

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.):	R590-140	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:
R590-140. Reference Filings of Rate Service Organization Prospective Loss Costs
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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

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:

Section 31A-2-201		

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	
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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*):

	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):	12/01/2021	
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):	12/08/2021
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):	10/13/2021
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R590. Insurance, Administration.

R590-140. Reference Filings of Rate Service Organization Prospective Loss Costs.

R590-140-1. Authority.

This rule is promulgated by the ~~[Insurance C]~~ commissioner pursuant to ~~[the general authority granted under Subsections 31A-2-201(1) and 31A-2-201(3)(a) to adopt rules for the implementation of the Utah Insurance Code]~~ Section 31A-2-201.

R590-140-2. Purpose and Scope.

~~[Pursuant to 31A-19a-205, rate filings made by individual insurers in compliance with the requirements of Section 31A-19a-203 may include rates, pure premium rates and supplementary information prepared by a rate service organization. The purpose of this rule is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Section 31A-19a-203 as to the rate and supplementary rate information filings of property and casualty insurers that refer to and incorporate, in whole or in part, prospective loss costs filings made by rate service organizations.]~~

R590-140-3. Applicability and Scope.

~~_____ This rule applies to the types of insurance described in Section 31A-19a-101 and to insurers making filings under Section 31A-19a-203 subject to any exemptions the commissioner may order pursuant to Section 31A-19a-103](1)(a) The purpose of this rule is to regulate reference filings and insurers that make reference filings.~~

~~_____ (b) This rule establishes procedures and requirements for a property and casualty insurer to comply with the requirements of Section 31A-19a-203 regarding rate and supplementary rate information filings that refer to and incorporate a rate service organization's prospective loss costs filings.~~

~~_____ (2)(a) This rule applies to any kind or line of direct insurance written on risks or operations except insurance exempt under Subsection 31A-19a-101(2)(a)(ii).~~

(b) Except for an insurer exempt under Section 31A-19a-103, this rule applies to an insurer making a filing under Section 31A-19a-203.

R590-140-[4]3. Definitions.

[For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Section 31A-1-301, and Section 31A-19a-102 in addition to the following] Terms used in this rule are defined in Sections 31A-1-301 and 31A-19a-102. Additional terms are defined as follows:

(1) "Reference filing" means a [filing of] prospective loss costs filing, a supporting information filing, or both, made by a licensed rate service organization [~~An insurer that subscribes to the rate service organization may refer to or incorporate elements of reference filings in its own filings~~].

R590-140-[5]4. Filings of Advisory Prospective Loss Costs and Adjustment Factors.

(1) A rate service organization may develop and make a reference filing[s] containing advisory prospective loss costs. [~~The]~~

(2) Each reference filing ~~must~~ shall:

(a) contain the statistical data and supporting information for ~~the~~ each calculation[s] or assumption[s] underlying ~~those~~ the prospective loss costs; and

(b) ~~[be filed and effective in the same manner as rates filed pursuant to Section 31A-19a-203]~~ comply with the rate filing requirements under Section 31A-19a-203.

([2]3) An insurer may ~~make a filing of rates by~~ file rates if the insurer:

(a) becomes ~~ing~~ a participating insurer of a licensed rate service organization that makes an advisory prospective loss costs reference filing[s of advisory prospective loss costs];

(b) authorizes ~~ing~~ the commissioner to accept a reference filing[s] on ~~its~~ the insurer's behalf; and

(c) files ~~ing with the commissioner~~ the information required in Section R590-140-[6]5 with the commissioner.

([3]4) If an insurer ~~chooses~~ follows the procedure outlined in Subsection ~~(2) above~~ (3), the insurer's rates shall be:

(a) the prospective loss costs filed by the rate service organization ~~pursuant to Subsection (1)~~; and

(b) any adjustment in effect for the insurer under Section R590-140-5 to the filed prospective loss costs ~~filed as required by Section R590-140-6 that are in effect for that insurer~~.

([4]5) ~~[The filing of an adjustment to the prospective loss costs by an insurer shall become effective in accordance with the provisions of Section 31A-19a-203 that apply to the filing of rates]~~ An insurer's adjustment regarding a prospective loss costs filing becomes effective in accordance with the rate filing requirements under Section 31A-19a-203.

R590-140-[6]5. Required Filing Documents.

(1) An insurer's filing ~~by an insurer~~ that refers to a rate service organization's reference filing of prospective loss costs ~~made by a rate service organization must~~ shall include:

(a) the Utah ~~TAH~~ Insurer Loss Costs Multiplier Filing Forms ~~P~~ pages one and two; and

(b) if applicable, the Expense Constant Supplement ~~, if applicable. Samples of these forms are available from the Utah Insurance Department~~.

(2) Sample forms of the Utah Insurer Loss Costs Multiplier Filing Forms and the Expense Constant Supplement are available on the department's website: <https://insurance.utah.gov>.

R590-140-[7]6. Supplementary Rate Information.

(1) A rate service organization may develop and ~~make filings of~~ file supplementary rate information. [~~These]~~

(2) Each supplementary rate information filing[s] shall ~~be made in accordance~~ comply with Sections 31A-19a-203 and 31A-19a-205.

([2]3) An insurer may ~~make a filing of~~ file supplementary rate information ~~by~~ if the insurer:

(a) becomes ~~ing~~ a participating insurer of a licensed rate service organization; and

(b) authorizes ~~ing~~ the commissioner to accept a filing by the rate service organization on the insurer's behalf ~~of the insurer~~.

([3]4) Except for a ~~ny~~ modification filed by the insurer, the insurer's supplementary rate information ~~of the insurer~~ filing must be the same as ~~that filed by~~ the rate service organization's supplementary rate information filing.

R590-140-[8]7. Filing of Rate and Manual Pages.

(1) ~~[If the]~~ An insurer is not required to develop or file final rate pages with the commissioner if the insurer's final rates ~~of an insurer~~ are determined solely by applying ~~its~~ the insurer's adjustment ~~, as presented~~ in the Utah ~~TAH~~ Insurer Loss Costs Multiplier Filing Forms ~~P~~ pages one and two and, if applicable, the Expense Constant Supplement ~~, if applicable,~~ to the prospective loss costs ~~that are~~ contained in the reference filing and printed in the rate service organization's rating manual ~~of the rate service organization, the insurer is not required to develop or file its final rate pages with the commissioner~~.

(2) ~~[If an]~~ An insurer must file final rate pages with the commissioner if:

(a) the insurer prints and distributes the final rate pages for ~~its~~ the insurer's own use; and

(b) the rates are based on the application of ~~its~~ the insurer's filed adjustments to ~~the~~ a rate service organization's prospective loss costs ~~of a rate service organization, the insurer must file those pages with the commissioner~~.

(3) ~~[If]~~ An insurer must submit the insurer's rates to the commissioner when a rate service organization does not print prospective loss costs in ~~its~~ the rate service organization's rating manual ~~, the insurer must submit its rates to the commissioner~~.

(4) ~~[If a rate service organization does not]~~ An insurer must file certain premium elements, such as minimum premiums, [these must be filed by the insurer] when a rate service organization does not file the premium elements.

R590-140-[9]8. Existing Rates and Deviations.

(1) Nothing in ~~[these procedures shall be construed to]~~ this rule may require a rate service organization or [its] the rate service organization's participating insurers to refile rates previously filed with the commissioner.

(2) A rate service organization's participating insurer [of a rate service organization] may continue to use ~~[all]~~ any rate[s] and deviation[s] currently filed for [its] the insurer's use until the insurer:

(a) makes [its own filing to change its rates by making an independent filing or by filing] an independent filing to change the insurer's rates; or

(b) files the Utah[TAH] Insurer Loss Costs Multiplier Filing Forms [P] pages one and two and, if applicable, the Expense Constant Supplement[, if applicable that adopts the] adopting:

(i) a rate service organization's prospective loss costs[-of a rate service organization or an]; or

(ii) the insurer's adjustment to the rate service organization's prospective loss costs[-by the insurer].

(3) ~~[In order that the commissioner may verify the rates being used, the insurer is required to maintain documentation demonstrating that the rates and deviations being used by the insurer have been filed with the commissioner. These documents must be produced at the request of the commissioner. Failure or refusal to do so may subject the insurer to sanctions pursuant to 31A-2-308]~~ An insurer shall maintain any document that:

(a) demonstrates the insurer is using rates and deviations that have been filed with the commissioner; and

(b) the commissioner may use to verify the insurer's rates.

R590-140-[10]2. Severability.

~~[If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, its invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~ If any provision of this rule, Rule R590-140, 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: June 8, 2000

Notice of Continuation: February 13, 2020

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