

HEALTH SHARING MINISTRIES AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends exemptions from the Insurance Code.

Highlighted Provisions:

This bill:

► provides that certain faith based health care sharing ministries that have been in continuous operation since December 31, 1999, to provide coverage for certain health care expenses are not subject to regulation under the state Insurance Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-1-103, as last amended by Laws of Utah 2010, Chapter 274

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

Section 1. Section **31A-1-103** is amended to read:

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:



- 28 (i) with an individual client; and
- 29 (ii) under which fees are based on estimates of the nature and amount of services to be
- 30 provided to the specific client;
- 31 (b) a contract similar to a contract described in Subsection (1)(a) made with a group of
- 32 clients involved in the same or closely related legal matters;
- 33 (c) an arrangement for providing benefits that do not exceed a limited amount of
- 34 consultations, advice on simple legal matters, either alone or in combination with referral
- 35 services, or the promise of fee discounts for handling other legal matters;
- 36 (d) limited legal assistance on an informal basis involving neither an express
- 37 contractual obligation nor reasonable expectations, in the context of an employment,
- 38 membership, educational, or similar relationship;
- 39 (e) legal assistance by employee organizations to their members in matters relating to
- 40 employment; or
- 41 (f) death, accident, health, or disability benefits provided to a person by an organization
- 42 or its affiliate if:
 - 43 (i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue
 - 44 Code and has had its principal place of business in Utah for at least five years;
 - 45 (ii) the person is not an employee of the organization; and
 - 46 (iii) (A) substantially all the person's time in the organization is spent providing
 - 47 voluntary services:
 - 48 (I) in furtherance of the organization's purposes;
 - 49 (II) for a designated period of time; and
 - 50 (III) for which no compensation, other than expenses, is paid; or
 - 51 (B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more
 - 52 than 18 months.
- 53 (2) (a) This title restricts otherwise legitimate business activity.
- 54 (b) What this title does not prohibit is permitted unless contrary to other provisions of
- 55 Utah law.
- 56 (3) Except as otherwise expressly provided, this title does not apply to:
 - 57 (a) those activities of an insurer where state jurisdiction is preempted by Section 514 of
 - 58 the federal Employee Retirement Income Security Act of 1974, as amended;

- 59 (b) ocean marine insurance;
- 60 (c) ~~[death, accident,] health[, or disability]~~ benefits provided by ~~[an]~~ a health care
- 61 sharing organization if the organization:
- 62 ~~[(i) has as its principal purpose to achieve charitable, educational, social, or religious~~
- 63 ~~objectives rather than to provide death, accident, health, or disability benefits;]~~
- 64 ~~[(ii) does not incur a legal obligation to pay a specified amount; and]~~
- 65 ~~[(iii) does not create reasonable expectations of receiving a specified amount on the~~
- 66 ~~part of an insured person;]~~
- 67 (i) is described in Section 501(c)(3) and is exempt from taxation under Section 501(a);
- 68 (ii) has members who share a common set of ethical or religious beliefs and share
- 69 medical expenses among members in accordance with those beliefs and without regard to the
- 70 state in which a member resides or is employed;
- 71 (iii) members retain membership in the health care sharing organization even after the
- 72 member develops a medical condition;
- 73 (iv) which, or a predecessor of which, has been in existence at all times since
- 74 December 31, 1999, and medical expenses of its members have been shared continuously and
- 75 without interruption since at least December 31, 1999; and
- 76 (v) conducts an annual audit, which is performed by an independent certified public
- 77 accounting firm in accordance with generally accepted accounting principles and which is
- 78 made available to the public upon request;
- 79 (d) other business specified in rules adopted by the commissioner on a finding that:
- 80 (i) the transaction of the business in this state does not require regulation for the
- 81 protection of the interests of the residents of this state; or
- 82 (ii) it would be impracticable to require compliance with this title;
- 83 (e) except as provided in Subsection (4), a transaction independently procured through
- 84 negotiations under Section [31A-15-104](#);
- 85 (f) self-insurance;
- 86 (g) reinsurance;
- 87 (h) subject to Subsection (5), employee and labor union group or blanket insurance
- 88 covering risks in this state if:
- 89 (i) the policyholder exists primarily for purposes other than to procure insurance;

- 90 (ii) the policyholder:
- 91 (A) is not a resident of this state;
- 92 (B) is not a domestic corporation; or
- 93 (C) does not have its principal office in this state;
- 94 (iii) no more than 25% of the certificate holders or insureds are residents of this state;
- 95 (iv) on request of the commissioner, the insurer files with the department a copy of the
- 96 policy and a copy of each form or certificate; and
- 97 (v) (A) the insurer agrees to pay premium taxes on the Utah portion of its business, as
- 98 if it were authorized to do business in this state; and
- 99 (B) the insurer provides the commissioner with the security the commissioner
- 100 considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of
- 101 Admitted Insurers;
- 102 (i) to the extent provided in Subsection (6):
- 103 (i) a manufacturer's or seller's warranty; and
- 104 (ii) a manufacturer's or seller's service contract;
- 105 (j) except to the extent provided in Subsection (7), a public agency insurance mutual;
- 106 or
- 107 (k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a
- 108 guaranteed asset protection waiver.
- 109 (4) A transaction described in Subsection (3)(e) is subject to taxation under Section
- 110 [31A-3-301](#).
- 111 (5) (a) After a hearing, the commissioner may order an insurer of certain group or
- 112 blanket contracts to transfer the Utah portion of the business otherwise exempted under
- 113 Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized
- 114 insurer.
- 115 (b) If the commissioner finds that the conditions required for the exemption of a group
- 116 or blanket insurer are not satisfied or that adequate protection to residents of this state is not
- 117 provided, the commissioner may require:
- 118 (i) the insurer to be authorized to do business in this state; or
- 119 (ii) that any of the insurer's transactions be subject to this title.
- 120 (6) (a) As used in Subsection (3)(i) and this Subsection (6):

- 121 (i) "manufacturer's or seller's service contract" means a service contract:
- 122 (A) made available by:
- 123 (I) a manufacturer of a product;
- 124 (II) a seller of a product; or
- 125 (III) an affiliate of a manufacturer or seller of a product;
- 126 (B) made available:
- 127 (I) on one or more specific products; or
- 128 (II) on products that are components of a system; and
- 129 (C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to
- 130 be provided under the service contract including, if the manufacturer's or seller's service
- 131 contract designates, providing parts and labor;
- 132 (ii) "manufacturer's or seller's warranty" means the guaranty of:
- 133 (A) (I) the manufacturer of a product;
- 134 (II) a seller of a product; or
- 135 (III) an affiliate of a manufacturer or seller of a product;
- 136 (B) (I) on one or more specific products; or
- 137 (II) on products that are components of a system; and
- 138 (C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services
- 139 to be provided under the warranty, including, if the manufacturer's or seller's warranty
- 140 designates, providing parts and labor; and
- 141 (iii) "service contract" is as defined in Section [31A-6a-101](#).
- 142 (b) A manufacturer's or seller's warranty may be designated as:
- 143 (i) a warranty;
- 144 (ii) a guaranty; or
- 145 (iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).
- 146 (c) This title does not apply to:
- 147 (i) a manufacturer's or seller's warranty;
- 148 (ii) a manufacturer's or seller's service contract paid for with consideration that is in
- 149 addition to the consideration paid for the product itself; and
- 150 (iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's
- 151 or seller's service contract if:

152 (A) the service contract is paid for with consideration that is in addition to the
153 consideration paid for the product itself;

154 (B) the service contract is for the repair or maintenance of goods;

155 (C) the cost of the product is equal to an amount determined in accordance with
156 Subsection (6)(e); and

157 (D) the product is not a motor vehicle.

158 (d) This title does not apply to a manufacturer's or seller's warranty or service contract
159 paid for with consideration that is in addition to the consideration paid for the product itself
160 regardless of whether the manufacturer's or seller's warranty or service contract is sold:

161 (i) at the time of the purchase of the product; or
162 (ii) at a time other than the time of the purchase of the product.

163 (e) (i) For fiscal year 2001-02, the amount described in Subsection (6)(c)(iii)(C) shall
164 be equal to \$3,700 or less.

165 (ii) For each fiscal year after fiscal year 2001-02, the commissioner shall annually
166 determine whether the amount described in Subsection (6)(c)(iii)(C) should be adjusted in
167 accordance with changes in the Consumer Price Index published by the United States Bureau
168 of Labor Statistics selected by the commissioner by rule, between:

169 (A) the Consumer Price Index for the February immediately preceding the adjustment;
170 and

171 (B) the Consumer Price Index for February 2001.

172 (iii) If under Subsection (6)(e)(ii) the commissioner determines that an adjustment
173 should be made, the commissioner shall make the adjustment by rule.

174 (7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an
175 entity formed by two or more political subdivisions or public agencies of the state:

176 (i) under Title 11, Chapter 13, Interlocal Cooperation Act; and
177 (ii) for the purpose of providing for the political subdivisions or public agencies:

178 (A) subject to Subsection (7)(b), insurance coverage; or
179 (B) risk management.

180 (b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may
181 not provide health insurance unless the public agency insurance mutual provides the health
182 insurance using:

183 (i) a third party administrator licensed under Chapter 25, Third Party Administrators;

184 (ii) an admitted insurer; or

185 (iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and

186 Insurance Program Act.

187 (c) Except for this Subsection (7), a public agency insurance mutual is exempt from

188 this title.

189 (d) A public agency insurance mutual is considered to be a governmental entity and

190 political subdivision of the state with all of the rights, privileges, and immunities of a

191 governmental entity or political subdivision of the state including all the rights and benefits of

192 Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Legislative Review Note

as of 2-26-15 8:59 AM

Office of Legislative Research and General Counsel