

1 **Rule 511. Insurance Regulators.**

2 **(a) Definitions.**

3 (1) "Commissioner" has the same meaning as set forth in Utah Code section 31A-1- 301.

4 (2) "Department" has the same meaning as set forth in Utah Code section 31-A-1- 301.

5 (3) "NAIC" means the National Association of Insurance Commissioners.

6 (4) "Confidential Information" means information, documents, and copies of these that are
7 obtained by or disclosed to the Commissioner or any other person in the course of an
8 examination or investigation made under Utah Code section 31A-16-107.5, and all information
9 reported under Utah Code section 31A-16-105.

10 **(b) Statement of the privilege for Confidential Information.**

11 (1) The Commissioner and the Department have a privilege to refuse to disclose in a private civil
12 action Confidential Information that is within the possession or control of the Commissioner and
13 the Department, unless the Commissioner has determined that the Confidential Information
14 may be released pursuant to Utah Code section 31A-16-109.

15 (2) The NAIC has a privilege to refuse to disclose in a private civil action Confidential Information
16 that is within the possession or control of the NAIC.

17 **(c) Who may claim.** The privilege may be claimed solely by the Commissioner, representatives of the
18 Department, or representatives of the NAIC.

19 **(d) Circumstances not constituting waiver.** No waiver of any applicable privilege shall occur as a result
20 of disclosure of documents, materials, or information to the Commissioner under Utah Code section
21 31A-16-109 or as a result of the sharing of documents, materials, or information under Utah Code
22 section 31A-16-109(3).

Effective July 1, 2016

23 **2016 Advisory Committee Note.** This rule is intended to complement the Insurance Holding
24 Company System Regulatory Act ("Model Act"), enacted by the Utah Legislature in 2015. One purpose
25 of the Model Act is to expand the Insurance Commissioner's scope of inquiry to better ensure that
26 insurance companies doing business in the state are solvent. To facilitate an inquiry and to encourage
27 companies to share sensitive and confidential information, the Model Act allows the Commissioner to
28 assert a privilege. The privilege extends to the State Insurance Commissioner, the State Insurance
29 Department and the National Insurance Commissioners ("NAIC"). All fifty states and the District of
30 Columbia have enacted the Model Act in some form.

31 The rule is narrowly crafted, consistent with the Model Act and similar legislation enacted in
32 other states and the District of Columbia. The rule is inapplicable outside private civil actions, and the

33 rule does not shield information possessed or controlled by parties other than the Utah Insurance
34 Commissioner, the Utah Insurance Department, and the NAIC.

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Effective July 1, 2016