

Senator Curtis S. Bramble proposes the following substitute bill:

## INSURANCE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: James A. Dunnigan

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### LONG TITLE

#### General Description:

This bill updates the Insurance Code.

#### Highlighted Provisions:

This bill:

- defines terms;
- exempts a health care sharing ministry from regulation under the Insurance Code, provided the health care sharing ministry makes certain disclosures to participants
- ⚡→ [and the commissioner] ⚡← ;
- requires that the commissioner evaluate annually the state's health insurance market and provide that evaluation to the Health and Human Services Interim Committee;
- removes provisions relating to the commissioner declaring a rule in effect during a transition period;
- clarifies the scope of the consumer assistance that the commissioner provides;
- updates the duties of the Office of Consumer Health Assistance;
- modifies the commissioner's enforcement authority to allow the commissioner to accept or compromise a forfeiture after the filing of a complaint;
- amends provisions relating to mutual insurance holding companies;
- amends the enforcement provisions under this chapter;



119 (g) a prepaid contract of limited duration that provides for scheduled maintenance only.

120 (2) (a) This title restricts otherwise legitimate business activity.

121 (b) What this title does not prohibit is permitted unless contrary to other provisions of  
122 Utah law.

123 (3) Except as otherwise expressly provided, this title does not apply to:

124 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of  
125 the federal Employee Retirement Income Security Act of 1974, as amended;

126 (b) ocean marine insurance;

127 (c) death, accident, health, or disability benefits provided by an organization [~~if the~~  
128 ~~organization:] that:~~

129 (i) has as the organization's principal purpose to achieve charitable, educational, social,  
130 or religious objectives rather than to provide death, accident, health, or disability benefits;

131 (ii) does not incur a legal obligation to pay a specified amount; [~~and~~]

132 (iii) does not create reasonable expectations of receiving a specified amount on the part  
133 of an insured person; and

134 (iv) is not a health care sharing ministry ~~H~~→ **that provides that a participant make a**  
134a **contribution to pay another participant's qualified expenses with no assumption of risk or**  
134b **promise to pay** ~~←H~~ .

135 (d) other business specified in rules adopted by the commissioner on a finding that:

136 (i) the transaction of the business in this state does not require regulation for the  
137 protection of the interests of the residents of this state; or

138 (ii) it would be impracticable to require compliance with this title;

139 (e) except as provided in Subsection (4), a transaction independently procured through  
140 negotiations under Section 31A-15-104;

141 (f) self-insurance;

142 (g) reinsurance;

143 (h) subject to Subsection (5), an employee or labor union group insurance policy  
144 covering risks in this state or an employee or labor union blanket insurance policy covering  
145 risks in this state, if:

146 (i) the policyholder exists primarily for purposes other than to procure insurance;

147 (ii) the policyholder:

148 (A) is not a resident of this state;

149 (B) is not a domestic corporation; or

(C) does not have the policyholder's 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 the insurer's  
 business, as if the insurer 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[:]; or  
(l) a health care sharing ministry, if the health care sharing ministry:  
(i) provides to each participant upon enrollment and annually thereafter a written  
statement of nationwide ~~↔~~ [and Utah-specific] ~~↔~~ data from the preceding calendar year that  
lists the  
total dollar amount of ~~↔~~ [:] contributions provided to participants toward qualified  
expenses; and ~~↔~~ ↔  
~~↔~~ [↔] [(A) expenses submitted for sharing;  
~~——~~ (B) expenses qualified for sharing;  
~~——~~ (C) qualified expenses published or assigned to participants for sharing;  
~~——~~ (D) contributions provided to participants toward qualified expenses; and  
~~——~~ (E) denied expenses; and] ~~↔~~ ↔  
 (ii) includes a written disclaimer, titled "Notice", on or with each application and all  
 guideline materials that states:  
 (A) the health care sharing ministry is not an insurance company;  
 (B) nothing the health care sharing ministry offers or provides is an insurance policy,  
 including the health care sharing ministry's guidelines or plan of operations;  
 (C) participation in the health care sharing ministry is entirely voluntary and no

participant is compelled by law to contribute to another participant's expenses;

(D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and

(E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate ~~It~~ **→** [~~;~~and] **.** ~~←It~~

~~It~~ **→** [(iii) submits to the commissioner no later than April 1 of each year:

—— (A) the information in Subsection (1)(i);

—— (B) nationwide and Utah-specific enrollment data from the prior calendar year; and

—— (C) the health care sharing ministry's contact information for consumers, providers, and the commissioner:] ~~←It~~

(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 insurance policies or blanket insurance policies 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.

(c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

(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:

801 insurance providing a benefit for:

- 802 (i) replacement of income;
- 803 (ii) short-term accident;
- 804 (iii) fixed indemnity;
- 805 (iv) credit accident and health;
- 806 (v) supplements to liability;
- 807 (vi) workers' compensation;
- 808 (vii) automobile medical payment;
- 809 (viii) no-fault automobile;
- 810 (ix) equivalent self-insurance; or
- 811 (x) a type of accident and health insurance coverage that is a part of or attached to
- 812 another type of policy.

813 ~~[(83)]~~ (85) "Health care provider" means the same as that term is defined in Section  
814 78B-3-403.

815 (86) "Health care sharing ministry" means an entity that:

- 816 (a) is a tax-exempt nonprofit entity under the Internal Revenue Code;
- 817 (b) limits participants to those who are of a similar faith;
- 818 (c) facilitates the sharing of a participant's qualified expenses, as defined by the entity,
- 819 among other participants by:

- 820 (i) matching a participant who has qualified expenses with one or more participants
- 821 who are able to contribute to paying for the qualified expenses; and
- 822 (ii) arranging, directly or indirectly, for each contributing participant's contribution to
- 823 be used to pay for the qualified expenses;

824 ~~Ĥ→ [(d) provides that a participant make a contribution to pay another participant's qualified~~  
825 ~~expenses with no assumption of risk or promise to pay;~~

826 ~~—— (e)] (d) ←Ĥ~~ requires an individual to make one or more minimum payments or contributions  
826a as

827 a condition of one or more of the following:

- 828 (i) becoming a participant;
- 829 (ii) remaining a participant; or
- 830 (iii) receiving a contribution to pay qualified expenses; and

831 ~~Ĥ→ [(f)]~~ (e) ←Ĥ in carrying out the functions described in this Subsection (86), makes no