[(2)]~~ (3) For purposes of Subsection [~~(+)]~~ (2)(c), the cause of action accrues on a
55 fidelity bond on the date the insurer first denies all or part of a claim made under the fidelity
56 bond.

