

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.):	R590-144	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:
R590-144. Commercial Aviation Insurance Exemption From Rate and Form Filing
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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. Others are changes to make the language of the rule more clear, and the Severability section is being updated 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	Section 31A-19a-103	Section 31A-21-101

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): 11/15/2021

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): 11/22/2021

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):	09/22/2021
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R590. Insurance, Administration.

R590-144. Commercial Aviation Insurance Exemption From Rate and Form Filing.

R590-144-1. Authority.

This [R]ule is promulgated by the [insurance]-commissioner pursuant to[:

- _____ (a) Section 31A-2-201, which provides general authority to adopt rules for the implementation of the Utah Insurance Code;
- _____ (b) Section 31A-19a-103, which authorizes the commissioner to exempt any market segment from provisions of Chapter 19a, Rate Regulation; and
- _____ (c) Subsection 31A-21-101(5), which authorizes the commissioner to exempt any class of insurance contract or class of insurer from provisions of Chapter 21, Insurance Contracts in General.] Sections 31A-2-201, 31A-19a-103, and 31A-21-101.

R590-144-2. Purpose and Scope.

(1) The purpose of this rule is to exempt commercial aviation insurance, as defined in this rule, from the rate filing requirements of [Chapter 19a]Section 31A-19a-103 and the form filing requirements of [Chapter 21]Section 31A-21-101.

[Because of the unique nature of commercial aviation risks, aviation insurance premiums rely on individual risk analysis, underwriting judgment and the negotiation of a sophisticated business transaction between the insurer and an informed insured. Similarly, because of their unique nature, commercial aviation insurance risks have individually tailored manuscript type policies.

_____ As the commercial aviation market segment is highly specialized, competitive and global in nature, the commissioner has determined that exemption from the rate and form filing requirements of the Utah Insurance Code will not harm Utah insureds, creditors, or the public and is not necessary to the regulation of these insurance products.

R590-144-3. Scope.

~~_____](2) This rule applies to: [all insurers licensed to write commercial aviation insurance as it is defined in this rule. This rule also applies to all rate service organizations]~~

~~_____ (a) an insurer licensed to write commercial aviation insurance; and~~

~~_____ (b) a rate service organization.~~

R590-144-4. Definitions.

~~[For the purpose of this rule the commissioner adopts the definitions as particularly set forth in Section 31A-1-301, Section 31A-19a-102, and in addition thereto, 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) "Aviation insurance" means:

(a) ~~[All kinds and classes]~~ Any type or class of property insurance on an aircraft and ~~[all kinds]~~ any class of property and interest[s] with respect to, appertaining to, or in connection with any ~~[and all risks or perils]~~ risk or peril of aerial navigation, transit, or transportation.

(b) ~~[All kinds and classes]~~ Any type or class of casualty insurance in connection with the construction, repair, maintenance, operation, or use of an aircraft, and ~~[all kinds and classes]~~ any type or class of casualty insurance in connection with the maintenance, operation, or use of an airport[s], including public liability and property damage.

(2) "Commercial aviation insurance" means any class of aviation insurance except insurance of aircraft used for private business and pleasure.

(3)(a) "Private business and pleasure" means the predominant use of an aircraft for pleasure or personal transportation purposes.

~~_____ (b) The incidental use of an aircraft [in furtherance of] for an occupational or business interest is permissible.~~

R590-144-5. Findings.

~~_____ (1) Pursuant to Subsection 31A-21-101(5), the commissioner finds:~~

~~_____ (a) the commercial aviation market segment is highly specialized, competitive, and global in nature;~~

~~_____ (b) aviation insurance premiums rely on individual risk analysis, underwriting judgment, and the negotiation of a sophisticated business transaction between the insurer and an informed insured; and~~

~~_____ (c) commercial aviation insurance risks have individually tailored manuscript-type policies.~~

~~_____ (2) The commissioner finds that exemption from the rate and form filing requirements of Title 31A, Insurance Code, will not harm Utah insureds, creditors, or the public, and is not necessary to the regulation of these insurance products.~~

R590-144-6. Rule.

~~_____ (1)(a) [Insurers and] An insurer or rate service organization[s are] is exempt from the rate filing requirements of Section 31A-19a-203[.] for commercial aviation insurance.~~

~~_____ (b) This rule does not exempt [such insurers] an insurer or rate service organization from the rate standards of Section 31A-19a-201.~~

~~_____ (2)(a) [Insurers and] An insurer or rate service organization[s are] is exempt from the form filing requirements of Section 31A-21-201[.] for commercial aviation insurance.~~

~~_____ (b) This rule does not permit [such insurers] an insurer or rate service organizations to issue a contract[s] that does not conform to [the general provisions of Chapter 21] Section 31A-22-101.~~

~~_____ (3) [All insurers must] Each insurer shall maintain fully documented underwriting files [which] that must be made available to the commissioner upon request[.] and must show that:~~

~~_____ (a) [The underwriting file must show that] rates are not excessive, inadequate, or unfairly discriminatory[.] The file must also show that [.] and~~

~~_____ (b) contracts are not inequitable, unfairly discriminatory, misleading, deceptive, obscure, encourage misrepresentation, or [are] otherwise in violation of Utah law.~~

R590-144-[6]7. Severability.

~~[If any provision or clause of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the Rule and the application of any provisions to other persons or circumstances shall not be affected]~~ If any provision of this rule, Rule R590-144, 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: 1991

Notice of Continuation: February 29, 2016

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-19a-103; 31A-21-101