

IN THE SUPREME COURT OF THE STATE OF UTAH

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FILED
UTAH APPELLATE COURTS

JUL 12 2016

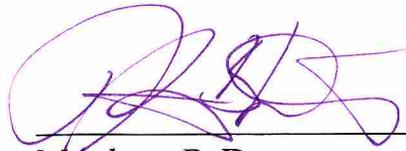
In re: Amendments
to Rule 511. Insurance Regulators
of the UTAH RULES OF EVIDENCE

ORDER

IT IS HEREBY ORDERED that the proposed amendments to Rule 511. Insurance Regulators, of the Utah Rules of Civil Procedure, is adopted and promulgated effective July 1, 2016.

FOR THE COURT:

7-12-16
Date


Matthew B. Durrant
Chief Justice

Rule 511. Insurance Regulators.

(a) Definitions.

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

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

(3) “NAIC” means the National Association of Insurance Commissioners.

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

(b) Statement of the privilege for Confidential Information.

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

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

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

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

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

The rule is narrowly crafted, consistent with the Model Act and similar legislation enacted in other states and the District of Columbia. The rule is inapplicable outside private civil actions, and the rule does not shield information possessed or controlled by parties other than the Utah Insurance Commissioner, the Utah Insurance Department, and the NAIC.