

**State of Utah**  
**Administrative Rule Analysis**  
 Revised November 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.):	R590-219	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</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 person(s):</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>
R590-219. Credit Scoring
<b>3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):</b>
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 (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):</b>
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 Enforcement Date 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**

<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 ("small business" means a business employing 1-49 persons):</b>
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 ("non-small business" means a business employing 50 or more persons):</b>

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 31-22-320	

**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): 08/15/2022

**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): 08/22/2022

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):	06/21/2022
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**R590. Insurance, Administration.**

**R590-219. Credit Scoring.**

**R590-219-1. Authority.**

This rule is promulgated ~~[pursuant to Subsection 31A-2-201(3)(a) in which the commissioner may make rules to implement the provisions of this title. Also, specific authority is provided in Subsection 31A-22-320(3) to enforce the provisions of Section 31A-22-320]~~ by the commissioner pursuant to Sections 31A-2-201 and 31-22-320.

**R590-219-2. ~~[Scope and Purpose and Scope.~~**

~~[This rule sets]~~ (1) The purpose of this rule is to set forth minimum standards for [all] a property and casualty insurer[s] doing private passenger automobile business [in Utah].

(2) This rule applies to a property and casualty insurer that uses credit history or an insurance score as part of [their]its underwriting criteria or rating plans.

**R590-219-3. Definitions.**

~~[In addition to the definitions in Section 31A-1-301 and 31A-22-320, the following definition shall apply for the purposes of this rule]~~ Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-320. Additional terms are defined as follows:

(1) "Adverse action" is defined in the Fair Credit Reporting Act, 15 U.S.C. Sec 1681 et seq.

(a) "Adverse action" includes:

(i) cancellation, denial, or non-renewal of insurance coverage; and

(ii) charging a higher premium than would have been offered if the credit history or credit score had been more favorable, whether the charge is by:

(A) application of a rating rule;

(B) assignment to a rating category within a single insurer, into which insureds with substantially like risk or exposure factors and expense elements are placed for purposes of determining rate or premium, that does not have the lowest available rates;

~~(C) placement with an affiliate insurer that does not offer the lowest rates available to the consumer within the affiliate group of insurers;~~  
~~or~~

~~(D) a reduction or an adverse or unfavorable change in the terms of coverage or amount of insurance owing to a consumer's credit history or insurance score.~~

~~(b) A reduction or an adverse or unfavorable change in the terms of coverage occurs when:~~

~~(i) coverage provided to the consumer is not as broad in scope as coverage requested by the consumer but available to other insureds of the insurer or any affiliate; or~~

~~(ii) the consumer is not eligible for a benefit, such as a dividend, that is available through an affiliate insurer.~~

~~(2)(a) "Initial underwriting" [shall]includes:~~

~~(i)[deciding whether or not] the decision whether to issue a policy to the consumer;~~

~~(ii) the amount and terms of the coverage;~~

~~(iii) the duration of the policy;~~

~~(iv) the rates or fees charged; and~~

~~(v) [those]the additional drivers related to the named insured or spouse by blood, marriage, adoption, or guardianship who were emancipated [prior to]before becoming an additional driver in the named insured's household.~~

~~(b) "Initial underwriting" [shall]does not include an additional vehicle[s] or driver[s] added to the household of a current auto insurance policyholder of the insurer, provided:~~

~~(i) the additional vehicle is owned by the named insured, spouse, or [persons]a person related to the named insured by blood, marriage, adoption, or guardianship that [are residents]is a resident of the named insured's household;~~

~~(ii) the additional driver is related to the named insured or spouse by blood, marriage, adoption, or guardianship and is a resident of the named insured's household, including [those]a person who usually makes their home in the same household but temporarily lives elsewhere[-]; or~~

~~(iii) the additional driver is a divorced spouse or child [where]for whom an insurer has a record of the driving history from an existing policy.~~

~~(2) "Adverse action" shall have the same meaning as defined in the Fair Credit Reporting Act, 15 U.S.C. sec.1681 et seq. An adverse action includes the following:~~

~~(a) cancellation, denial or non-renewal of insurance coverage;~~

~~(b) charging a higher premium than would have been offered if the credit history or credit score had been more favorable, whether the charge is by:~~

~~(i) application of a rating rule;~~

~~(ii) assignment to a rating category within a single insurer, into which insureds with substantially like risk or exposure factors and expense elements are placed for purposes of determining rate or premium, that does not have the lowest available rates;~~

~~(iii) placement with an affiliate insurer that does not offer the lowest rates available to the consumer within the affiliate group of insurers;~~

~~or~~

~~(iv) a reduction or an adverse or unfavorable change in the terms of coverage or amount of insurance owing to a consumer's credit history or insurance score.~~

~~(c) A reduction or an adverse or unfavorable change in the terms of coverage occurs when:~~

~~(i) coverage provided to the consumer is not as broad in scope as coverage requested by the consumer but available to other insureds of the insurer or any affiliate; or~~

~~(ii) the consumer is not eligible for benefits such as dividends that are available through affiliate insurers.]~~

#### **R590-219-4. Insurer's Obligation If Credit Information Is Used.**

~~(1) An insurer [must]shall comply with [all notification requirements of]the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.~~

~~(2) If [any]an adverse action is taken, [the insurance company must]an insurer shall provide to the applicant or insured:~~

~~(a) the identity, telephone number, and address of any consumer-reporting agency from which a credit report was obtained;~~

~~(b) notification of the applicant's or insured's right to receive a free copy of their credit report from the consumer[-]reporting agency for [a period of]60 days from the date of application; and~~

~~(c) notification of the applicant's or insured's right to [lodge]file a dispute with the consumer-reporting agency and have erroneous information corrected in accordance with the Fair Credit Reporting Act.~~

~~(2)(3)(a) After an adverse action is taken, if it is later determined that the initial information in the credit report was incorrect, the insurance company, at the request of the applicant or insured, shall underwrite or rate the policy again using the correct information.~~

~~(b) If the insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.~~

~~(3)(4) An insurer shall establish procedures that allow [consumers or their insurance producers]a consumer or an insurance producer to request that a person's credit history or score be re-examined if a correction has been made to the consumer's credit report.~~

~~(4) An insurer shall refrain from penalizing consumers on new and renewal policies.]~~  
~~(5) An insurer may not penalize a consumer on a new or renewal policy issued on or after the effective date of this rule based on:~~

~~(a) identity theft;~~

~~(b) a credit [inquiries]inquiry not initiated by the consumer;~~

~~(c) an insurance-related [inquiries]inquiry;~~

~~(d) a medical related collection account[s], if the information can be identified on a credit report; and~~

~~(e) multiple lender inquiries, if captured on a credit report as being from the home mortgage industry and made within a 30[-]day period, unless only one inquiry is considered.~~

#### **R590-219-5. Prohibited Uses of Credit Information.**

~~[Insurers]An insurer may not use credit information:~~

~~(1) to cancel or non-renew [any]a private passenger auto insurance policy that has been in effect for 60 days or more;~~

~~(2) for initial underwriting, unless risk related factors, other than credit information, are considered;~~

(3) to determine rates as part of a filed rating plan for private passenger auto insurance, except to provide a premium discount or similar reduction in rates and, when an insurer issues a new or renewal policy on or after the effective date of this rule with a discount based on credit, that discount ~~[shall]~~may not be removed or reduced based on credit information only;

(4) to cancel or non-renew an existing private passenger auto insurance policy ~~[which]~~that has been in effect for 60 days or more, nor decline or refuse to issue a new policy or coverage for an additional vehicle owned by the named insured or a person[s] related to the named insured by blood, marriage, adoption, or guardianship, and who ~~[are]~~is a resident[s] of the named insured's household; or

(5) to cancel or non-renew an existing private passenger auto insurance policy ~~[which]~~that has been in effect for 60 days or more when adding a newly licensed driver ~~[who is]~~ related to the named insured by blood marriage, adoption, or guardianship, and who continues to be a resident of the named insured's household.

**R590-219-6. Offer of Placement.**

~~[An offer of placement.]~~Placing a policy with an affiliated insurance company is not ~~[considered]~~ a cancellation, non-renewal, declination, or refusal to issue a policy.

**R590-219-7. ~~[Enforcement Date.~~**

~~\_\_\_\_\_ The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.~~

**~~R590-219-8. Severability.~~**

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall 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 R590-219, 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, credit scoring**

**Date of Last Change: 2022~~[June 13, 2003]~~**

**Notice of Continuation: May 4, 2018**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-320**

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