State of Utah Administrative Rule Analysis Revised May 2023

NOTICE OF PROPOSED RULE

Title No. - Rule No. - Section No. Rule or Section Number: R590-242 Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	Insurance		
Agency:	Administration	Administration		
Room number:	Suite 2300	Suite 2300		
Building:	Taylorsville State	Taylorsville State Office Building		
Street address:	4315 S. 2700 W.	4315 S. 2700 W.		
City, state and zip:	Taylorsville, UT 8	Taylorsville, UT 84129		
Mailing address:	PO Box 146901	PO Box 146901		
City, state and zip:	Salt Lake City, U	Salt Lake City, UT 84114-6901		
Contact persons:				
Name:	Phone:	Email:		
Steve Gooch	801-957-9322	sgooch@utah.gov		
Please address guestions regarding information on this notice to the persons listed above.				

General Information

2. Rule or section catchline:

R590-242. Military Sales Practices

3. Purpose of the new rule or reason for the change:

The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.

4. Summary of the new rule or change:

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, combine sections, remove the Penalties and Enforcement Date sections, and update the Severability section to use the department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table				
Fiscal Cost	FY2024	FY2025	FY2026	
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	
Total Fiscal Cost	\$0	\$0	\$0	
Fiscal Benefits	FY2024	FY2025	FY2026	
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	
Total Fiscal Benefits	\$0	\$0	\$0	
Net Fiscal Benefits	\$0	\$0	\$0	

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-23a-402	

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*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a	a copy of materials
incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	

Official Title of Materials Incorporated	
(from title page)	
Publisher	
Issue Date	

Issue	or `	Version	
13346	U 1	V CI SIOII	

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:		11/14/2023	
B) A public hearing (optional) will be held:			
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):	
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more			

than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on: 11/21/2023

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, 63G-3-302, 63G-3-303, and 63G-3-				
402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin				
and delaying the first possible effective date.				
Agency head or	Steve Gooch, Public Information Officer	Date:	09/28/2023	
designee and title:				

R590. Insurance, Administration.

R590-242. Military Sales Practices.

R590-242-1. Authority.

This rule is promulgated <u>by the commissioner pursuant to [Subsection 31A 23a 402(8)(a) and Subsection 31A 2 201(3)(a)</u> wherein the commissioner may make rules to implement the provisions of Title 31A]Sections 31A-2-201 and 31A-23a-402.

[R590-242-2. Purpose.

(1) The purpose of this rule is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule.

R590-242-3. Scope.

This rule shall apply only to the solicitation, negotiation, or sale of any life insurance product, including annuities, by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

R590-242-4. Findings.

The commissioner finds that the acts prohibited by this rule are misleading, deceptive, unfairly discriminatory, and provide an unfair inducement.

R590-242-5. Exemptions.]R590-242-2. Purpose and Scope.

(1)(a) The purpose of this rule is to set forth standards to protect an active duty service member of the United States Armed Forces from dishonest and predatory insurance sales practices.

(b) Nothing in this rule creates or implies a private cause of action for a violation of this rule.

(2)(a) This rule applies to the solicitation, negotiation, or sale of a life insurance product, including an annuity, by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

[(1) This rules shall not apply to solicitations, negotiations, or sales involving:](b) This rule does not apply to a solicitation, negotiation, or sale involving:

[(a)](i) credit insurance;

[(b)](ii) group life insurance or <u>a group [annuities]annuity</u> where there is no in-person, face-to-face solicitation of individuals by an insurance producer, or where the policy, contract, or certificate does not include a side fund;

[(c)](iii) an application to the existing insurer that issued the existing policy or contract when:

(A) a contractual change or a conversion privilege is being exercised; [-or, when-]

(B) the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or[, when]

(C) a term conversion privilege is exercised among corporate affiliates;

[(d)-](iv)_individual stand-alone health [policies]insurance, including [disability-]income [policies]insurance;

[(e) contracts](v) a contract offered by [Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.]SGLI or VGLI;

[(f)-](vi) life insurance [contracts-]offered through or by a [non profit-]nonprofit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code[-(IRC)], and [which are]that is not underwritten by an insurer; or

[(g) contracts](vii) a contract used to fund:

[(i)](A) an employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act[(ERISA)];

[(ii)](B) a plan described by Section[s] 401(a), 401(k), 403(b), 408(k), or 408(p) of the [IRC]Internal Revenue Code, as amended, if established or maintained by an employer;

[(iii)](C) a government or church plan defined in Section 414 of the [HC]Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the [HC]Internal Revenue Code;

[(iv)](D) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; [(v) settlements of or assumptions](E) a settlement of or assumption of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

[(vi)-](F) a prearranged funeral [contracts]contract.

[(2) Nothing herein shall be construed to nullify the ability of nonprofit organizations to educate members](c) This rule does not prohibit a nonprofit organization from educating a member of the United States Armed Forces in accordance with [Department of Defense DoD]the DOD Instruction 1344.07 - [PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS]Personal Commercial Solicitation on DOD Installations or a successor directive.

R590-242-[6]3. Definitions.

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

(1)(a) "Active [Duty]duty" means full-time duty in the active military service of the United States [and includes-]including members of the [reserve component,-]National Guard and Reserve, while serving under published orders for active duty or full-time training.[-The term-]

(b) "Active duty" does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

(2) "Department of Defense [(DoD) Personnel]personnel" and "DOD personnel" mean[s] all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the [Department of Defense]DOD.

(3) <u>"DOD" means the U.S. Department of Defense.</u>

(4) "Door to [Door]door" means a solicitation or sales method [whereby]where an insurance producer proceeds randomly or selectively from household to household without [prior]a specific appointment.

[(4)](5) "General [Advertisement] advertisement" means an advertisement [having as its sole] with its purpose being the promotion of the reader's or viewer's interest in the concept of insurance, [or-] the promotion of the insurer, or the promotion of an insurance producer.

[(5)](6) "Known" or [Knowingly]"knowingly" means, depending on its [use herein]usage, [the]an insurance producer or insurer [had]having actual awareness, or in the exercise of ordinary care should have known[, at the time of the act or practice complained of,] that the person solicited:

(a) is a service member; or

(b) is a service member with a pay grade of E-4 or below.

(7) "Insurable needs" means the risks associated with premature death, taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate, survivors or dependents.

[(6)](8) "Military [Installation]installation" means [any-]a federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

[(7)](9) "MyPay" [is a]means the Defense Finance and Accounting Service [(DFAS)]web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(10) "Other military survivor benefits" includes the following benefits:

(a) the death gratuity;

(b) funeral reimbursement;

- (c) transition assistance;
- (d) survivor and dependents' educational assistance;

(e) dependency and indemnity compensation;

(f) TRICARE healthcare benefits;

(g) survivor housing benefits and allowance;

(h) federal income tax forgiveness; and

(i) Social Security survivor benefits.

(11) "SGLI" means Servicemembers' Group Life Insurance as authorized by 38 U.S.C. Section 1965 et seq.

[(8)](12) "Service [Member]member" means [any]an active duty officer, commissioned and warrant, or enlisted member of the United States Armed Forces.

[(9)](13)(a) "Side [Fund]fund" means a fund or reserve that is part of, or otherwise attached to, a life insurance policy, [excluding]except for individually issued annuities, by rider, endorsement, or other mechanism [which]that accumulates premium or deposits with interest or by other means.[-The term]

(b) "Side fund" does not include:

[(a)](i) accumulated value[-or], cash value, or secondary guarantees provided by a universal life policy;

[(b)](ii) cash [values]value provided by a whole life policy [which are]subject to standard nonforfeiture law for life

insurance; or

[(c)](iii) a premium deposit fund [which]that:

[(i)](A) contains only premiums paid in advance [which]that accumulate [at]interest;

[(ii)](B) imposes no penalty for withdrawal;

[(iii)](C) does not permit funding beyond future required premiums;

[(iv)](D) is not marketed or intended as an investment; and

[(v)](E) does not carry a commission, either paid or calculated.

(14)(a) "Solicitation" means an offer to a person in this state, either directly or through a third party, to effect insurance.

(b) "Solicitation" does not mean:

(i) a general advertisement;

(ii) a direct mailing;

(iii) internet marketing; or

(iv) telephone marketing, provided the caller explicitly and conspicuously discloses that the product that is the subject of the call is life insurance.

[(10)](15) "Specific [Appointment]appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

[(11)](16) "United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(17) "VGLI" means Veterans' Group Life Insurance as authorized by 38 U.S.C. Section 1965 et seq.

R590-242-[7]4. [Practices Declared]False, Misleading, Deceptive, or Unfair Practices on a Military Installation.

(1) The [following-]acts or practices in this Subsection (1), when committed on a military installation by an insurer or insurance producer [with respect to the]during an in-person, face-to-face solicitation, negotiation, or sale of life insurance, are [declared to be]false, misleading, deceptive, or unfair[÷].

(a) Knowingly soliciting the purchase of [any-]a life insurance product ["]door to door["], or without first establishing a specific appointment [for each meeting with the]with a prospective purchaser.

(b) Soliciting service members in a group[-or "mass" audience or in a "captive"], mass, or captive audience where attendance is not voluntary.

(c) Knowingly making [appointments-]an appointment with or soliciting <u>a</u> service [members-]member_during [their-]the service member's normally scheduled duty hours.

(d) Making [appointments]an appointment with or soliciting a service [members]member in barracks, day rooms, unit areas, [or]transient personnel housing, or other areas where the installation commander [has prohibited]prohibits solicitation.

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(f) [Posting unauthorized bulletins, notices or advertisements]Posting an unauthorized bulletin, notice, or advertisement on a military installation.

(g) Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to <u>a solicited</u> service [members solicited]<u>member</u> not to complete or submit [a-]DD Form 2885.

(h) Knowingly accepting an application for life insurance or issuing a [policy of]life insurance <u>policy</u> on the life of an enlisted member of the United States Armed Forces without first obtaining [for the insurer's files]a completed copy of any required form [which confirms]confirming that the applicant [has]received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the [DOD]DOD or any branch of the <u>United States</u> Armed Forces.

(2) [The following acts or practices]An act or practice in this Subsection (2), when committed on a military installation by an insurer or insurance producer[-constitute corrupt practices, improper influences or inducements and are declared to be] is a corrupt practice, improper influence, or inducement that is false, misleading, deceptive, or unfair[+].

(a) Using [DoD]DOD personnel, directly or indirectly, as a representative or agent in [any]an official or business capacity, with or without compensation[-with respect to], regarding the solicitation or sale of life insurance to any service [members]member.

(b) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation

program.

R590-242-[8]5. [Practices Declared]False, Misleading, Deceptive, or Unfair Practices Regardless of Location.

(1) The [following]acts or practices by an insurer or insurance producer [constitute]in this Subsection (1) are corrupt practices, improper influences, or inducements [and are declared to be]that are false, misleading, deceptive, or unfair[:].

(a)(<u>i</u>) Submitting, processing, or assisting in the submission or processing of [<u>any]an</u> allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance[. The foregoing includes, but is not limited to,], including using or assisting [<u>in using]with</u> a service member's ["]MyPay["] account or other similar internet or electronic medium for such purposes.[This subsection does not prohibit.]

(ii) Subsection (1)(a)(i) does not prohibit assisting a service member by providing insurer or premium information necessary to complete [any]an allotment form.

(b)(i) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship.[-For purposes of this section, a-]

(ii) <u>A</u> formal banking relationship is established when [the-]<u>a</u> depository institution:

[(i)](A) provides the service member with a deposit agreement and periodic statements, and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. Section 4301 et seq. and the rules promulgated thereunder; and

[(ii)](B) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) [Employing any device or method or entering]Entering into [any]an agreement [whereby]where funds received from a service member by allotment, for the payment of insurance premiums, are identified on the service member's Leave and Earnings Statement, or equivalent, or successor form as ["Savings" or "Checking" and where]savings or checking when the service member has no formal banking relationship[-as defined in subsection 7(1)(b)].

(d) Entering into [any]an agreement with a depository institution [for the purpose of receiving]to receive funds from a service member [whereby]where the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Using [DoD]DOD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity, with or without compensation, [with respect to]regarding the solicitation or sale of life insurance to <u>any</u> service [members who are]member who is junior in rank or grade, or to [the]any family [members]member of such personnel.

(f) Offering or giving anything of value, directly or indirectly, to [DoD]<u>DOD</u> personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation, negotiation, or sale of life insurance to another service member.

(g) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for [his or her-]the service member's attendance to any event where an application for life insurance is solicited.

(h) Advising a service member with a pay grade of E-4 or below to change [his or her]the service member's income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(2) The [following-]acts or practices by an insurer or insurance producer [lead to confusion]in this Subsection (2) regarding source, sponsorship, approval, or affiliation are confusing and are [declared to be]false, misleading, deceptive, or unfair[+].

(a) Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliated, connected, or associated with, endorsed, sponsored, sanctioned, or recommended by the [U.S.]United States Government, the United States Armed Forces, or any state or federal agency or government entity.

(i) [Examples of prohibited]Prohibited insurance producer titles include[, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor",] the following:

(A) Battalion Insurance Counselor;

(B) Unit Insurance Advisor;

(C) Servicemen's Group Life Insurance Conversion Consultant;

(D) Veteran's Benefits Counselor; or

(E) a similar title.

(ii) [Nothing herein shall be construed to]This rule does not prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning[-(iii) Such designations include, but are not limited to,] including:

(A) Chartered Life Underwriter[(CLU)], CLU;

(B) Chartered Financial Consultant[(ChFC)], ChFC;

(C) Certified Financial Planner[(CFP)], CFP;

(D) Master of Science in Financial Services[(MSFS)], MSFS; or

(E) Masters of Science Financial Planning[-(MS)], MS.

(b) Soliciting the purchase of [any-]a life insurance product through the use of or in conjunction with [any-]a third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that [has the tendency or capacity to-]may confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected, or associated with, endorsed, sponsored, sanctioned, or recommended by the [U.S.-]United States Armed Forces.

(3) The [following]acts or practices by an insurer or insurance producer [lead to confusion]in this Subsection (3) are

confusing regarding premiums, costs, or investment returns and are [declared to be]false, misleading, deceptive, or unfair[+].

(a) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(b) [Excluding-]Except for individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free".

(4) The [following-]acts or practices by an insurer or insurance producer in this Subsection (4) regarding SGLI or VGLI are [declared to be-]false, misleading, deceptive, or unfair[+].

(a) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations [to-]of coverage provided to a service member or <u>a service member's</u> dependents by SGLI or VGLI[, which is false, misleading or deceptive].

(b) Making any representation regarding conversion requirements, including the costs of coverage, [or]exclusions or limitations to coverage of SGLI or VGLI to private insurers[, which is false, misleading or deceptive].

(c) Suggesting, recommending, or encouraging a service member to cancel or terminate [his or her]a_SGLI policy or issuing a life insurance policy [which-]that replaces an existing SGLI policy unless the replacement [shall take-]takes effect upon or after the service member's separation from the United States Armed Forces.

(5) The [following-]acts or practices by an insurer [and-]or insurance producer in this Subsection (5) regarding disclosure are [declared to be-]false, misleading, deceptive, or unfair[+].

(a) Deploying, using, or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the [recipient-]service member will be contacted by an insurance producer, if that is the case, [for the purpose of soliciting]to solicit the purchase of life insurance.

(b) Failing to disclose that a solicitation for the sale of life insurance will be made when [establishing-]making a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(c) [Excluding-]Except for an individually issued [annuities]annuity, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(d) [Failing]Knowingly failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures [required by-]under_Section 10 of the ["]Military Personnel Financial Services Protection Act,["] Pub. L. No. 109-290[, p.16].

[(e) Excluding](e)(i) Except for an individually issued [annuities] annuity, when [the]a sale is conducted during an inperson, face-to-face meeting with [an individual known to be]a known service member, failing to provide the applicant, [at the time]when the application is taken:

[(i)](A) an explanation of any free look period with instructions on how to cancel if a policy is issued; and

[(ii) either](B) a copy of the application or a written disclosure.

(ii) The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for, and its expected first year cost.

(iii) A basic illustration that meets the requirements of <u>Rule R590-177</u>[, Life Insurance Illustrations Rule, shall be deemed sufficient to meet] meets this requirement for a written disclosure.

(6) The [following-]acts or practices by an insurer or insurance producer [with respect to-]in this Subsection (6) regarding the sale of certain life insurance products are [declared to be-]false, misleading, deceptive, or unfair[+].

(a) [Excluding-]Except for an individually issued [annuities]annuity, recommending the purchase of [any-]a life insurance product [which-]that includes a side fund to a service member in a pay [grades-]grade E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(b) Offering for sale or selling a life insurance product [which-]that includes a side fund to a service member in <u>a</u> pay [grades]grade E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings, [and]investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.
(i) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and

immediate and future cash needs of the applicant's estate and survivors or dependents.

(ii) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.]

(c) [Excluding]Except for an individually issued [annuities]annuity, offering for sale or selling [any]a life insurance [contract which]policy that includes a side fund:

(i) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(ii) unless the applicant [has been]is provided with a schedule of effective rates of return based upon cash flows of the combined product[. For this disclosure,], wherein the effective rate of return [will consider]considers all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage[. This schedule will be], and is provided for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity. or final expiration; and

(iii) [which]that, by default, diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(d) [Excluding-]Except for an individually issued [annuities]annuity, offering for sale or selling [any-]a life insurance [contract which-]policy that, after considering all policy benefits[7] including [but not limited to]an endowment, a return of premium,

or persistency, does not comply with Section 31A-22-408[, Standard Nonforfeiture Law for Life Insurance].

(e) Selling [any-]to a known service member a life insurance [product to an individual known to be a service member-]policy that excludes coverage if the insured's death is related to war, declared or undeclared, or [any-]an act related to military service except for an accidental death coverage[-which may be excluded].

[R590-242-9. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-242-10. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule on January 1, 2008.

R590-242-[11]6. Severability.

[If any provision or portion of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule or the applicability of the provision to other persons or circumstances shall not be affected.]If any provision of this rule, Rule R590-242, 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, military sales practices Date of Last Change: <u>2023[November 16, 2007]</u> Notice of Continuation: October 31, 2022 Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402

!--dar--

1