

**R590. Insurance, Administration.**

**R590-225. Submission of Property and Casualty Rate and Form Filings.**

**R590-225-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to ~~to [Subsections 31A-2-201(3),~~ Sections 31A-2-201.1~~]~~ and 31A-19a-203, and Subsections 31A-2-201(3) and 31A-2-202(2) ~~[, and 31A-19a-203]~~.

**R590-225-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth procedures for submitting:

(a) property and casualty and title form filings required by Section 31A-21-201;

(b) property and casualty and title rates, and supplementary information under Section 31A-19a-203;

(c) service contract form filings required by Subsection 31A-6a-103(2) ~~[(a)]~~; and

(d) bail bond form filings required by Section~~s]~~ 31A-35-607 and Rule R590-196.

(e) guaranteed asset protection waiver filings required by Sections 31A-6b-202~~[(b)]~~ and 31A-6b-203.

(2) This rule applies to all lines of property and casualty insurance, including title insurance, bail bond, service contracts, and guaranteed asset protection waivers.

**R590-225-3. Documents Incorporated by Reference.**

(1) The department requires that the documents described in this rule shall be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following filing documents are hereby incorporated by reference and are available on the department's web site, <http://www.insurance.utah.gov>.

(a) "NAIC Uniform Property and Casualty Transmittal Document", dated January 1, ~~[2009]~~2017;

~~[(b)] "NAIC Property and Casualty Transmittal Document (Instructions)", dated January 1, 2009;~~

~~[(e)b]~~ "NAIC Uniform Property and Casualty Coding Matrix", dated January 1, ~~[2009]~~2017;

~~[(d)c]~~ "Utah Insurer Loss Cost Multiplier and Expense Constant Supplement Filing Forms", dated~~[-October-2003]~~ April 2017; and

~~[(e)d]~~ "Utah Workers Compensation Insurer Loss Cost Multiplier Filing Form", dated~~[-October-2003]~~ April 2017.

**R590-225-4. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Electronic Filing" means a:

(a) filing submitted via the Internet by using the System for Electronic Rate and Form Filings, SERFF, or

(b) filing submitted via an email system.

(3) "File And Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(4) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(5) "Filer" means a person who submits a filing.

(6) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(7) "Letter of authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted that designates filing authority to the filer.

(8) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(9) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

(10) "Type of Insurance" means a specific line of property and casualty insurance including general liability, commercial property, workers compensation, automobile, homeowners, title, bail bond, service contracts, and guaranteed asset protection waivers.

(11) "Use And File" means a filing can be used, sold, or offered for sale if it is filed within a stated period of time after its initial use.

(12) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department that indicates a filing has been accepted.

#### **R590-225-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. [-]The commissioner may request any additional information deemed necessary.

(2) Licensee and filer are responsible for assuring that a filing is in compliance with Utah laws and rules. A filing not in compliance with Utah laws and rules is subject to regulatory action under Section 31A-2-308.

(3) Rates, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected and returned to the filer. [-]A rejected filing:

(a) is not considered filed with the department;

(b) must be submitted as a new filing;

(c) will not be reopened for purposes of resubmission.

(5) A prior filing will not be researched to determine the purpose of the current filing.

- (6) The department does not review or proofread every filing.
- (a) A filing may be reviewed:
- (i) when submitted;
  - (ii) as a result of a complaint;
  - (iii) during a regulatory examination or investigation; or
  - (iv) at any other time the department deems necessary.
- (b) If a filing is reviewed and is not in compliance with Utah laws and rules, A Filing Objection Letter or an Order To Prohibit Use will be issued to the filer. [-]The commissioner may require the licensee to disclose deficiencies in forms or rating practices to affected consumers.
- (7) Filing correction:
- (a) ~~[Filing corrections are considered informational]~~If the filing is in an open status, corrections can be made at any time.
- (b) ~~[Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing.]~~
- ~~—(c) A]~~If the filing is in a closed status, a new filing is required[-if a filing correction is made more than 15 days after the date the original filing was submitted to the department]. The filer must reference the original filing in the filing description.
- (8) If responding to a Response to Filing Objection Letter or an Order to Prohibit Use, refer to ~~[section]~~R590-225-~~[12]~~13 for instructions.
- (9) Filing withdrawal. [-]A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information. A filing that is withdrawn may no longer be used.

#### **R590-225-6. Filing Submission Requirements.**

- (1) All filings must be submitted as an electronic filing.
- (a) All filers must use SERFF to submit a filing.
- (b) EXCEPTION: bail bond agencies, service contract providers, and guaranteed asset protection providers may choose to use email instead of SERFF to submit a filing.
- (2) All rate filings for private passenger auto, homeowners, or workers compensation type of insurance must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).
- (3) A filing must be submitted by market type and type of insurance, not by annual statement line number.
- (~~[3]~~4) A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description.
- (~~[4]~~5) A filer may submit a filing for more than one insurer if all applicable companies are listed.
- (~~[5]~~6) SERFF Filing.
- (a) Filing Description. [-]Do not submit a cover letter. [-]On the General Information tab, complete the Filing Description Section with the following information, presented in the order shown below.
- (i) Certification.
- (A) The filer must certify that a filing has been properly

completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: [-]"BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(b) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the Supporting Documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(c) Items being submitted for filing.

(i) All forms must be attached to the Form Schedule tab.

(ii) All rates and supplementary rating information must be attached to the Rate/Rule Schedule tab.

(iii) The actuarial certification required by R590-225-6(2) must be attached to the supporting documentation tab.

(d) Refer to each applicable section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

([6]7) A complete EMAIL filing consists of the following when submitted by a bail bond agent, a service contract provider, or a guaranteed asset protection provider:

(a) The title of the EMAIL must display the company name only.

(b) Transmittal. [-]The NAIC Uniform Property and Casualty Transmittal Document, as provided in [~~section~~]R590-225-3(2), must be properly completed.

(i) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

(A) "NAIC Coding Matrix;"

(B) "NAIC Instruction Sheet;" and

(C) "Utah Property and Casualty Content Standards."

(ii) Do not submit the documents described in (A), (B), and (C) with the filing.

(c) Filing Description. [~~Filing Description.~~] Do not submit a cover letter. In section 21 of the transmittal, complete the Filing Description with the following information, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Provide a description of the filing including:

(A) the intent of the filing; and

(B) the purpose of each document within the filing.

(iii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(iv) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a letter of authorization from the licensee must be attached to the supplementary documentation tab.

(ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.

(e) Refer to each applicable [§]section of this rule for additional procedures on how to submit forms, rates, and supplementary information.

(f) Items being submitted for filing. [~~Any~~] items submitted for filing must be submitted in PDF format.

#### **R590-225-7. Procedures for Form Filings.**

(1) Forms in general:

(a) Forms are "File And Use" filings. EXCEPTION: service contracts, bail bonds, and guaranteed asset protection waivers are "File Before Use".

(b) Each form must be identified by a unique form number. [~~]~~ The form number may not be variable.

(c) A form must be in final printed form [~~or printer's proof format~~]. A draft may not be submitted.

(2) If you have authorized a Rate Service Organization (RSO) to make form filings on your behalf, no filing by you is required if you implement the filings as submitted by the RSO.

(a) A filing is required if you delay the effective date,

non-adopt or alter the filing in any way.

(b) Your filing must be received by the department before the RSO effective date.

(c) We do not require that you attach copies of the RSO's forms when you reference a filing.

(3) If you have NOT authorized an RSO to file forms on your behalf, you must include, in your filing a letter stating your intent to adopt any RSO forms for your use.

(a) Copies of the RSO forms are not required.

(b) Your filing must include a complete list of the RSO forms you intend to adopt by form number, title/name and filing identification number of the RSO.

(4) A "Me Too" filing, referencing a filing submitted by another insurer, bail bond agency, or service contract provider is not permitted.

(5) If a previously filed Utah amendatory endorsement will be used in connection with the form being filed, explain this in the Filing Description section of the transmittal form and include a copy with the filing.

(6) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal:

(a) only one copy of each form is required;

(b) If the name of each respective company or unique insurer logo is printed on each separate set of the form, then a separate form must be filed for each insurer.

(7) Since a form may be used once it is "Filed" and must be "Filed" before it can be used, sold or offered for sale, you do not need to re-file or notify the department if the implementation date of the original filing changes.

#### **R590-225-8. Procedures for Rate and Supplementary Information Filings.**

(1) Rates and supplementary information in general.

(a) Rates and supplementary information are "Use And File" filings. EXCEPTION: title and workers compensation rates and supplementary information are "File Before Use" filings.

(b) Service contract providers, bail bond agencies, and guaranteed asset protection providers are exempt from this section.

(c) All rate filings for private passenger auto, homeowners, or workers compensation type of insurance must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).

(2) If you have authorized a Rate Service Organization (RSO) to make a prospective loss cost, supplementary information filing, or both, on your behalf, no filing by you is required if you implement the filing as submitted by the RSO.

(a) A filing is required if you delay the effective date, non-adopt, or alter the filing in any way.

(b) Any such filing must be received by the department within 30 days of the effective date established by the RSO.

(c) We do not require that you attach copies of the RSO's manual pages when you reference an RSO filing.

(3) If you have NOT authorized an RSO to file the prospective loss cost, supplementary rating information, or both, on your behalf

(a) you must include in your filing a letter stating your intent to adopt the RSO prospective loss cost, supplementary rating information filing, or both.

(b) You must file copies of any manual pages as if they were your own and provide your actuarial justification.

(4) A "Me Too" filing, referencing a filing submitted by another licensee, is not permitted.

(5) If the filing is for more than one insurer and all insurers included in the filing have submitted a transmittal and the supporting data and manual pages are identical for each insurer included in the filing, only one copy of the supporting data and manual pages are required to be submitted.

(6) Rate and supplementary information filings must be supported and justified by each insurer.

(a) Justification must include:

(i) submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates; and

(ii) a complete explanation as to the extent to which each factor has been used.

(b) Underwriting criteria are not required unless they directly affect the rating of the policy.

(c) Underwriting criteria used to differentiate between rating tiers is required.

(7) When submitting a filing for any kind of rating plan, rating modification plan, or credit and debit plan, an insurer must include in the filing:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(c) A filing will be rejected as incomplete if it fails to specifically provide this information.

(8) Utah and countrywide statistical data for the latest three years available must be submitted with each filing.

(a) This data should include earned premiums, incurred losses, loss ratios, establishment of expense factors, and expected loss ratios.

(b) Calculations involved in establishing rates from loss experience are to be exhibited including the establishment of trend factors, loss development factors, etc.

(c) If any of the above information is not available, a detailed explanation of why must be provided with the filing.

(9) [~~Rate deviation, p~~]Prospective loss cost[~~r~~] and loss cost multiplier.

(a) [~~In the past, a rate deviation filing was common.~~

~~(i) A rate deviation consisted of a modification, usually a percentage decrease or increase, to a RSO manual rate or supplementary information.~~

~~(ii) The justification was that an individual insurer could demonstrate experience, expense and profit factors different from~~

~~the average experience, expense and profit contemplated in the RSO's manual rate.~~

~~(b) With the promulgation of a prospective loss cost, rate deviation ceased to exist.~~

~~(i) There are no longer manual rates from which to deviate.~~

~~(ii) Once an insurer has filed to implement the RSO prospective loss cost for a given line, company deviations previously filed became null and void.~~

~~(iii) A filing of a straight percentage deviation is no longer applicable.~~

~~(e)] Loss cost multiplier.~~

(i) An individual insurer adjustment to the RSO prospective loss cost must be made as part of the calculation of the loss cost multiplier and must be included in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(ii) This form allows for the inclusion of an individual insurer modification of the RSO prospective loss cost.

(10) Procedures for Reference Filings to Advisory Prospective Loss Cost.

(a) An RSO does not usually file an advisory rate that contains provisions for expenses, other than loss adjustment expenses.

(i) An RSO develops and files with the commissioner a "Reference Filing" containing advisory prospective loss cost and supporting actuarial and statistical data.

(ii) Each insurer must individually determine the rates it will file and the effective date of any rate changes.

(b) If an insurer that is a member, subscriber or service purchaser of any RSO determines to use the prospective loss cost in an RSO Reference Filing in support of its own filing, the insurer must make a filing using the "Utah Insurer Loss Cost Multiplier Filing Forms."

(c) The insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost multiplier contained in the "Utah Insurer Loss Cost Multiplier Filing Forms."

(d) An insurer may file a modification of the prospective loss cost in the RSO Reference Filing based on its own anticipated experience.

(e) Actuarial justification is required for a modification, upwards or downwards, of the prospective loss cost in the Reference Filing.

(f) An insurer may request to have its loss cost adjustments remain on file and reference all subsequent RSO prospective loss cost Reference Filings.

(i) Upon receipt of subsequent RSO Reference Filings, the insurer's filed rates are the combination of the RSO's prospective loss cost and the loss cost adjustments contained in the "Utah Insurer Loss Cost Multiplier Filing Forms" on file with the commissioner, and will be effective on the effective date of the prospective loss cost.

(ii) The insurer need not file anything further with the commissioner.

(g) If the filer wants to have its filed loss cost adjustments remain on file with the commissioner, but intends to delay, modify,



or not adopt a particular RSO's Reference Filing, the filer must make an appropriate filing with the commissioner.

(h) An insurer's filed loss cost adjustments will remain in effect until the filer withdraws them or files a revised "Utah Insurer Loss Cost Multiplier Filing Form."

(i) A filer may file such other information the filer deems relevant.

(j) If an insurer wishes to use minimum premiums, it must file the minimum premiums it proposes to use.

(11) Supplementary Rate Information.

(a) The RSO files with the commissioner RSO filings containing a revision of rules, relativities and supplementary rate information.

These RSO filings include:

(i) policy-writing rules;

(ii) rating plans;

(iii) classification codes and descriptions; and

(iv) territory codes, descriptions, and rules, which include factors or relativities such as, increased limits factors, classification relativities or similar factors.

(b) These filings are made by the RSO on behalf of those insurers that have authorized the RSO to file rules, relativities and supplementary rating information on their behalf.

(c) An RSO may print and distribute a manual of rules, relativities and supplementary rating information.

(d) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions and effective date then the insurer does NOT file anything with the commissioner.

(e) If an insurer has authorized an RSO to file on its behalf and the insurer decides to use the revisions as filed, BUT with a different effective date, then the insurer must notify the commissioner of the insurer's effective date within 30 days after the RSO's effective date.

(f) If an insurer has authorized an RSO to file on its behalf, but the insurer decides not to use the revision, then the insurer must notify the commissioner within 30-days after the RSO's effective date.

(g) If an insurer has authorized an RSO to file on its behalf, but the insurer decides to use the revision with modification, then within 30-days of the RSO's effective date the insurer must file the modification specifying the basis for the modification and the insurer's effective date.

(12) Consent-to-rate Filing.

(a) Subsection 31A-19a-203(6) allows an insurer to file a written application for a particular risk stating the insurer's reasons for using a higher rate than that otherwise applicable to a risk.

(b) The Filing Description must indicate that it is a consent-to-rate filing, show the filed rate, the proposed rate, and the reasons for the difference.

(13) Individual Risk Filing.

(a) R590-127, "Rate Filing Exemptions", provides for those circumstances when an Individual Risk filing is permitted.

(b) An individual risk filing must be filed with the

commissioner.

(i) The filing shall consist of a copy of the Declarations Page, copies of any pertinent coverage forms and rating schedules, and premium development.

(ii) The Filing Description must indicate that it is an individual risk filing, and contain the underwriter's explanation for the filing.

(14) Information Regarding Dividend Plan.

(a) Sections 31A-19a-210 and 31A-21-310 allow for dividend distributions.

(b) A plan or schedule for the distribution of a dividend developed AFTER THE INCEPTION of a policy is NOT considered a rating plan and does not have to be filed according to the provisions of this rule.

(c) A plan or schedule for the distribution of a dividend applicable to an insurance policy FROM ITS INCEPTION are required to be filed pursuant to Section 31A-21-310.

(15) The Utah Insurance Code allows tiered rating plans within one insurer or insurer group with common ownership.

(a) A filing must show that the tiers are based on mutually exclusive underwriting rules, which are based on clear, objective criteria that would lead to a logical distinguishing of potential risk.

(b) A filing must provide supporting information that shows a clear distinction between the expected losses and expenses for each tier.

(c) If an insurer group is using a tiered rating structure, the group of insurers cannot all file the same loss cost multiplier and then file standard percentage deviations.

(i) A difference must be demonstrated in the loss cost multiplier formula, either as a modification of the RSO prospective loss cost or in the insurer expense factor.

(ii) An individual insurer adjustment or modification must be supported by actuarial data which establishes a reasonable standard for measuring probable insurer variations in historical or prospective experience, underwriting standards, expense and profit factors.

#### **R590-225-9. Additional Procedures for Workers Compensation Rate Filings.**

The following are additional procedures for workers' compensation rate filings:

(1) All rate filings for workers compensation must include a certification signed by a qualified actuary stating that the rates are not inadequate, excessive, or unfairly discriminatory as required by Subsection 31A-19a-201(1).

(2) Rates and supplementary information must be filed 30 days before they can be used.

([2]3) (a) Each insurer must individually determine the rates it will file.

(b) Filed rates.

(i) An insurer's workers' compensation filed rates are the combination of the most current prospective loss cost filed by the designated rate service organization and the insurers loss cost

adjustment, known as the loss cost multiplier (LCM), as calculated and filed using the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Form."

(ii) Each insurer must implement the designated rate service organization's current prospective loss cost on the effective date assigned by the designated rate service organization. INSURERS MAY NOT DEFER NOR DELAY ADOPTION.

(iii) An insurer's filed loss cost multiplier will remain in effect until the insurer withdraws it or files a new loss cost multiplier.

(iv) Upon receipt of subsequent designated rate service organization reference filings, the insurer's filed rates are the combination of the designated RSO's prospective loss cost and the loss cost multiplier contained in the insurer's most current "Utah Loss Cost Multiplier Filing Form" on file with the department.

(~~3~~4) An insurer may file a modification to the designated rate service organization prospective loss cost in the subject reference filing based on its own anticipated experience. Supporting documentation will be required for any modifications, upwards or downwards, of the designated rate service organization prospective loss cost.

(~~4~~5) An insurer may vary expense loads by individual classification or grouping. An insurer may use variable or fixed expense loads or a combination of these to establish its expense loadings. However, an insurer is required to file data in accordance with the uniform statistical plan filed by the designated rate service organization.

(~~5~~6) When submitting a filing for a workers compensation rating plan, a rating modification plan, or a credit and debit plan, an insurer must include in the filing the following or it will be rejected as incomplete:

(a) a statement identifying the arithmetic process to be used and whether factors will be added or multiplied when applying them to base rates; and

(b) justification for the method used.

(~~6~~7) To the extent that an insurer's rates are determined solely by applying its loss cost multiplier, as presented in the "Utah Worker's Compensation Insurer Loss Cost Multiplier Filing Forms" to the prospective loss cost contained in a designated rate service organization reference filing and printed in the designated rate service organization's rating manual, the insurer need not develop or file its rate pages with the commissioner. If an insurer chooses to print and distribute rate pages for its own use, based solely upon the application of its filed loss cost multiplier, the insurer need not file those pages with the insurance commissioner.

#### **R590-225-10. Additional Procedures for Title Rate Filings.**

(1) Title rate and a supplementary information filing are "File Before Use" filings. Rates and supplementary information shall be filed with the commissioner 30 days prior to use.

(2) Each change or amendment to any schedule of rates shall state the effective date of the change or amendment, which may not be less than 30 days after the date of filing. Any change or amendment

remains in force for a period of at least 90 days from its effective date.

(3) Supplementary information and rate filings must be supported and justified by each insurer. Justification must include submission of all factors used in determining initial supplementary information and rates or changes in existing supplementary information and rates along with a complete explanation as to the extent to which each factor has been used.

(4) Rates that vary by risk classification such as extended coverage or standard coverage, and all discount factors, such as refinance, subdivision, or construction for purpose of resale discounts, must be supported by differences in expected losses or expenses.

(5) No rate may be filed or used which would require the title insurer or any title agency or producer to operate at less than the cost of doing business or adequately underwriting the title insurance policies.

#### **R590-225-11. Classification of Documents.**

(1) The Department will not classify as protected, certain information in property and casualty rate filings unless these procedures are complied with.

(2) [~~Utah Code Ann.~~]Section 31A-19a-204 requires rates, and supplementary rate information to be open for public inspection. Supporting information in a rate filing is not designated under [~~Utah Code Ann.~~]Section 31A-19a-204 as public information, however, under the Government Records Access and Management Act (GRAMA) supporting information in a rate filing would be considered open for public inspection unless it is classified as private, controlled, or protected. [-]Under GRAMA the Department may classify certain information in a record as private, controlled, or protected. [-]It is clear that the only category applicable to rate, rule and form filings other than as a public record is as a protected record.[-] If a record is classified as protected, the Department may not disclose the information in the record to third persons specifically and to the public generally.

(3) The only information the Department may classify as protected, absent clear documentation otherwise, in accordance with [~~Utah Code Ann.~~]Section 63G-2-305 [~~is~~]are the following items:

(a) Information deemed to be trade secret. [-]Trade secret means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) "Commercial Information and non-individual financial information obtained from a person which:"

(i) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity

to obtain necessary information in the future ; and

(ii) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access.

(4) The person submitting the information under ~~[either section]~~ R590-225-11(3) (a) ~~[-and]~~ or (b) above and claiming that such is or should be protected has provided the governmental entity with the information in ~~[Utah Code Ann.]~~ Subsection 63G-2-309(1) (a) (i).

(5) The department will handle supporting information a filer submits as part of a rate filing in the following manner:

(a) The filer will need to request which specific document the filer believes qualifies under GRAMA Subsection 63G-2-305(1) or (2) or both when the filing is submitted; and

(b) the document must include a written statement of reasons supporting the request that the information should be classified as protected.

(c) If the filer does not request the information in the document to be classified as protected, the document will be classified as public.

(d) The Department will not automatically classify any document in a filing as protected.

(e) The Department will not re-open a filing to permit a company to request protected classification of previously filed documents.

(6) Once the filing has been received, the Department will review the documents the filer has requested to be classified as protected to see if it meets the requirements of ~~[Utah Code Ann.]~~ Subsection 63G-2-305(1)\_or\_(2).

(a) If all the information in the document meets the requirements for being classified as protected and the required statement is included, the document will be classified as protected, and the information will not be available to the public or third parties.

(b) If all the information in the document does not meet the requirements for being classified as protected, the Department will notify the filer of the denial, the reasons therefore, and of the filer's right under GRAMA to appeal the denial. ~~[-]~~The filer will have 30 days to appeal the denial as allowed by ~~[Utah Code Ann.]~~ Section 63G-2-401. ~~[-]~~Despite the denial of classifying the information as protected, the Department, pursuant to GRAMA, will nonetheless treat the information as if it had been classified as protected until:

(i) the filer has notified the Department that the filer withdraws the request for designation as protected; or

(ii) the 30 day time limit for an appeal to the Commissioner has expired; or

(iii) the filer has exhausted all appeals under GRAMA and the documentation has been found to be a public document.

(c) If the filer combines in the same document, information it wishes to be classified as protected with information that is public, the document will be classified as public.

(7) Filings submitted that show a pattern of requesting non-qualifying items as a protected document may be considered a violation of this rule. ~~[-]~~This would include putting both protected and public information in one document.

**R590-225-12. Correspondence, and Status Checks.**

(1) Correspondence. [-]When corresponding with the department, provide sufficient information to identify the original filing:

- (a) type of insurance;
- (b) date of filing; and
- (c) Submission method, SERFF, or email; and
- (d) tracking number

(2) Status Checks.

(a) A complete filing is usually processed within 45 days of receipt.

(b) A filer can request the status of its filing 60 days after the date of submission. A response will not be provided to a status request prior to 60 days.

**R590-225-13. Responses.**

(1) Response to a Filing Objection Letter. When responding to a Filing Objection letter a filer must:

(a) provide an explanation identifying all changes made;

(b) include an underline and strikeout version for each revised document;

(c) a final version of revised documents that incorporates all changes; and

(d) for filings submitted in SERFF, attach the documents described in [Subsections—]R590-225-12(1)(b) and (c) to the appropriate Form Schedule or Rate/Rule Schedule tabs.

(3) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) A new filing is required if the licensee chooses to make the requested changes addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

**R590-225-14. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-225-15. Enforcement Date.**

The commissioner will begin enforcing the revised provisions of this rule 15 days from the effective date of this rule.

**R590-225-16. Severability.**

If any provision of this rule or its application to any person or situation is held to be invalid, that 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.

**KEY: property casualty insurance filing**

Date of Enactment or Last Substantive Amendment: September 10, 2012  
Notice of Continuation: February 20, 2014  
Authorizing, and Implemented or Interpreted Law: 31A-2-201;  
31A-2-201.1; 31A-2-202; 31A-19a-203