

**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:**

**R590-197**

**Filing ID: Office Use Only**

**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	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

<b>2. Rule or section catchline:</b>
R590-197. Treatment of Guaranty Association Assessments as Qualified Assets
<b>3. Purpose of the new rule or reason for the change</b> (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.
<b>4. Summary of the new rule or change</b> (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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, add a Definitions section, 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**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
<b>C) Small businesses</b> ("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.
<b>D) Non-small businesses</b> ("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-17-201	Section 31A-28-109

#### Incorporations by Reference Information

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**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>Official Title of Materials Incorporated</b> (from title page)	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**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>Official Title of Materials Incorporated</b> (from title page)	
<b>Publisher</b>	

Issue Date	
Issue or Version	

#### 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:** 01/17/2023

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

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

**9. This rule change MAY become effective on:** 01/24/2023

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.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	11/22/2022
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#### R590. Insurance, Administration.

#### R590-197. Treatment of Guaranty Association Assessments as Qualified Assets.

##### R590-197-1. Authority.

This rule is promulgated by the ~~[insurance]~~ commissioner pursuant to ~~[the general authority to adopt a rule granted under 31A-2-201(3). Specific rulemaking authority in Subsection 31A-17-201(2)(a) allows the department to authorize other assets than those specified in the insurance code, as qualified assets in the determination of an insurer's financial condition. Pursuant to Subsection 31A-28-109(8) the insurance commissioner is authorized to approve the amounts and time periods for which contributions are treated as assets]~~ Sections 31A-2-201, 31A-17-201, and 31A-28-109.

##### R590-197-2. Purpose and Scope.

~~[This rule is issued in order to establish the standards by which assessments paid by insurers to insurance guaranty associations may be treated as "qualified assets" as that term is defined in 31A-17-201(2).]~~

(1) The purpose of this rule is to establish the standard by which an assessment paid by an insurer to an insurance guaranty association may be treated as a qualified asset.

(2) This rule applies to an insurer licensed in Utah.

##### R590-197-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-17-201. Additional terms are defined as follows:

(1) "Qualified asset," as defined in Section 31A-17-201, includes a guaranty fund or guaranty association assessment paid in any state, if it is probable that the insurer can offset the assessment against present or future premium tax or income tax paid in the state in which the assessment was paid.

##### R590-197-4. ~~[Extent to Which]~~ Paid Assessments Are Qualified Assets.

~~[A. The term "qualified assets" in 31A-17-201 includes guaranty fund or guaranty association assessments paid in any state, but only to the extent it is probable the company will be able to offset those assessments against present or future premium taxes or income taxes paid in the state in which the assessments were paid.]~~

~~[B.](1)~~ The amount of ~~[the]~~ an assessment~~[s]~~ allowed as a qualified ~~[assets shall]~~ asset may not exceed ~~[two and one-half]~~ 2-  
1/2 times the amount of premium or income tax~~[es]~~ paid for the previous calendar year.

~~[C. The insurance]~~ (2) The commissioner may disallow ~~[any such]~~ an assessment as a qualified asset ~~[to the extent]~~ if the commissioner determines a company is unlikely to realize a present or future premium tax or income tax offset ~~[as a result]~~ because of the assessment.

~~[D. For purposes of subsection (A) above, a company is deemed]~~ (3) An insurer is considered to have paid income or premium ~~[taxes where it actually]~~ tax when it reduces its gross premium tax liability by use of a credit or other legally allowable

deduction.

**R590-197-[4]5. Severability.**

~~[If any provision or portion of this rule or the application of it to any company, person or circumstance is for any reason held to be invalid, such invalidity does not affect the remainder of the rule and the application of the provision to other companies, persons or circumstances.]~~If any provision of this rule, Rule R590-197, 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 law**

**Date of Last Change: 2023[January 25, 2000]**

**Notice of Continuation: November 15, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-17-201**

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