

**R590. Insurance, Administration.**

**R590-227. Submission of Annuity Filings.**

**R590-227-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

**R590-227-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth the procedures for submitting annuity filings under Section 31A-21-201.

(2) This rule applies to:

(a) all types of individual and group annuities, and variable annuities; and

(b) group annuity contracts issued to nonresident contract holders, including trusts, when Utah residents are provided coverage by certificates of insurance.

**R590-227-3. [~~Incorporation by Reference.~~**

~~(1) The department requires that documents described in this rule shall be used for all filings.~~

~~(a) Actual copies may be used or you may adapt them to your word processing system.~~

~~(b) If adapted, the content, size, font, and format must be similar.~~

~~(2) The following documents are hereby incorporated by reference and are available at [www.insurance.utah.gov](http://www.insurance.utah.gov).~~

~~(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007.~~

~~(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated [March 1, 2007] January 1, 2009.~~

~~(c) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007.~~

~~(d) "Utah Annuity Filing Certification," dated July 2007.~~

~~[(e)] "Utah Life and Annuity Group Questionnaire," dated July 2007.~~

~~(f) "Utah Life and Annuity Request for Discretionary Group Authorization," dated July 2007.~~

**R590-227-4.] Definitions.**

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Contract" means the annuity policy including attached endorsements and riders;

(3) "Data page" means the page or pages in a contract or certificate that provide the specific data for the annuitant detailing the coverage provided and may be titled by the insurer as contract [~~data page,~~]specifications[ ~~page~~], contract schedule, policy information, etc.

(4) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(5) "Electronic Filing" means [↔

~~\_\_\_\_\_ (a) \_\_\_\_\_] a filing submitted via the Internet by using the [System for Electronic Rate and Form Filings], [SERFF]. [System; or~~

~~\_\_\_\_\_ (b) \_\_\_\_\_ a filing submitted via the Internet by using the Sireon system; or~~

~~\_\_\_\_\_ (c) \_\_\_\_\_ a filing submitted via an email system.]~~

(6) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(7) "Endorsement" means a written agreement attached to an annuity contract that alters a provision of the contract, for example, a name change endorsement and a tax qualification endorsement.

(8) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(9) "Filer" means a person ~~[or entity that]~~ who submits a filing.

(10) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a contract;

(b) a form;

(c) a document;

(d) an application;

(e) a report;

(f) a certificate;

(g) an endorsement;

(h) a rider; and

(i) an actuarial memorandum, demonstration, and certification.

(11) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction to non-compliant items, may request clarification or additional information pertaining to the filing.

(12) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(13) "Issue Ages" means the range of minimum and maximum ages for which a contract or certificate will be issued.

(14) "Letter of Authorization" means a letter signed by an officer of the ~~[insurer]~~ licensee on whose behalf the filing is submitted that designates filing authority to the filer.

(15) "Market type" means the type of contract that indicates the targeted market such as individual or group.

(16) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(17) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules;

(b) returned to the ~~[insurer]~~ licensee by the department with the reasons for rejection; and

(c) not considered filed with the department.

(18) "Rider" means a written agreement attached to an annuity contract or certificate that adds a benefit, for example,

a waiver of surrender charge, a guaranteed minimum withdrawal benefit and a guaranteed minimum income benefit.

(19) "Type of insurance" means a specific type of annuity including, but not limited to, equity indexed annuity, single premium immediate annuity, modified guaranteed annuity, deferred annuity, or variable annuity.

(20) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department~~[7]~~ that indicates a filing has been accepted~~[pursuant to Subsection 7]~~.

#### **R590-227-[5]4. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) ~~A l~~~~[H]~~licensee~~[s]~~ and filer~~s~~ are responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule will be rejected and returned to the filer. A rejected filing:

- (a) is not considered filed with the department;
- (b) must be submitted as a new filing; and
- (c) will not be reopened for purposes of resubmission.

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) A filings may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, ~~[A]~~~~a~~ Filing Objection Letter or an Order ~~[F]~~~~to~~ Prohibit Use will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing Correction.

(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within ~~[30]~~15 days of the date the original filing was submitted to the department.

~~[The filer must reference the original filing.]~~

(c) A new filing is required if a filing correction is made more than ~~[30]~~15 days after the date original filing was submitted to department. The filer must reference the original filing in the filing description.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R590-227-11 for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

**R590-227-[6]5. Filing Submission Requirements.**

(1) All filings must be submitted as an electronic filing.

(a) All filers must use SERFF to submit a filing.

(b) All filings must comply with The "NAIC Uniform Life, Accident and Health, Annuity, and Credit Coding Matrix," dated January 1, 2009, and incorporated by reference. This form is available on the department's website, [www.insurance.utah.gov](http://www.insurance.utah.gov).

(2) A filings must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance, or request filing for more than one [~~insurer~~]licensee.

(4) SERFF Filings.

(a) Filing Description. Do not submit a cover letter. On the [~~g~~]General [~~+~~]Information tab, complete the Filing Description section with the following information, presented in the order shown below.

(i) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous [~~filing's~~]Utah Filed Date;

(C) includes [~~forms~~]documents for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(iv) Explain any change in benefits or premiums that may occur while the contract is in force.

(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(vi) List the minimum initial premium.

(vii) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.

(b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The "Utah Annuity Filing Certification" must be properly completed, signed, and attached to the [~~s~~]Supporting [~~d~~]Documentation tab. A false certification may subject the licensee [~~or filer~~]to administrative action.

(c) Domiciliary Approval and Filing Status Information. All filings for a foreign [~~insurer~~]licensee must include on the [~~s~~]Supporting [~~d~~]Documentation tab:

(i) copy of domicile approval for the exact same filing; or

(ii) filing status information which includes:

(A) a list of the states to which the filing was submitted;

(B) the date submitted; and

(C) summary of the states' actions and their responses; or

(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(d) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the [§]Supporting [d]Documentation tab either a:

(i) signed and fully completed "Utah Life and Annuity Group Questionnaire"; or

(ii) copy of the Utah Life and Annuity Discretionary Group Authorization letter.

(e) Letter of Authorization.

(i) When the filer is not the [insurer]licensee, a letter of authorization from the [insurer]licensee must be attached to the [supplementary]Supporting [d]Documentation tab.

(ii) The [insurer]licensee remains responsible for the filing being in compliance with Utah laws and rules.

(f) Statement of Variability. [~~Any item or provision on the data page or within the form that is variable must be contained within the brackets.~~]

(i) [List the ranges of variable items or factors within the brackets.—]A statement of variability must be attached to the Supporting Documentation tab and certify:

(A) the final form will not contain brackets denoting variable data;

(B) the use of variable data will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination;

(C) the variable data included in this statement will be used on the referenced forms;

(D) any changes to variable data will be submitted prior to implementation.

(ii) [Each variable item must be identified and explained in a statement of variability.]Variable data are denoted in brackets and are defined, either by imbedding in the form, or by a separate form identified by its own form number and edition date. Variable data submitted as a separate form must be in a manner that follows the construction of the form, by page and paragraph, or page and footnote.

(iii) [If the information contained within the brackets changes, the form must be refilled]Variable data must be reasonable, appropriate and compliant.

(iv) Use of unauthorized variable data is prohibited.

(g) Annuity Report. All annuity filings must include a sample annuity annual report.

(h) Items being submitted for filing.

(i) [~~Any~~]All forms must be attached to the [f]Form [s]Schedule tab.

(ii) [~~Any~~]All rating documentation, including actuarial memorandums and rate schedules, must be attached to the [r]Rate/[r]Rule [s]Schedule tab.

(iii) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance with Utah law are required in individual and group life insurance filings. The

memorandum must be currently dated and signed by the actuary. The memorandum must include:

- (A) description of the coverage in detail;
- (B) demonstration of compliance with applicable nonforfeiture and valuation laws; and
- (C) a certification of compliance with Utah law.

(5) ~~[Sireon Filings.~~

~~\_\_\_\_\_ (a) Transmittal. The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," as provided in R590 227 3, must be properly completed.~~

~~\_\_\_\_\_ (i) Complete the transmittal by using the following:~~

~~\_\_\_\_\_ (A) NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instruction); and~~

~~\_\_\_\_\_ (B) NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix.~~

~~\_\_\_\_\_ (ii) Do not submit the documents described in Section (a)(i)(A) and (B) with the filing.~~

~~\_\_\_\_\_ (b) Filing Description. Do not submit a cover letter. In Section 15 of the transmittal, complete the Filing Description with the following information presented in the order shown below.~~

~~\_\_\_\_\_ (i) Provide a description of the filing.~~

~~\_\_\_\_\_ (ii) Indicate if the filing:~~

~~\_\_\_\_\_ (A) is new;~~

~~\_\_\_\_\_ (B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;~~

~~\_\_\_\_\_ (C) includes forms for informational purposes; if so, provide the Utah Filed Date; or~~

~~\_\_\_\_\_ (D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.~~

~~\_\_\_\_\_ (iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.~~

~~\_\_\_\_\_ (iv) Explain any change in benefits or premiums that may occur while the contract is in force.~~

~~\_\_\_\_\_ (v) List the issue Ages, which means the range of minimum and maximum ages for which a policy will be issued.~~

~~\_\_\_\_\_ (vi) List the minimum initial premium.~~

~~\_\_\_\_\_ (vii) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.~~

~~\_\_\_\_\_ (c) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The "Utah Annuity Filing Certification" must be properly completed and signed. A false certification may subject the licensee or filer to administrative action.~~

~~\_\_\_\_\_ (d) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:~~

~~\_\_\_\_\_ (i) a copy of domicile approval for the exact same filing;~~

~~\_\_\_\_\_ (ii) a filing status information which includes:~~

~~\_\_\_\_\_ (A) a list of the states to which the filing was submitted;~~

~~\_\_\_\_\_ (B) the date submitted; and~~

~~\_\_\_\_\_ (C) summary of the states' actions and their responses; or~~

~~(iii) if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC NOT SUBMITTED TO ANY OTHER STATE."~~

~~(c) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must attach either a:~~

~~(i) signed and fully completed "Utah Life and Annuity Group Questionnaire;" or~~

~~(ii) copy of the "Utah Life and Annuity Discretionary Group Authorization letter".~~

~~(f) Letter of Authorization.~~

~~(i) When the filer is not the insurer, a letter of authorization from the insurer must be included.~~

~~(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.~~

~~(g) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets. List the ranges of variable items or factors within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refiled.~~

~~(h) Items being submitted for filing. Any form items submitted for filing must be attached to the product forms tab.~~

~~(i) Annuity Report. All annuity filings must include a sample annuity annual report.~~

~~(j) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration, and a certification of compliance are required in annuity filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:~~

~~(i) description of the coverage in detail;~~

~~(ii) demonstration of compliance with applicable nonforfeiture and valuation laws; and~~

~~(iii) a certification of compliance with Utah law.~~

~~(6) ]Refer to each applicable Section of this rule for additional procedures on how to submit forms and reports.~~

#### **R590-227-[7]6. Procedures for Filings.**

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) Forms must c[E]ontain a descriptive title on the cover page.

(d) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.

~~(e) [Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.~~

~~(f)]~~ Blank spaces within the form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age market, the form must be completed with data representative of senior

annuitants.

(ii) All John Doe data in the forms including the data page must be accurate and consistent with the actuarial memorandum, the application, and any marketing materials, as applicable.

(2) Application Filing.

(a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.

(b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

(3) Contract Filing.

(a) Each type of annuity must be filed separately.

(b) A contract filing consists of one contract form, including its related forms, such as an application, data page, rider or endorsement, and an actuarial memorandum.

(c) A contract data page must be included with every contract filing.

(d) Only one contract form for a single type of insurance may be filed.

(e) A contract data page that changes the basic feature of the contract may not be filed without including the entire contract form in the filing. [~~Separate data page filings without the contract form will be rejected as incomplete.~~]

(4) Rider or Endorsement Filings.

(a) Related riders or endorsements may be filed together.

(b) A single rider or endorsement that affects multiple forms may be filed if the Filing Description references all affected forms.

(c) A rider or endorsement that is based on morbidity risks such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings".

(d) The filing must include:

(i) a listing of all base contract form numbers, title and Utah Filed Dates; and

(ii) a description of how each filed rider or endorsement affects the base contract.

(iii) a sample data page with data for the submitted form.

(e) Unrelated endorsements may not be filed together.

#### **R590-227-[8]7. Additional Procedures for Fixed Annuity Filings.**

(1) Insurers filing annuity forms are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) R590-93, "Replacement of Life Insurance and Annuities;"

(d) R590-96, "Annuity Mortality Tables;" and

(e) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) Every filing of an individual annuity contract, rider or endorsement providing benefits, and every group annuity filing including certificates that are marketed individually, shall

include an actuarial memorandum, a demonstration, and a certification of compliance with nonforfeiture and valuation laws. Refer to the following:

(a) Section 31A-22-409, "Standard Nonforfeiture Law for Deferred Annuities;" and

(b) Section 31A-17 Part V, "Standard Valuation Law."

(3) When submitting annuity filings the [~~filing description of the transmittal~~] General Information Tab must:

(a) identify the specific subsection of the Utah nonforfeiture law, which applies to the submitted annuity;

(b) describe the basic features of the form submitted;

(c) identify and describe the interest earning features; including the guaranteed interest rate, the guaranteed interest terms, and any market value adjustment feature;

(d) describe the guaranteed and nonguaranteed values including any bonuses;

(e) describe all charges, fees and loads;

(f) list and describe all accounts, options and strategies, if any;

(g) identify whether the accounts are fixed interest general accounts, registered separate accounts including modified guaranteed separate accounts; and

(h) describe any restrictions or limitations regarding withdrawals, surrenders, and the maturity date or settlement options.

(4) The contract must be complete with a sample specification page attached.

(5) The actuarial memorandum must:

(a) be currently dated and signed by the actuary;

(b) identify the specific subsections of the Utah nonforfeiture law which applies to the submitted annuity;

(c) describe all contract provisions in detail, including all guaranteed and non-guaranteed elements, that may affect the values;

(d) identify the guaranteed minimum interest crediting rates;

(e) describe in detail the particular methods of crediting interest, including:

(i) guaranteed fixed interest rates; and

(ii) guaranteed interest terms.

(f) specifically identify, describe and list all charges and fees, including loads, surrender charges, market value adjustments or any other adjustment feature;

(g) describe in detail all accounts and factors that are used to calculate guaranteed minimum nonforfeiture values and minimum cash surrender values in the contract and the elements used in the calculation of the minimum values required by the law; and

(h) include the formulas used to calculate the minimum guaranteed values provided by the contract and the formulas used to calculate the minimum guaranteed values required by the applicable subsections of the nonforfeiture law.

(6) The actuarial demonstration must:

(a) compare minimum contract values with minimum

nonforfeiture values;

(b) be based on representative premium patterns, for flexible premium products use both a single premium and level premium payment, and for both age 35 and age 60 or the highest issue age if lower;

(c) numerically demonstrate that the values based on the guaranteed minimum interest rates, the maximum surrender charges, fees, loads, and any other factors affecting values, provide values that are in compliance with the Standard Nonforfeiture Law using both the retrospective and the prospective tests, each test must be clearly identified, and include the following:

(i) For the retrospective test, describe the net consideration and the interest rates used in the accumulation. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.

(ii) For the prospective test, identify the maturity value and the interest rate used for each respective year to determine the present value. Numerically compare the guaranteed contract values with the minimum values required by the nonforfeiture law.

(7) The actuarial certification of compliance must be currently dated and signed by the actuary. The certification must state that the formulas used and values provided are in compliance with Utah laws and rules.

#### **R590-227-[9]8. Additional Procedures for Group Annuity Filings.**

(1) ~~[Insurers]~~ A filer submitting group annuity filings are advised to review the following code sections and rules prior to submitting a filing:

(a) Section 31A-21 Part III, "Specific Clauses in Contracts;"

(b) Section 31A-22 Part IV, "Life Insurance and Annuities;"

(c) Section 31A-22 Part V, "Group Life Insurance;" and

(d) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A group contract must be included with each certificate filing along with the master application and enrollment form.

(3) Actuarial Memorandum. An actuarial memorandum must be included in all ~~[Every]~~ group annuity filing ~~[must include an actuarial memorandum]~~ describing the features of the contract and certifying compliance with applicable ~~[Utah]~~ laws and rules. ~~[—A group filing that includes a group certificate that is marketed to individuals, must include an actuarial memorandum, demonstration and certification of compliance with the applicable Utah nonforfeiture law.]~~

(4) Eligible Groups. A filing for an eligible group must include a completed "Utah Life and Annuity Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Sections 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(5) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a filing is submitted

without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life and Annuity Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

(i) existence of a verifiable group;

(ii) that granting permission is not contrary to public policy;

(iii) the proposed group would be actuarially sound;

(iv) the group would result in economies of acquisition and administration which justify a group rate; and

(v) the group would not present hazards of adverse selection.

(c) Discretionary group filings that do not provide authorization documentation will be rejected.

(d) Any changes to an authorized discretionary group must be submitted to the department, such as; change of name, trustee, domicile state, within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

#### **R590-227-[10]9. Additional Procedures for Variable Annuity Filings Procedures.**

(1) Insurers submitting variable annuity filings are advised to review the following code sections and rule prior to submitting a filing:

(a) Section 31A-22-411, "Contracts Providing Variable Benefits;" and

(b) R590-133, "Variable Contracts."

(2) A variable annuity contract must have been previously approved or accepted by the ~~[insurer's]~~licensee's state of domicile before it is submitted for filing in Utah. ~~[Include the approval date in the submission.]~~

(3) Information regarding the status of the filing of the variable annuity with the Securities and Exchange Commission must be included in the filing.

(4) The ~~[transmittal]~~description and the actuarial memorandum must:

(a) describe the type of accounts available in the contract; and

(b) identify ~~[and describe]~~those accounts that are separate accounts, including modified guaranteed annuities, and those accounts that are general accounts.

(5) The actuarial memorandum must describe all contract provisions in detail, including all guaranteed and non-guaranteed elements that may affect the values.

(6) The actuarial demonstration must numerically demonstrate compliance with the applicable nonforfeiture laws:

(a) for variable annuities, including modified guaranteed annuities, pursuant to Section 31A-22-411;

(b) for fixed interest general accounts pursuant to 31A-22-

409, identify and describe all guaranteed factors that affect values, including:

- (i) the guaranteed minimum interest rate; and
- (ii) the maximum surrender charges and loads.

(7) An actuarial certification of compliance with applicable Utah laws and rules must be included in the filing.

(8) A filing for a rider that provides benefits, such as guaranteed minimum death benefit and guaranteed minimum withdrawal benefit, must include an actuarial memorandum.

- (9) A prospectus is not required to be filed.

#### **R590-227-~~[11]~~10. Correspondence and Status Checks.**

(1) Correspondence. When corresponding with the department, ~~[filers must]~~ provide sufficient information to identify the original filing:

- (a) type of insurance;
- (b) date of filing;
- (c) form numbers; and
- (d) ~~[submission method, SERFF or Sircon; and~~
- ~~\_\_\_\_\_~~(e) SERFF tracking number.

- (2) Status Checks.

\_\_\_\_\_(a) A complete filing is usually processed within~~[e]~~ 45 days of receipt.

\_\_\_\_\_(b) A filer~~[s may]~~ can request the status of its filing [by telephone, or email] 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

#### **R590-227-~~[12]~~11. Responses.**

(1) Response to a Filing Objection Letter. ~~[A response to]~~ When responding to a Filing Objection Letter a filer must include:

(a) ~~[a cover letter]~~ provide an explanation identifying all changes made;

(b) ~~[revised documents with all changes highlighted,]~~ include an underline and strikeout version for each revised document; [and

(c) ~~[revised documents incorporating all changes without highlights.]~~ a final version of revised documents that incorporate all changes; and

\_\_\_\_\_(d) for filing submitted in SERFF, attached the documents in Subsections R590-227-11(1)(b)(c) to appropriate Form Schedule or Rate/Rule Schedule tab.

- (2) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no~~[t]~~ later than 15 days after the date of the Order.

(d) A new filing is required if the ~~[company]~~ licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-227-~~[13]~~12. Penalties.**

Persons found, ~~[after a hearing or other regulatory process,~~  
]to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-227-~~[14]~~13. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from~~[upon]~~ the effective date of this rule.

**R590-227-~~[15]~~14. Severability.**

If any provision of this rule or its~~[the]~~ application ~~[of it]~~  
]to any person or ~~[circumstance]~~situation is ~~[for any reason]~~held to be invalid, that invalidity shall not affect any other provision or~~[the remainder of the rule and the]~~ application of this rule which can be given effect without the invalid~~[the]~~  
]provision or application, and to this end the provisions ~~[to other persons or circumstances may not be affected by it]~~ of this rule are declared to be severable.

**KEY: annuity insurance filings**

Date of Enactment or Last Substantive Amendment: ~~[July 12, 2007]~~2009

Notice of Continuation: March 26, 2009

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202