

**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.):	R590-116	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:
R590-116. Valuation of Assets
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being changed in compliance with 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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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. Other changes make the language of the rule more clear, and update the Severability section to use the department's current language. The changes do 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**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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:**

Section 31A-2-201	Section 31A-17-401	

**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*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	

<b>Issue, or version</b>	
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**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*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**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): 01/03/2022

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

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY become effective on** (mm/dd/yyyy): 01/10/2022

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.

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date</b> (mm/dd/yyyy):	11/08/2021
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**R590. Insurance, Administration.**

**R590-116. Valuation of Assets.**

**R590-116-1. Authority.**

This rule is ~~[adopted pursuant to Subsection 31A-2-201(3), which authorizes rules to implement the Insurance Code, Subsection 31A-17-401(3)(a)(ii), which requires the commissioner to adopt a rule to determine the present value of future income derived from securities issued by an insurer's insurance subsidiaries, and Subsection 31A-17-401(4), which requires the commissioner to adopt rules for the valuation of insurer assets]~~ promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-17-401.

**R590-116-2. Purpose and Scope.**

~~[A-](1)~~ The purpose of this rule is to ~~[comply with the statutory requirement of Subsection 31A-17-401(4), to adopt a rule for the valuation of insurer assets. The values established under this rule shall be used to determine compliance with other financial requirements of the]~~ provide direction to establish the value of insurer assets used to determine compliance with the financial requirements of Title 31A, Insurance Code.

~~[B-](2)~~ This rule ~~[shall apply]~~ applies to ~~[all]~~ any person[s] transacting insurance business under ~~[the Utah]~~ Title 31A, Insurance Code.

**R590-116-3. Definitions.**

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

~~\_\_\_\_\_ A. "Valuation of Securities" shall mean the publication of the Securities Valuation Office of the National Association of Insurance Commissioners (NAIC).~~

~~\_\_\_\_\_ B. "Amortizable" shall mean having been accorded that rating in "Valuation of Securities".~~

- ~~C. "In Good Standing" shall mean having been accorded that rating in "Valuation of Securities".~~
- ~~D. "Purchase Money Mortgages" shall mean mortgages or liens received as consideration, either in whole or part, on the disposal of real estate which secures such mortgage or liens.~~
- ~~E. "Burial Certificate" or "Burial Contract" if issued by an insurer shall be defined as an insurance contract and not as a security.~~
- Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:
- (1) "Amortizable" means accorded that rating in Valuation of Securities.
  - (2) "In good standing" means accorded that rating in Valuation of Securities.
  - (3) "NAIC" means the National Association of Insurance Commissioners.
  - (4) "Purchase money mortgage" means a mortgage or lien received as consideration, either in whole or in part, on the disposal of real estate that secures the mortgage or lien.
  - (5) "Valuation of Securities" means the publication of the Securities Valuation Office of the NAIC.

**R590-116-4. [Rule]Valuation of Assets.**

- ~~A.]An insurer's assets [of insurers transacting insurance under the Utah Insurance Code] shall be valued as follows:~~
- ~~[1.](1) Bonds.~~
- ~~[a.](a)(i) [All obligations having]Each obligation with a fixed term and rate, if not in default [as to]on principal or interest, shall be valued:~~
- ~~(i) [A] [A]at the par value, if purchased at par[.]; or~~
  - ~~(ii) [B] [If purchased above or below par,]at the value to par at maturity and [so as]to yield<sub>2</sub> in the meantime<sub>2</sub> the effective rate of interest at which the purchase was made, if purchased above or below par.~~
  - ~~(ii) For valuation purposes, the purchase price may not be higher than actual market value at the date of acquisition, including brokerage and any other related fee[s].~~
  - ~~(b) A[The] bond[s] may not be carried at a value greater than the call price at which the entire issue may be called.~~
  - ~~[b.](c)(i) [O]An obligation[s] subject to amortization under the published findings of the NAIC shall be carried at [their]its amortized value[s].[-O]~~
  - ~~(ii) An obligation[s which do] that does not qualify for amortization under the published findings of the NAIC shall be carried at [their]its market value or book value, whichever is lower.~~
  - ~~[e.](d) [D]A demand deposit[s and] or certificate[s] of deposit in a solvent bank[s and] or savings and loan institution[s] shall be valued at the account or certificate balance.[-N]~~
  - ~~(i) A negotiable certificate[s] of deposit[s] with a maturity term[s] of less than three years shall be valued at face value.[-N]~~
  - ~~(ii) A negotiable certificate[s] of deposit with a maturity term[s] of more than three years shall be valued at face value or market value<sub>2</sub> whichever is less.~~
  - ~~[4.](e) [O]An obligation[s] of an insurance subsidiary shall [ies are to]be valued in accordance with [the requirements of Section]Subsection 31A-17-401(3)(a)[, U.C.A.,] and Section [(4)(B) of this rule]R590-116-5.~~
- ~~[2.](2) Equipment Trust Certificates.~~
- ~~(a) [E]An equipment trust certificate[s] subject to amortization under the published findings of the NAIC shall be carried at the[#,] certificate's amortized value[s].[-E]~~
- ~~(b) An equipment trust certificate[s which are] that is not listed as qualified for amortization under the published findings of the NAIC shall be carried at a value not to exceed the certificate's proportionate part of the aggregate principal amount of the equipment obligations outstanding times 70% of the net depreciated value of the equipment pledged.~~
- ~~[3.](3) Loans Secured By Real Estate Interest.~~
- ~~(a) [Loans]A loan, other than a purchase money mortgage[s, which are], that is adequately secured by a real estate interest[s] and [are]is not in default [as to]on principal or interest, shall be valued at the unpaid principal balance if the acquisition was at par.[-Further,]~~
- ~~(b) A mortgage loan[s] acquired at a premium or at a discount [are to]shall be valued at amortized cost[- Procedures relating to the amortization of premiums and accrual of discounts on mortgage loans are] as follows:~~
- ~~[a.](i) [F]for a Federal Housing Administration (FHA) [and]or Veterans Administration (VA) [M]mortgage[s.-P]:~~
    - ~~(A) a premium[s] shall be amortized and discounts accrued over a five[-]year period from date of acquisition[- Companies]; and~~
    - ~~(B) a company may adjust the asset value[s of these mortgages to their] to its face amount[s], but any excess of aggregate permissive amortized value, cost of mortgage[s] less repayment[s] of principal, adjusted for amortization of premium[s] and accrual of discounts on a five[-]year basis, shall be treated as a nonadmitted asset[-]; and~~
  - ~~[b.](ii) [M]for a mortgage[s] other than an FHA [and]or VA Mortgage[s.-T]:~~
    - ~~(A) the book value of a real estate mortgage[s] acquired at a premium shall be reported at a value[s] reflecting any write-off[s] of [such]the premium[s] over a three[-]year period from date of acquisition[-R]; and~~
    - ~~(B) a real estate mortgage[s] purchased at a discount shall be carried at the amortized value.~~
  - ~~[e.](c) Premium amortization or discount accretion as required in [R590-116-4.A.3.a. or 3.b. above]Subsection (3)(b) shall be on the straight-line method of computation.~~
  - ~~[4.](d) An adequately secured purchase money mortgage[s] shall be valued at the unpaid principal balance of the lien reduced by a reserve for unrealized gain on the sale of real estate[-T]; the reserve shall maintain the same proportionate relationship between the unpaid principal balance as the original gain on the sale bore to the original note principal balance.~~
  - ~~[e.](e) For a loan[s] that [are]is in default or in foreclosure proceedings<sub>2</sub> the carrying value[s] may be adjusted for additional~~

expenses, such as taxes, insurance, and legal fees, ~~[that have been]~~ incurred to protect the investment or to obtain clear title to the property.

~~(i) [To the extent that such costs are to be]~~ If a cost is recoverable from the ultimate disposition of the property, the ~~[se]~~ cost[s] may be added to the carrying value of the mortgage loan[s]. ~~[However, such e]~~

~~(ii) A cost[s] that cannot reasonably be expected to be recovered shall be expensed when incurred.~~

~~[F.](f) [L.]~~ A loan[s] with any of the following provisions may be valued, at the option of the commissioner, at a discounted value[s] ~~which] that approximates the market value[s] of the loan[s] at the valuation date:~~

~~[+](i) [P.]~~ a payment[s] other than in equal installments;

~~[+](ii) [P.]~~ a payment period[s] less often than annually; or

~~[+](iii) [F.]~~ interest below a conventional rate[s] of return on the date the loan is granted.

~~[4.](4) Loans Secured By Pledged Securities Or Evidences Of Debt Eligible For Investment Under Section 31A-18-105.~~

~~(a) A loan that is [Loans which are]~~ adequately secured by a pledge of securities or evidence[s] of debt eligible for investment under Section 31A-18-105 shall be valued at par, if the acquisition was at par. ~~[Further, such loans]~~

~~(b) A loan acquired at a premium or at a discount [are to] shall~~ be valued at the unpaid principal balance or cost, whichever is less.

~~[5.](5) Preferred and Guaranteed Stocks.~~

~~[a.](a) [Preferred or guaranteed stocks in good standing [are to] shall be valued at cost by companies [which are maintaining] that maintain a mandatory securities valuation reserve. Companies not maintaining a mandatory securities valuation reserve shall value such stocks at market value.]~~ A company that maintains a mandatory securities valuation reserve shall value preferred or guaranteed stock in good standing at cost.

~~(b) A company that does not maintain a mandatory securities valuation reserve shall value preferred or guaranteed stock in good standing at market value.~~

~~[b.](c) Preferred or guaranteed stock[s] not in good standing [are to] shall~~ be valued at market value.

~~[e.](i) Market value, as used for valuation of preferred or guaranteed stock[s], means in accordance with the values listed in [“]Valuation of Securities[“]. For securities which are ]~~

~~(ii) A security traded on a registered national securities exchange[;] but [are] not listed in [that publication, market value may be established.]~~ Valuation of Securities may establish market value at the most recent published trade value. ~~[Securities]~~

~~(iii) A security not listed in Valuation of Securities and not actively traded on a major stock exchange shall have a market value [in an amount] that the insurer can justify to the commissioner.~~

~~[d.](d) Preferred or guaranteed stock[s] of an insurance subsidiary shall [ies are to] be valued [in accordance with the requirements of] under Subsection 31A-17-401(3)(a)[;] and [Subsection R590-116-4.B. of this rule] Section R590-116-5.~~

~~[6.](6) Common Stock[s].~~

~~[a.](a) Common stock[s] are to] shall~~ be valued at market value.

~~(i) Market value, as used for valuation of common stocks, means in accordance with the values listed in [“]Valuation of Securities[“]. For securities which are ]~~

~~(ii) A security traded on a registered national securities exchange[;] but [are] not listed in [that publication, market value may be established.]~~ Valuation of Securities may establish market value at the most recent published trade value. ~~[Securities]~~

~~(iii) A security not listed in Valuation of Securities and not actively traded on a registered national securities exchange shall have a market value [in an amount] that the insurer can justify to the commissioner.~~

~~[b.](b) Common stock[s] of an insurance subsidiary shall [ies are to] be valued [in accordance with the requirements of] under Subsection 31A-17-401(3)(a).~~

~~[7.](7) Real Estate.~~

~~[a.](a) An investment in real estate [will] shall~~ be valued at not more than ~~[its] the~~ reasonable cost of the property plus capitalized permanent improvements less depreciation spread evenly over the life of the property or, at the option of the company, less depreciation computed on any basis permitted under the Internal Revenue Code and regulations.

~~[b.](b) Property acquired in satisfaction of a debt shall be valued at its fair market value or the amount of debt, including interest, taxes, and expenses incurred as cost in foreclosure, whichever is less.~~

~~[8.](8) Loans Upon the Security of the Insurer's Own Policies. [Loans]~~ A loan upon the security of the insurer's own policies shall be valued at the unpaid loan balance or the policy reserve[s] securing ~~[such] the~~ loan, whichever is less.

~~[9.](9) Financial Futures Contracts. [F.]~~ A financial futures contract[s], if approved by ~~[Insurance D]~~ department rule, shall be valued in the manner set forth by the commissioner.

~~[10.](10)(a) Investment in Foreign Securities. [F.]~~ A foreign security ~~[ies]~~ permitted under Subsection 31A-18-105(11)[;] shall be valued as follows:

~~[a.](i) [Where information is available, at the value published by the NAIC. If the security is payable in a foreign currency the value shall reflect the currency exchange rate.]~~ if the value of the security is listed in Valuation of Securities, the market value shall be the listed value[;]; or

~~[b.](ii) [Where information is not available,] if the value of the security is not listed in Valuation of Securities, the security shall have a market value that the insurer can justify to the commissioner.~~

~~(b) If the security is payable in a foreign currency, the value shall reflect the currency exchange rate.~~

~~[11.](11) Separate Account Assets. [S.]~~ Each separate account asset[s] shall have a value as required under Subsection 31A-18-102(4).

**R590-116-5. Valuation of a Security Other Than Common Stock Issued by an Insurance Subsidiary.**

~~[B. Value of Securities Other Than Common Stock Issued by an Insurance Subsidiary.]~~The following provisions ~~shall~~ supplement Subsection 31A-17-401(3)(a)~~]~~ in controlling the ~~manner in which~~ way assets of ~~an~~ insurance subsidiary~~ies~~ are valued on the books of the parent insurer~~]~~.

~~[1.]~~(1) A parent insurer may attribute value to the security of an insurance subsidiary only if a dividend[s] or interest ~~are~~ is being paid and payment ~~can reasonably be~~ is anticipated to continue.

~~[2.]~~(2) The value of a security~~ies~~ other than common stock issued by an insurance subsidiary is the lesser of:

~~[a.]~~(a) ~~[F]~~the present value of future income to be derived under the security~~ies~~; or

~~[b.]~~(b) ~~[F]~~the amount the parent would receive following liquidation of the subsidiary with payment, in full, of ~~all~~ each creditor[s] and holder[s] with senior priority.

~~[3.]~~(3) The present discounted value of future income under Subsection ~~[R590-116-4.B.2.a. of this rule-]~~(2)(a) shall be determined as follows:

$$NPV = ((CF_1)/((1 + i)^1)) + ((CF_2)/((1 + i)^2)) + (CF_3)/((1 + 3)^3)) + \dots ((CF_n)/((1 + i)^n))$$

NPV = Net present value

CF = Cash flow

i = Assumed interest rate per period

n = Number of periods

If cash flows remain constant, the following formula may be used:

$$NPV = CF(1 - (1 / (1 + i)^n) / i)$$

~~[4.]~~(4) The interest rate used shall be ~~equal to~~ Moody's AA Bond rate ~~given~~ for a security~~ies~~ of substantially equal duration, or another rate ~~which~~ that can be justified by the insurer and is accepted by the commissioner.

**R590-116-~~[5]~~6. Separability.**

~~[If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances will not be affected.]~~If any provision of this rule, Rule R590-116, 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 companies, rules and procedures**

**Date of Enactment or Last Substantive Amendment: 1987**

**Notice of Continuation: January 26, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-17-401**