

Utah's Title Insurance Recovery, Education, and Research Fund Act

Utah has a new law that went into effect on July 1, 2008 which creates a Title Insurance Recovery, Education and Research Fund. A fund is created from "assessments on title insurance producers" not to exceed a certain dollar limit. Claims may be made against the fund for fraud, misrepresentation or deceit related to a title insurance transaction. The "liability of the fund may not exceed:

- (i) \$15,000 for a single real estate transaction; or
- (ii) \$50,000 for all transactions of a title insurance license."

Most importantly for the subrogation community is the fact that the statute creates subrogation rights for payments made from the fund. Section 31A-40-305. is titled, **Department subrogated – Authority to revoke license** and states:

- (1) (a) If the department makes payment from the fund, the department is subrogated to all the rights of the person who received monies from the fund for the amounts paid out of the fund.

Thanks to Regis Moeller, Amicus Committee Co-chair, for his efforts in finding and conveying this legislation to the Amicus Committee.

DE S 273 -- Delaware Uniform Common Interest Ownership Act (DUCIOA)

Delaware has a bill sitting on the governor's desk that is "closely patterned after the Uniform Common Interest Ownership Act", which exists in some form or fashion in roughly 20 states. The bill governs "common interest communities". Section 81-3-113, titled Insurance, mandates the type of insurance a common interest community must maintain. Of importance is subsection (d) which states:

- Insurance policies carried pursuant to subsections (a) and (b) must provide that:
 - (2) the insurer waives its right to subrogation under the policy against any unit owner or member of the unit owner's household;

This Act bars an insurer of a condominium association or common interest community from pursuing subrogation against "any unit owner or member of the unit owner's household".

Thanks to Kevin Blake, StateNet Committee member, for his efforts in finding and conveying this legislation to the Amicus Committee.

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