

**State of Utah**  
**Administrative Rule Analysis**  
Revised June 2022

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New \_\_\_; Amendment \_x\_; Repeal \_\_\_; Repeal and Reenact \_\_\_

**Title No. - Rule No. - Section No.**

**Rule or Section Number:**

**R590-177**

**Filing ID: 55109**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
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<b>Contact persons:</b>		
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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:**

R590-177. Life Insurance Illustrations Rule

**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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**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, remove the Penalties section because penalties are already provided for in statute, remove the Enforcement Date section because the rule is already in force, 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) 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	FY2023	FY2024	FY2025
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>
Fiscal Benefits	FY2023	FY2024	FY2025
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>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

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

#### Citation Information

**6. 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-22-425      Section 31A-23a-402

#### Public Notice Information

**8. 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:** 01/17/2022

**9. This rule change MAY become effective on:** 01/24/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### 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:** 11/22/2022

This rule is ~~issued based upon the authority granted the commissioner under:~~  
~~A. Subsection 31A-2-201(3)(a) to implement the provisions of Title 31A;~~  
~~B. Subsection 31A-22-425(1)(e) to establish standards for illustrations; and~~  
~~C. Subsection 31A-23a-402(8) to define unfair methods of competition and unfair or deceptive acts or practices in the business of insurance]~~promulgated by the commissioner pursuant to Sections 31A-2-201, 31A-22-425, and 31A-23a-402.

#### **R590-177-2. Purpose**

~~The purpose of this rule is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The rule provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this rule are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.~~

#### **R590-177-3. Applicability and Scope.**

~~A. This rule applies to all group and individual life insurance policies and certificates except:~~  
~~(1) variable life insurance;~~  
~~(2) individual and group annuity contracts;~~  
~~(3) credit life insurance; or~~  
~~(4) life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.~~  
~~B. The provisions of this rule apply to policies sold on or after January 1, 1997.]~~  
~~(1) The purpose of this rule is to:~~  
~~(a) establish rules for life insurance policy illustrations to protect consumers and foster consumer education;~~  
~~(b) provide formats, standards, and required disclosures; and~~  
~~(c) ensure that illustrations are understandable and not misleading.~~  
~~(2) This rule applies to a group or individual life insurance policy or certificate sold on or after January 1, 1997, except:~~  
~~(a) variable life insurance;~~  
~~(b) individual and group annuity contracts;~~  
~~(c) credit life insurance; and~~  
~~(d) a life insurance policy with no illustrated death benefit on any individual exceeding \$10,000.~~

#### **R590-177-[4]3. Definitions.**

~~[In addition to definitions in Section 31A-1-301, the following definitions shall apply for the purposes of this rule]~~Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~[A.]~~(1) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to [develop and] promulgate standards of actuarial practice.

~~[B.]~~(2) "Contract premium" means the gross premium [that is] required to be paid under a [fixed premium] policy, including the premium for a rider [for which] if the rider benefits are shown in the illustration.

~~[C.]~~(3) "Currently payable scale" means a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

~~[D.]~~(4)(a) "Disciplined current scale" means a scale of non-guaranteed elements, certified annually by an illustration actuary, constituting a limit on illustrations currently being illustrated by an insurer [that is] and reasonably based on [actual] recent historical experience [as certified annually by an illustration actuary designated by the insurer].  
(b) Further guidance in determining the disciplined current scale, as contained in standards established by the Actuarial Standards Board, may be relied upon if the standards:  
(i) are consistent with [all provisions of] this rule;  
(ii) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;  
(iii) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and  
(iv) do not permit assumed expenses to be less than minimum assumed expenses.

~~[E.]~~(5) "Generic name" means a short title descriptive of the policy being illustrated such as "whole life," "term life," or "flexible premium adjustable life."

~~[F.]~~"Guaranteed elements" and "non-guaranteed elements"  
(6) "Guaranteed element[s]" means [the] a premium[s], benefit[s], value[s], credit[s], or charge[s] under a life insurance policy [of life insurance] that [are] is guaranteed and determined at issue.  
(7) "Non-guaranteed element[s]" means [the] a premium[s], benefit[s], value[s], credit[s], or charge[s] under a life insurance policy [of life insurance] that [are] is not guaranteed or not determined at issue.

~~[G.]~~(8) "Illustrated scale" means a scale of non-guaranteed elements [currently being illustrated] that is not more favorable to the policy owner than the lesser of:  
(a) the disciplined current scale; or  
(b) the currently payable scale.

~~[H.]~~(9) "Illustration" means a presentation or depiction that includes a non-guaranteed element[s] of a life insurance policy [of life insurance] over a period of years [and that is one of the three types] as defined below:  
(a) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.  
(b) "Supplemental illustration" means an illustration furnished in addition to a basic illustration [that meets the applicable requirements of this rule, and] that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements [that is] permitted in a basic illustration.  
(c) "In force illustration" means an illustration furnished [at any time] after [the] a policy [that it depicts] has been in force for one year or more.

[L-](10) "Illustration actuary" means an actuary ~~[meeting-]who meets~~ the requirements of Section ~~[41-who-]R590-177-10~~ and certifies ~~[to~~ an illustration[s] based on the standard of practice promulgated by the Actuarial Standards Board.

[L-](11) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting as defined in this rule, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100% policy persistency thereafter.

~~[K-(4)](12)(a)~~ "Minimum assumed expense[s]" means the minimum expense[s] that may be used in the calculation of the disciplined current scale for a policy form. ~~[-The-]~~

(b) An insurer may choose to designate ~~[each year-]the method of determining assumed expenses~~ each year for all policy forms from the following:

~~[(a)](i)~~ fully allocated expenses;

~~[(b)](ii)~~ marginal expenses; and

~~[(c)](iii)~~ a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the ~~[National Association of Insurance Commissioners or by-]NAIC~~ or the commissioner.

~~[(2)](c)~~ Marginal expenses may be used only if greater than a generally recognized expense table.

(d) If no generally recognized expense table is approved, fully allocated expenses must be used.

~~[L-](13)~~ "Non-term group life" means a group life insurance policy or an individual ~~[policies of-]life insurance policy~~ issued to a member[s] of an ~~[employer group or other permitted-]eligible group~~ where:

~~[(1) every-](a)~~ each plan of coverage was selected by the ~~[employer or other-]group representative;~~

~~[(2)](b)~~ some portion of the premium is paid by the group or through payroll deduction; and

~~[(3)](c)~~ group underwriting or simplified underwriting is used.

~~[M-](14)~~ "Policy owner" means the owner named in ~~[the-]a~~ policy or the certificate holder in the case of a group policy.

~~[N-](15)~~ "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

~~[O-](16)(a)~~ "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the ~~[fifteenth-]15th~~ policy anniversary or the ~~[twentieth-]20th~~ policy anniversary for second-or-later-to-die policies, or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. ~~[-For this purpose, policy-]~~

(b) The policy owner value ~~[will-]in a self-supporting illustration~~ includes cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

#### **R590-177-~~[5]4. Policies to Be Illustrated.~~**

~~[A- Each-](1)~~ An insurer marketing ~~[policies to which-]a policy~~ subject to this rule ~~[is applicable-]shall~~ notify the commissioner whether a policy form ~~[is to-]will~~ be marketed with or without an illustration. ~~[-For all policy forms being actively marketed on January 1, 1997, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after January 1, 1997, the identification shall be made at the time of filing.-]~~

(a) The notice shall be made in writing at the time of filing.

(b) Any previous identification may be changed by notice to the commissioner.

~~[B-](2)~~ If ~~[the-]an~~ insurer identifies a policy form ~~[as one-]to~~ be marketed without an illustration, any use of an illustration ~~[for any policy using that form prior to-]before~~ the first policy anniversary is prohibited.

~~[C-](3)~~ If a policy form is ~~[identified by the insurer as one to be-]marketed~~ with an illustration, a basic illustration ~~[prepared and delivered in accordance-]that complies~~ with this rule is required. ~~[-except that a-]~~

(a) A basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals.

(b) The illustration furnished to an applicant for a group life insurance policy or ~~[policies-]a policy~~ issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

~~[D-](4)~~ Potential enrollees of non-term group life insurance subject to this rule shall be furnished a quotation with the enrollment materials.

(a) The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. ~~[-This-]~~

(b) The quotation ~~[shall not be-]is not~~ considered an illustration ~~[for purposes of-]under~~ this rule, but all information provided shall be consistent with the illustrated scale.

(c) A basic illustration shall be provided at delivery of the certificate to an enrollee[s] for non-term group life insurance who enrolls for more than the minimum premium necessary to provide pure death benefit protection. ~~[-In addition, the-]~~

(d) The insurer shall make a basic illustration available to any non-term group life insurance enrollee who requests it.

#### **R590-177-6. General Rules and Prohibitions.**

~~[A-](1)~~ An illustration used in the sale of a life insurance policy shall ~~[satisfy the applicable requirements of-]comply with~~ this rule, be clearly labeled "life insurance illustration," and contain the following ~~[basic-]information:~~

~~[(1)-](a)~~ the name and address of the insurer;

~~[(2)-](b)~~ the name and business address of the producer or insurer's authorized representative, if any;

~~[(3)-](c)~~ the name, age, and sex of the proposed insured, except where a composite illustration is permitted under this rule;

~~[(4)-](d)~~ the underwriting or rating classification ~~[up]~~ on which the illustration is based;

~~[(5)-](e)~~ the generic name of the policy, the company product name, if different, and form number;

~~[(6)-](f)~~ the initial death benefit; and

~~[(7)-](g)~~ the dividend option election or application of non-guaranteed elements, if applicable.

~~[B-](2)~~ When using an illustration in the sale of a life insurance policy, an insurer or its producer[s] or other authorized representative[s] ~~shall-~~ may not:

~~[(1)-](a)~~ represent the policy as anything other than a life insurance policy;

~~[(2)-](b)~~ use or describe a non-guaranteed element[s] in a manner that is misleading or has the capacity or tendency to mislead;

~~[(3)-](c)~~ state or imply that the payment or amount of a non-guaranteed element[s] is guaranteed;

- ~~[(4)](d)~~ use an illustration that does not comply with the requirements of this rule;
- ~~[(5)](c)~~ use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- ~~[(6)](f)~~ provide an applicant with an incomplete illustration;
- ~~[(7)](g)~~ represent ~~[in any way]~~ or imply that a premium payment[s] will not be required for each year of the policy ~~[in order to]~~ maintain the illustrated death benefit[s], unless that is the fact;
- ~~[(8)](h)~~ use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using a non-guaranteed element[s] to pay a portion of future premiums;
- ~~[(9)](i)~~ except for ~~[policies]~~ a policy that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
- ~~[(10)](i)~~ use an illustration that is not "self-supporting."
- ~~[(C)](3)~~ If an interest rate used to determine ~~[the]~~ an illustrated non-guaranteed element[s] is shown, it ~~[shall]~~ may not be greater than the earned interest rate underlying the disciplined current scale.
- (4) An insurer may not use a footnote or caveat to define contract terms.
- (5) An insurer shall use language that is understood by an average person.

**R590-177-[7]6. Standards for Basic Illustrations.**

- ~~[(A)](1)~~ Format. A basic illustration shall conform ~~[with]~~ to the following requirements:
  - ~~[(4)](a)~~ The illustration shall be labeled with the date ~~[on which]~~ it was prepared.
  - ~~[(2)](b)~~ Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration, ~~[e.g.]~~ for example, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages".
  - ~~[(3)](c)~~ The assumed date[s] of payment receipt and benefit pay-out within a policy year shall be clearly identified.
  - ~~[(4)](d)~~ If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the number[s] of years the policy is assumed to have been in force.
  - ~~[(5)](c)(i)~~ The assumed payments ~~[on which]~~ the illustrated benefits and values are based on shall be identified as premium outlay or contract premium, as applicable.
    - (ii) For ~~[policies]~~ a policy that does not require a specific contract premium, the illustrated payments shall be identified as a premium outlay.
  - ~~[(6) Guaranteed]~~ (f) Any guaranteed death benefit[s] and values available upon surrender, ~~[if any],~~ for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
  - ~~[(7)](g)~~ If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration ~~[These elements]~~, and shall be clearly labeled non-guaranteed.
  - ~~[(8) The]~~ (h) Any guaranteed elements, ~~[if any],~~ shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements, ~~[e.g.]~~ for example, "see page one for guaranteed elements."
  - ~~[(9)](i)~~ The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown ~~[in close proximity to]~~ near the corresponding value available upon surrender.
  - ~~[(10)](i)~~ The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans, and policy loan interest, as applicable.
  - ~~[(11) Illustrations]~~ (k) An illustration may show policy benefits and values in graphic or chart form in addition to the tabular form.
  - ~~[(12)](l)~~ Any illustration of a non-guaranteed element[s] shall be accompanied by a statement indicating that:
    - ~~[(a)](i)~~ the benefits and values are not guaranteed;
    - ~~[(b)](ii)~~ the assumptions on which they are based are subject to change by the insurer; and
    - ~~[(c)](iii)~~ actual results may be more or less favorable.
  - ~~[(13)](m)~~ If the illustration shows that the premium payer may have the option to allow policy charges to be paid using a non-guaranteed value[s], the illustration must clearly disclose that:
    - (i) a charge continues to be required; and ~~[that]~~
    - (ii) depending on actual results, the premium payer may need to continue or resume premium outlays.
  - (A) Similar disclosure shall be made for a premium outlay of lesser amounts or shorter durations than the contract premium.
  - (B) If a contract premium is due, the premium outlay display ~~[shall]~~ may not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.
  - ~~[(14)](n)~~ If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.
  - ~~[(15)](o)~~ The illustration shall be complete, not misleading, and the narrative summary, numeric summary, and tabular detail shall be consistent.
    - ~~[(B)](2)~~ Narrative Summary. A basic illustration shall include ~~[the following]~~:
      - ~~[(4)](a)~~ a brief description of the policy being illustrated, including a statement that it is a life insurance policy;
      - ~~[(2)](b)(i)~~ a brief description of the premium outlay or contract premium, as applicable, for the policy ~~[For]~~; or
        - (ii) for a policy that does not require payment of a specific contract premium, ~~[the illustration shall show]~~ an illustration of the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premium[s] allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;
      - ~~[(3)](c)~~ a brief description of any policy feature[s], rider[s], or option[s], guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;
      - ~~[(4)](d)~~ identification and a brief definition of column headings and key terms used in the illustration; and
      - ~~[(5)](e)~~ a statement containing ~~[in substance]~~ substantially the following: "This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."
    - ~~[(C)](3)~~ Numeric Summary.
      - ~~[(4)](a)~~ Following the narrative summary, a basic illustration shall include a numeric summary of the death benefit[s] and values and the premium outlay and contract premium, as applicable.

~~\_\_\_\_\_~~ (i) For a policy that provides for a contract premium, the guaranteed death benefit[s] and values shall be based on the contract premium[~~- This summary~~] and shall be shown for at least policy years 5, 10, and 20, and at age 70, if applicable, on the [~~three bases shown below~~]bases in Subsection (3)(a)(iii).

~~\_\_\_\_\_~~ (ii) For multiple life policies, the summary shall show at least policy years 5, 10, 20, and 30 on the [~~three bases shown below~~]bases in Subsection (3)(a)(iii).

~~\_\_\_\_\_~~ (iii) The bases to be shown in a numeric summary are:

~~[(a)](A)~~ policy guarantees;

~~[(b)](B)~~ insurer's illustrated scale; and

~~[(c)](C)~~ insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

~~[(1)](L)~~ dividends at 50% of the dividends contained in the illustrated scale used;

~~[(2)](II)~~ non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

~~[(3)](III)~~ all non-guaranteed charges, including term insurance charges, and mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

~~[(2)](b)~~ In addition, if coverage would cease [~~prior to~~]before policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

~~[(4)](4)~~ Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this rule.

~~[(4)](a)~~ A statement [~~to be~~]signed and dated by the applicant or policy owner [~~reading~~]as follows: "I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The producer has told me they are not guaranteed."

~~[(2)](b)~~ A statement [~~to be~~]signed and dated by the insurance producer or other authorized representative of the insurer [~~reading~~]as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

~~[(5)](5)~~ Tabular Detail.

~~[(4)](a)~~ A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity, or final expiration[s] and, except for term insurance beyond the [~~twentieth~~]20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

~~[(a)](i)~~ the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

~~[(b)](ii)~~ the corresponding guaranteed death benefit, as provided in the policy; and

~~[(c)](iii)~~ the corresponding guaranteed value available upon surrender, as provided in the policy.

~~[(2)](b)~~ For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

~~[(3)](c)~~ Non-guaranteed elements may be shown if described in the contract.

~~\_\_\_\_\_~~ (i) In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, [~~they~~]non-guaranteed elements may be shown if the insurer's current practice is to pay terminal dividends.

~~\_\_\_\_\_~~ (ii) If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any.

~~\_\_\_\_\_~~ (iii) If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

#### **R590-177-[8]7. Standards for Supplemental Illustrations.**

~~[(1)](1)~~ A supplemental illustration may be provided [~~so long as~~]if:

~~[(4)](a)~~ it is appended to, accompanied by, or preceded by a basic illustration that complies with this rule;

~~[(2)](b)~~ the non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

~~[(3)](c)~~ it contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; [~~and~~]

~~[(4)](d)~~ for a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration [~~- For policies that do -~~]; and

~~\_\_\_\_\_~~ (e) for a policy that does not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

~~[(2)](2)~~ The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

#### **R590-177-[9]8. Delivery of Illustration and Record Retention.**

~~[(1)](1)~~ (a) If a basic illustration is used [~~by an insurance producer or other authorized representative of the insurer~~]in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this rule, shall be:

~~\_\_\_\_\_~~ (i) submitted to the insurer at the time of policy application [~~- A copy also shall be -~~]; and

~~\_\_\_\_\_~~ (ii) provided to the applicant.

~~[(2)](b)~~ If the policy [~~is~~]issued [~~other than~~]is not as applied for, a revised basic illustration conforming to the policy as issued shall [~~be sent with the policy. The revised illustration shall conform to the requirements of this rule, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.~~];

~~\_\_\_\_\_~~ (i) be sent with the policy;

~~\_\_\_\_\_~~ (ii) conform to the requirements of this rule;

~~\_\_\_\_\_~~ (iii) be labeled "Revised Illustration"; and

~~\_\_\_\_\_~~ (iv) be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered; and

~~\_\_\_\_\_~~ (c) be provided to the insurer and the policy owner after being signed and dated.

~~[B-](1)(2)(a)~~ If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy ~~is~~ applied for ~~[other than]~~ is not as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. ~~[On the same form, the applicant shall acknowledge]~~

~~(i) The form shall include an acknowledgement from the applicant that:~~

~~(A) no illustration conforming to the policy applied for was provided~~ ~~[and shall further acknowledge an understanding that]; and~~

~~(B) an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery.~~ ~~[This form]~~

~~(ii) The form shall be submitted to the insurer at the time of policy application.~~

~~(2)(b)~~ If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered ~~[—A—]~~, and a copy shall be provided to the insurer and the policy owner.

~~[C-](3)~~ If the basic ~~[illustration]~~ or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer.

~~(a)~~ The insurer's obligation ~~[under this subsection shall be]~~ is satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page.

~~(b)~~ The requirement to make a diligent effort ~~[shall be deemed]~~ is satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

~~[D-](4)(a)~~ A copy of ~~[the]~~ any basic ~~[illustration and a]~~ or revised basic illustration, ~~[if any,]~~ signed as applicable, shall be retained by the insurer until three years after the policy is no longer in force, along with any certification that either:

~~(i) no illustration was used; or~~ ~~[that]~~

~~(ii) the policy [was] applied for [other than] was not as illustrated~~ ~~[, shall be retained by the insurer until three years after the policy is no longer in force].~~

~~(b) A copy of a basic or revised basic illustration need not be retained if no policy is issued.~~

### **R590-177-~~[14]~~9. Annual Report; Notice to Policy Owners.**

~~[A- In the case of]~~ (1) If a policy is designated as one for which an illustration[s] will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain ~~[at least the following information:]~~ the information in Subsection (1)(a) or (1)(b).

~~(1) for]~~ (a) For a universal life ~~[policies]~~ insurance policy, the report shall include the following:

~~(a)~~ (i) the beginning and end date of the current report period;

~~(b)~~ (ii) the policy value at the end of the previous report period and at the end of the current report period;

~~(c)~~ (iii) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type ~~[e.g.,]~~ such as interest, mortality, expense, and riders;

~~(d)~~ (iv) the current death benefit at the end of the current report period on each life covered by the policy;

~~(e)~~ (v) the net cash surrender value of the policy as of the end of the current report period;

~~(f)~~ (vi) the amount of any outstanding loans ~~[, if any,]~~ as of the end of the current report period; and

~~(g) for fixed premium policies—]~~ (vii) if, assuming guaranteed interest, mortality and expense loads, and ~~[continued scheduled]~~ any required premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice ~~[to this effect]~~ shall be included in the report ~~[, or~~

~~(h) for flexible premium policies: if assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report].~~

~~(2) For all other policies]~~ (b) For any other policy, where applicable:

~~(a)~~ (i) the current death benefit;

~~(b)~~ (ii) the annual contract premium;

~~(c)~~ (iii) the current cash surrender value;

~~(d)~~ (iv) the current dividend;

~~(e)~~ (v) the application of current dividend; and

~~(f)~~ (vi) the amount of any outstanding loan.

~~(3) Insurers—]~~ (c) An insurer writing a life insurance ~~[policies—]~~ policy that does not ~~[build—]~~ develop nonforfeiture values ~~[shall only be—]~~ is only required to provide an annual report ~~[with respect to these policies—]~~ for those years when a change has been made to non-guaranteed policy elements by the insurer.

~~[B-](2)(a)~~ If the annual report does not include an in force illustration, it shall ~~[contain—]~~ prominently display the following notice ~~[displayed prominently]:~~

"IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your producer. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department."

~~(b)~~ The insurer may vary the sequential order of the methods for obtaining an in force illustration.

~~[C-](3)~~ Upon the request of ~~[the]~~ a policy owner, ~~[the—]~~ an insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. ~~[—This—]~~

~~(a)~~ The illustration shall comply with the requirements of ~~[Section 6A, 6B, 7A and 7E]~~ Subsections R590-177-5(1), R590-177-5(2), R590-177-6(1), and R590-177-6(5).

~~(b)~~ No signature or ~~[other—]~~ acknowledgment of receipt of this illustration ~~[shall be—]~~ is required.

~~[D-](4)~~ If, since the last annual report, an insurer has made an adverse change in a non-guaranteed element[s] that could affect the policy ~~[has been made by the insurer since the last annual report]~~, the annual report shall ~~[contain—]~~ prominently display a notice ~~[of that fact and—]~~ describing the nature of the change ~~[prominently displayed].~~

### **R590-177-~~[14]~~10. Annual Certifications.**

~~[A-](1)~~ The board of directors of each insurer shall appoint one or more illustration actuaries.

~~[B-](2)~~ The illustration actuary shall certify that:

~~(4)(a)~~ the disciplined current scale used in any illustration ~~[s is in conformity with]~~ conforms to the Actuarial Standard of Practice No. 24, Compliance with the NAIC Life Insurance Illustrations Model Regulation promulgated by the Actuarial Standards Board; and

~~(2)(b)~~ the illustrated scale[s] used in an insurer-authorized illustration[s] meets the requirements of this rule.

~~(3)~~ The illustration actuary shall:

~~(4)(a)~~ be a member in good standing of the American Academy of Actuaries;

~~(2)(b)~~ be familiar with the standard of practice regarding life insurance policy illustrations;

~~(3)(c)~~ not have been found by the commissioner, following appropriate notice and hearing, to have:

~~(a)(i)~~ violated any provision of, or any obligation imposed by, the insurance law or other law in the course of dealings as an illustration actuary;

~~(b)(ii)~~ been found guilty of fraudulent or dishonest practices;

~~(e)(iii)~~ demonstrated incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

~~(d)(iv)~~ resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

~~(4 not fail to)~~ ~~(d)~~ notify the commissioner of any action taken by a commissioner of another state similar to that under Subsection ~~(3)~~ ~~above~~ ~~(3)(c)~~;

~~(5)(c)~~ disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for a reason[s] other than a change[s] in the experience factors underlying the disciplined current scale~~[-IF]~~;

~~(i)~~ if a non-guaranteed element[s] illustrated for a new ~~[policies are]~~ policy is not consistent with ~~[those illustrated]~~ the illustration for a similar in force ~~[policies]~~ policy, this shall be disclosed in the annual certification~~[-IF]~~; and

~~(ii)~~ if a non-guaranteed element[s] illustrated for both a new and an in force ~~[policies are]~~ policy is not consistent with the non-guaranteed element[s] ~~actually~~ being paid, charged, or credited to the same or similar form[s], this shall be disclosed in the annual certification; and

~~(6)(f)~~ disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

~~(a)(i)~~ fully allocated expenses;

~~(b)(ii)~~ marginal expenses; or

~~(e)(iii)~~ a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the ~~[National Association of Insurance Commissioners]~~ NAIC or by the commissioner.

~~(4)(a)~~ The illustration actuary shall file a certification with the insurer's board of directors:

~~(a)(i)~~ annually for all policy forms for which illustrations are used; and

~~(b)(ii)~~ before a policy form is illustrated.

~~(2)(b)~~ If the illustration actuary becomes aware of an error in a previous certification ~~[is discovered]~~, the illustration actuary shall promptly notify the insurer's board of directors ~~[of the insurer]~~ and the commissioner ~~[promptly]~~.

~~(5)~~ If an illustration actuary ~~[is unable to]~~ certify the scale for any policy form illustration the insurer intends to use, the actuary shall promptly notify the insurer's board of directors ~~[of the insurer]~~ and the commissioner ~~[promptly of the inability to certify]~~.

~~[F. A responsible]~~ ~~(6)~~ An officer of the insurer, other than the illustration actuary, shall certify annually:

~~(4)(a)~~ that the illustration formats meet the requirements of this rule and that the scales used in ~~[insurer authorized]~~ any illustration[s] are ~~[those]~~ scales certified by the illustration actuary; and

~~(2)(b)~~ that the company has provided ~~[its producers with]~~ each producer and authorized representative information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection ~~[C(6) of this section]~~ ~~(3)(f)~~.

~~(7)~~ The annual certification[s] shall be:

~~(a)~~ completed each year by a date determined by the insurer~~[-The certifications shall be-]~~;

~~(b)~~ maintained by the insurer for a period of ~~[5]~~ five years; and~~[-be]~~

~~(c)~~ available for inspection by the commissioner.

~~(8)~~ If an insurer changes the illustration actuary responsible for ~~[all or a]~~ any portion of the company's policy forms, the insurer shall notify the commissioner and disclose the reason for the change.

**R590-177-12. Penalties.**

~~An insurer or producer that violates this rule is subject to the penalties provided for in Sections 31A-23a-111, 31A-23a-112, and 31A-2-308 in addition to any other penalties provided by the laws of the state.~~

**R590-177-13. Severability.**

~~If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the rule and its application to other persons or circumstances may not be affected.~~

**R590-177-14. Enforcement Date.**

~~The commissioner will begin enforcing the revised provisions of this rule 45 days from the effective date of the revised rule.]~~

**R590-177-11. Severability.**

~~If any provision of this rule, Rule R590-177, 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**

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