

**R590. Insurance, Administration.**

**R590-226. Submission of Life Insurance Filings.**

**R590-226-1. Authority.**

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

**R590-226-2. Purpose and Scope.**

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

- (a) life insurance filings required by Section 31A-21-201; and
- (b) report filings as required.

(2) This rule applies to:

(a) all types of individual and group life insurance, and variable life insurance; and

(b) group life insurance contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

**R590-226-3. Definitions.**

In addition to the definitions in Section 31A-1-301, 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) "Data page" means the page or pages in a policy or certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as policy specifications, policy schedule, policy information, etc.

(3) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(4) "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.

(5) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(6) "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy, for example, a war exclusion endorsement, a name change endorsement and a tax qualification endorsement.

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

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

(9) "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a form;
- (c) a document;
- (d) an application;
- (e) a report;
- (f) a certificate;
- (g) an endorsement;
- (h) a rider;
- (i) a life insurance illustration;

- (j) a statement of policy cost and benefit information; and
- (k) an actuarial memorandum, demonstration, and certification.

(10) "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, in addition to requiring correction of non-compliant items, may request clarification or additional information pertaining to the filing.

(11) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

(12) "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

(13) "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.

(14) "Market type" means the type of policy that indicates the targeted market such as individual or group.

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

(16) "Rejected" means a filing is:

- (a) not submitted in accordance with applicable laws or rules;
- (b) returned to the licensee by the department with the reasons for rejection; and
- (c) not considered filed with the department.

(17) "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit, for example, a waiver of premium rider, an accidental death benefit rider and a term insurance rider.

(18) "Type of insurance" means a specific life insurance product including, but not limited to, term, universal, variable, or whole life.

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

#### **R590-226-4. 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) 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; and
- (c) will not be reopened for purposes of resubmission.

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

(5) 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 filer to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing Correction.

(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department.

(c) 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.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to Section R590-226-13 for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

#### **R590-226-5. 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: life settlement filers may choose to use email instead of SERFF to submit a filing.

(c) All filings must comply with the "NAIC Uniform Life, Accident and Health, Annuity, and Credit Coding Matrix," dated January 1, 2012, and incorporated by reference. This form is available on the department's website, [www.insurance.utah.gov](http://www.insurance.utah.gov).

(2) A filings must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance, or request filing for more than one licensee.

(4) SERFF Filings.

(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 ACCORANCE WITH UTAH ADMINISTRATIVE RULE R590-226 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) The "Utah Life Insurance Filing Certification for Individual" or the "Utah Life Insurance Filing Certification for Group" must be properly completed, signed, and attached to the Supporting Documentation tab.

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

(E) A false certification 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) has been submitted to the Interstate Insurance Product Regulation Commission (IIPRC);

(C) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected or withdrawn, the reasons for rejection or withdrawal, and the previous Utah Filed Date or the IIPRC approval date;

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

(E) 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, innovative, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(v) Explain any change in benefits or premiums that may occur while the contract is in force.

(vi) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(vii) List the minimum death benefit.

(viii) Identify the intended market for filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.

(b) Domiciliary Approval and Filing Status Information. All filings for a foreign licensee must include on the Supporting Documentation tab:

(i) copy of domicile approval for the exact same filing; or

(ii) filing status information, which includes:

(A) a list of the states to which the filing was submitted;

(B) the date submitted; and

(C) summary of the states' actions and their responses; or

(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(c) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the Supporting Documentation tab either a:

(i) signed and fully completed "Utah Life and Annuity Group Questionnaire"; or

(ii) copy of the Utah Life and Annuity Discretionary Group Authorization letter.

(d) 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.

(e) Statement of Variability.

(i) A statement of variability must be attached to the Supporting Documentation tab and certify:

(A) the final form will not contain brackets denoting variable data;

(B) the use of variable data will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination;

(C) the variable data included in this statement will be used on the referenced forms;

(D) any changes to variable data will be submitted prior to implementation.

(ii) Variable data are denoted in brackets and are defined, either by imbedding in the form, or by a separate form identified by its own form number and edition date. Variable data submitted as a separate form must be in a manner that follows the construction of the form, by page and paragraph, or page and footnote.

(iii) Variable data must be reasonable, appropriate and compliant.

(iv) Use of unauthorized variable data is prohibited.

(f) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:

(i) basic illustration complete with data in John Doe fashion;

(ii) current illustration actuary's certification;

(iii) company officer certification; and

(iv) sample annual report.

(g) Statement of Policy Cost and Benefit Information. If the life insurance form is not illustrated, the filing must include a sample of the Statement of Policy Cost and Benefit Information.

(h) Items being submitted for filing.

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

(ii) All rating documentation, including actuarial memorandums and rate schedules, must be attached to the Rate/Rule Schedule tab.

(iii) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance with Utah laws are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(A) a description of the coverage in detail;

(B) a demonstration of compliance with applicable nonforfeiture and valuation laws; and

(C) a certification of compliance with Utah law.

(5) Refer to each applicable section of this rule for additional procedures on how to submit forms and reports.

(6) A filer submitting a life settlement filing, in addition to the requirements contained in R590-222-14, shall:

(a) attach a letter of authorization from the licensee if the filer is not the licensee;

(b) submit the documents in PDF format;

(c) identify any provisions that are unusual, controversial, innovative, or have been previously objected to, or prohibited, and explain why the provision is included in the filing; and

(d) shall certify that the filing has been properly completed and is in compliance with Utah laws and rules.

**R590-226-6. Procedures for Filings.**

(1) Forms in General.

(a) Forms are "File and Use" filings.

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

(c) Forms must contain a descriptive title on the cover page.

(d) Forms must be in final printed form. Drafts may not be submitted.

(e) Blank spaces within the form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.

(i) If the market intended is for the senior age group, the form must be completed with data representative of senior insureds.

(ii) All John Doe data in the forms including the data page must be accurate and consistent with the actuarial memorandum, the basic illustration, the Statement of Policy Cost and Benefit information, and the application, as applicable.

(2) Application Filing.

(a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.

(b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.

(3) Policy Filings.

(a) Each type of insurance must be filed separately.

(b) A policy filing consists of one policy form, including its related forms, such as the application, sample data page, rider, endorsement, and actuarial memorandum.

(c) A policy data page must be included with every policy filing.

(d) Only one policy form for a single type of insurance may be filed, in each filing a life insurance policy with different premium payment periods is considered one form.

(e) A policy data page that changes the basic feature of the policy may not be filed without including the entire policy form in the filing.

(4) Rider or Endorsement Filing.

(a) Related riders or endorsements may be filed together.

(b) A single rider or endorsement that affects multiple forms may be filed if the Filing Description references all affected forms.

(c) A rider or endorsement that is based on morbidity risks, such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings."

(d) The filing must include:

(i) a listing of all base policy form numbers, title and Utah Filed Dates;

(ii) a description of how each filed rider or endorsement affects the base policy; and

(iii) a sample data page with data for the submitted form.

(e) Unrelated riders or endorsement may not be filed together.

**R590-226-7. Additional Procedures for Individual Life Insurance Forms and Group Life Insurance Certificates Marketed Individually.**

(1) Insurers filing life insurance forms are advised to review the following code parts and rules prior to submitting a filing:

- (a) Section 31A-21 Part III, "Specific Clauses in Contracts;"
- (b) Section 31A-22 Part IV, "Life Insurance and Annuities;"
- (c) R590-79, "Life Insurance Disclosure Rule;"
- (d) R590-93, "Replacement of Life Insurance and Annuities;"
- (e) R590-94, "Smoker/Nonsmoker Mortality Tables;"
- (f) R590-95, "Minimum Nonforfeiture Standards 1980 CSO and 1980 CET Mortality Tables;"
- (g) R590-98, "Unfair Practice in Payment of Life Insurance and Annuity Policy Values;"
- (h) R590-108, "Interest Rate During Grace Period or Upon Reinstatement of Policy;"
- (i) R590-122, "Permissible Arbitration Provisions;"
- (j) R590-177, "Life Insurance Illustrations;"
- (k) R590-191, "Unfair Life Insurance Claims Settlement Practice;"
- (l) R590-198, "Valuation of Life Insurance Policies;" and
- (m) R590-223, "Rule to Recognize 2001 CSO Mortality Table."

(2) Every filing for an individual life insurance policy, rider or benefit endorsement, and a group life insurance policy that includes certificates that are marketed individually, shall include an actuarial memorandum, which includes a demonstration and certification of compliance with:

- (a) Section 31A-22-408, "Standard Nonforfeiture Law for Life Insurance;" and
- (b) Section 31A-17 Part V, "Standard Valuation Law."

**R590-226-8. Additional Procedures for Group Market Filings.**

(1) A filer submitting group life insurance filings are advised to review the following code parts and rules prior to submitting a filing:

- (a) Section 31A-21 Part III, "Specific Clauses in Contracts;"
- (b) Section 31A-22 Part IV, "Life Insurance and Annuities;"
- (c) Section 31A-22 Part V, "Group Life Insurance;"
- (d) R590-79, "Life Insurance Disclosure Rule;" and
- (e) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A policy must be included with each certificate filing along with a master application and enrollment form.

(3) Statement of Policy Cost and Benefit Information. A statement of policy cost and benefit information must be included in non-term group life insurance and preneed funeral policies or prearrangements. This disclosure requirement shall extend to the issuance or delivery of certificates as well as to the master policy in compliance with R590-79-3.

(4) Actuarial Memorandum. An actuarial memorandum must be included in all group life insurance filings describing the coverage in detail and certifying compliance with applicable laws and rules.

For non-term group life filings, the memorandum must also demonstrate nonforfeiture compliance with Section 31A-22-515.

(5) Eligible Group. A filing for an eligible group must include a completed "Utah Life and Annuity Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Section 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(6) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a form filing is submitted without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life and Annuity Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items is considered in determining acceptability of a discretionary group:

(i) existence of a verifiable group;

(ii) that granting permission is not contrary to public policy;

(iii) the proposed group would be actuarially sound;

(iv) the group would result in economies of acquisition and administration which justify a group rate; and

(v) the group would not present hazards of adverse selection.

(c) Discretionary group filings that do not provide authorization documentation will be rejected.

(d) Any changes to an authorized discretionary group must be submitted to the department, such as change of name, trustee, domicile state, within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

#### **R590-226-9. Additional Procedures for Variable Life Filings.**

(1) Insurers submitting variable life filings are advised to review the following code section and rule prior to submitting a filing:

(a) Section 31A-22-411, "Contracts Providing Variable Benefits;"

(b) R590-133, "Variable Contracts."

(2) A variable life insurance policy must have been previously approved or accepted by the licensee's state of domicile before it is submitted for filing in Utah.

(3) Information regarding the status of the filing of the variable life insurance policy with the Securities and Exchange Commission must be included in the filing.

(4) The description and the actuarial memorandum must:

(a) describe the types of accounts available in the policy; and

(b) identify those accounts that are separate accounts, including modified guaranteed accounts, and those that are general accounts.

(5) The actuarial memorandum must demonstrate nonforfeiture compliance:



- (a) for separate accounts pursuant to Section 31A-22-411; and
- (b) for fixed interest general accounts pursuant to Section 31A-22-408.
- (c) In addition, for fixed accounts, the actuarial memorandum must:
  - (i) identify the guaranteed minimum interest rate; and
  - (ii) identify the maximum surrender charges.
- (6) An actuarial certification of compliance with applicable Utah laws and rules must be included in the filing.
- (7) A prospectus is not required to be filed.

**R590-226-10. Additional Procedures for Combination Policies, Riders or Endorsements Providing Life and Accident and Health Benefits.**

A filer submitting life and health combination policies, or health riders or endorsement to life policies, is advised to review Rule R590-220.

(1) A combination filing is a policy, rider, or endorsement which creates a product that provides both life and accident and health insurance benefits.

(a) The two types of acceptable combination filings are a rider or endorsement or an integrated policy.

(b) Combination filings take considerable time to process, and will be processed by both the Health Section and the Life Section of the Health and Life Insurance Division.

(2) A combination filing must be submitted separately to both the Health Section and the Life Section of the Health and Life Insurance Division.

(3)(a) For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.

(b) For a rider or endorsement, the filing must be submitted to the appropriate section based on benefits provided in the rider or endorsement.

(4) The Filing Description must identify the filing as having a combination of insurance types, such as:

(a) whole policy with a long-term care benefit rider; or

(b) major medical health policy that includes a life insurance benefit.

**R590-226-11. Classification of Documents.**

(1) In accordance with Section 63G-2-305, the only information the commissioner may classify as protected is:

(a) information deemed to be a 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; or

(b) commercial information and non-individual financial information obtained from a person if:

(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 commissioner to obtain necessary information in the future[-]; and

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

(2) The person submitting the information under Subsection (1)(a) or (b) and claiming that such is or should be protected shall provide the commissioner with the information in Subsection 63G-2-309(1)(a)(i).

(a) The filer shall request [~~which~~] protected classification for the specific document the filer believes qualifies under Subsections 63G-2-305(1) or (2) when the filing is submitted; and

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

(3) Once the filing has been received, the commissioner will review the documents the filer has requested to be classified as protected to determine if the request meets the requirements of Subsections 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.

(b) If all the information in the document does not meet the requirements for being classified as protected, the commissioner will notify the filer of the denial, the reasons for the denial, and the filer's right to appeal the denial. The filer has 30 days to appeal the denial as allowed by Section 63G-2-401.

(c)(i) Despite the denial of [~~classifying the information as~~] protected classification, the commissioner shall treat the information as if it had been classified as protected until:

(A) the 30 day time limit for an appeal to the commissioner has expired; or

(B) the filer has exhausted all appeals available under Title 63G, Chapter 2, Part 4 and the document has been found to be a public document.

(ii) During the 30 day time limit to appeal or during the appeal process, the filer may withdraw:

(A) the filing; or

(B) the request for [~~designation as~~] protected classification.

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

#### **R590-226-12. Insurer Annual Reports.**

All licensee annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted when requested.

#### **R590-226-13. [~~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;~~
- ~~\_\_\_\_\_ (c) form numbers;~~
- ~~\_\_\_\_\_ (d) Submission method, SERFF, or email; and~~
- ~~\_\_\_\_\_ (e) SERFF 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.~~

**R590-226-14. ]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) include a final version of revised documents that incorporates all changes; and
- (d) for filing submitted in SERFF, attach the documents in Subsections R590-226-13(1)(b) and (c) to appropriate Form Schedule or Rate/Rule Schedule tab.

(2) 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 no 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.

**R590-226-1[5]4. Penalties.**

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

**R590-226-1[6]5. Enforcement Date.**

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

**R590-226-1[7]6. 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.