

State of Utah
Administrative Rule Analysis
Revised June 2021

| NOTICE OF PROPOSED RULE | | |
|--------------------------------------------------------------------------|----------|-----------------------------|
| TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___ | | |
| Title No. - Rule No. - Section No. | | |
| Utah Admin. Code Ref (R no.): | R590-103 | Filing ID (Office Use Only) |
| Changed to Admin. Code Ref. (R no.): | R | |

Agency Information

| | | |
|------------------------------------------------------------------------------|------------------------------------|-----------------|
| 1. Department: | Insurance | |
| Agency: | Administration | |
| Room no.: | Suite 2300 | |
| Building: | Taylorsville State Office Building | |
| Street address: | 4315 S. 2700 W. | |
| City, state and zip: | Taylorsville, UT 84129 | |
| Mailing address: | PO Box 146901 | |
| City, state and zip: | Salt Lake City, UT 84114-6901 | |
| Contact person(s): | | |
| Name: | Phone: | Email: |
| Steve Gooch | 801-957-9322 | sgooch@utah.gov |
| Please address questions regarding information on this notice to the agency. | | |

General Information

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. Rule or section catchline: |
| R590-103. Security Deposits |
| 3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?): |
| The rule is being changed as a result of Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended. |
| 4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): |
| The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Others are changes to make the language of the rule more clear. It also updates the Severability section to use the department's current language. It does not add, remove, or change any regulations or requirements. |

Fiscal Information

| |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to: |
| A) State budget: |
| There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions. |
| B) Local governments: |
| There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments. |
| C) Small businesses ("small business" means a business employing 1-49 persons): |
| There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses. |
| D) Non-small businesses ("non-small business" means a business employing 50 or more persons): |

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

| Fiscal Cost | FY2022 | FY2023 | FY2024 |
|------------------------------|---------------|---------------|---------------|
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Cost | \$0 | \$0 | \$0 |
| Fiscal Benefits | | | |
| State Government | \$0 | \$0 | \$0 |
| Local Governments | \$0 | \$0 | \$0 |
| Small Businesses | \$0 | \$0 | \$0 |
| Non-Small Businesses | \$0 | \$0 | \$0 |
| Other Persons | \$0 | \$0 | \$0 |
| Total Fiscal Benefits | \$0 | \$0 | \$0 |
| Net Fiscal Benefits | \$0 | \$0 | \$0 |

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

| | | |
|-------------------------|--------------------------|--|
| Subsection 31A-2-201(3) | Subsection 31A-2-206(17) | |
| | | |
| | | |

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | First Incorporation |
|-------------------------------------------------------------------|----------------------------|
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Date Issued | |

| | |
|--------------------------|--|
| Issue, or version | |
|--------------------------|--|

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

| | |
|-------------------------------------------------------------------|-----------------------------|
| | Second Incorporation |
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Date Issued | |
| Issue, or version | |

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 10/15/2021

B) A public hearing (optional) will be held:

| | | |
|-------------------------|--------------------------|--------------------|
| On (mm/dd/yyyy): | At (hh:mm AM/PM): | At (place): |
| | | |
| | | |
| | | |

10. This rule change MAY become effective on (mm/dd/yyyy): 10/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

| | | | |
|--------------------------------------------|-----------------------------------------|---------------------------|------------|
| Agency head or designee, and title: | Steve Gooch, Public Information Officer | Date (mm/dd/yyyy): | 08/26/2021 |
|--------------------------------------------|-----------------------------------------|---------------------------|------------|

R590. Insurance, Administration.

R590-103. Security Deposits.

R590-103-1. Authority.

This rule is promulgated by the ~~[Insurance C]~~ commissioner pursuant to Subsections 31A-2-201(3) and 31A-2-206(17) ~~[, which authorizes rules to implement the Utah Insurance Code].~~

R590-103-2. Purpose and Scope.

(1) The purpose of this rule is to ~~[implement provisions relating to required deposits with the commissioner of insurance and adopt forms for that purpose]~~ establish procedures and forms for a required deposit with the commissioner.

(2) This rule applies to ~~[all insurance company]~~ each insurer licensee[s] in this state.

R590-103-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301.

R590-103-4. Rules.

~~[A. The rule on the use of clearing corporations]~~ (1) Rule R590-178 and the federal book-entry system shall ~~[be applicable when securities are to be used for purposes of deposit]~~ apply to a security deposited with the state.

~~[B. Securities]~~ (2) A security held by a qualified transfer deposit corporation may be a qualified deposit[s] if the security is held:

(a) in accordance with ~~[the rule on the use of clearing corporations]~~ Rule R590-178; and

(b) through a qualified custodian.

~~[C.]~~ (3) If a declining balance security is deposited with the ~~[insurance]~~ commissioner, the ~~[company]~~ insurer depositing the security

shall:

- (a) report the balance to the commissioner at least on a quarterly basis; or
- (b) if ordered by the commissioner, report the balance on a monthly basis~~[- The commissioner may order that a company report these balances monthly].~~

~~[D.](4)(a) The custodian institution holding a deposit[s], or the state treasurer, shall provide an annual report [on an annual basis] to the [insurance company]insurer and the commissioner indicating the amount of securities held on December 31[st] of each year.~~

- (b) The~~[This]~~ report shall be submitted by January 15~~[th]~~ of the following year.
- (c) The report shall provide a description of the securities, including:
 - (i) the Committee on Uniform Securities Identification Procedures (CUSIP) number;
 - (ii) the interest rate;
 - (iii) the par value; and
 - (iv) the maturity date.
- (d) The report shall demonstrate that the securities held in the deposit satisfy the requirements of Subsection 31A-2-206(7).
- (e) Failure to provide the report shall be grounds for appropriate action by the commissioner.~~[- The form of this report shall state the description of the securities, including CUSIP number, the interest rate, the par value, and the date of maturity, and shall satisfy the requirement of Section 31A-2-206(7).]~~

~~[E.-C](5)(a) A certificate[s] of deposit may be deposited in an amount[s] not to exceed federal insurance limits.~~

- (b) The face amount of the certificate of deposit shall be [deemed to be]the market value.

~~[F. Depository Agreement, Deposit Request and Withdrawal Request forms are available on request from the Insurance Department.]~~(6) The following forms are available on the department's website at <https://insurance.utah.gov>:

- (a) depository agreement;
- (b) deposit request; and
- (c) withdrawal request.

~~[G.-D](7) A deposit[s] required under [these rules]this section shall apply to [all]each insurer licensee[s] in this state.~~

- (8) A foreign [company]insurer may deposit a security[ies] in[-its]:
 - (a) the insurer's domiciliary state; or
 - (b) another state with comparable deposit statutes or rules.
- (9) The only acceptable deposit[s]are those]is a deposit held for all policyholders.

R590-103-5. ~~[Separability]~~Severability.

~~[If any provision of this rule or its application to any person or circumstance is found for any reason to be invalid, the remainder of the rule may not be affected thereby.]~~If any provision of this rule, Rule R590-103, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Enactment or Last Substantive Amendment: May 9, 1997

Notice of Continuation: December 12, 2016

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-206