

**State of Utah**  
**Administrative Rule Analysis**  
Revised June 2022

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New \_\_\_; Amendment \_x\_; Repeal \_\_\_; Repeal and Reenact \_\_\_

**Title No. - Rule No. - Section No.**

**Rule or Section Number:**

**R590-251**

**Filing ID: Office Use Only**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

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

**General Information**

**2. Rule or section catchline:**

R590-251. Preneed Life Insurance Minimum Standards to Determine Reserve Liabilities and Nonforfeiture Values

**3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):**

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

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**

The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, remove the Effective Date and Enforcement Date sections because the rule is already in force, remove the Penalties section because penalties are already provided for in statute, 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**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 31A-2-201	Section 31A-17-402	Section 31A-22-408

**Incorporations by Reference Information**

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

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

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

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

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

**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:** **11/14/2022**

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

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

**9. This rule change MAY become effective on:** **11/21/2022**

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	<b>09/30/2022</b>
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**R590. Insurance, Administration.**

**R590-251. Preneed Life Insurance Minimum Standards ~~[For Determining] to Determine Reserve Liabilities [And] and Nonforfeiture Values Rule.~~**

**R590-251-1. Authority.**

This rule is promulgated by the commissioner ~~[of insurance]~~ pursuant to ~~[Subsections]~~ Sections 31A-2-201~~(3)~~, 31A-17-402~~(4)~~, and 31A-22-408~~(11)~~.

**R590-251-2. Purpose and Scope.**

(1) ~~[The purposes of this rule for preneed life insurance products are to]~~ The purpose of this rule is to:

(a) establish minimum mortality standards for reserves and non~~[-]~~forfeiture values for a preneed life insurance product; and

(b) require the use of the Ultimate 1980 [Commissioners Standard Ordinary (CSO) Life Valuation Table for use in determining]CSO to determine:

(i) the minimum standard of valuation of reserve liabilities; and

(ii) the minimum standard for nonforfeiture values.

(2) This rule applies to preneed insurance contracts~~[, as defined in Section R590-251-3, and to ]~~ and similar policies and certificates [as determined by the commissioner] issued on or after January 1, 2009.

**R590-251-3. Definitions.**

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

(1)(a) "2001 CSO Mortality Table" means ~~[that]the~~ the mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002.

(b) ~~[The 2001 CSO Mortality Table is included in the Proceedings of the NAIC, 2nd Quarter 2002.~~

~~(c) ]~~ Unless [the context indicates] otherwise indicated, the "2001 CSO Mortality Table" includes:

(i) the ultimate form of ~~[that]the~~ the table;

(ii) the select and ultimate form of ~~[that]the~~ the table;

(iii) the smoker and nonsmoker mortality tables;~~[and]~~

(iv) the composite mortality tables~~[. It also includes both.]; and~~

(v) the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(2) ~~[ "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without~~

ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983. "Goods and services" include embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased.

(3)(a) "Preneed insurance [~~contract~~]" means [~~any~~] a life insurance policy or certificate that is issued in combination with [~~in support of, with an assignment to, or as a guarantee for~~] a prearrangement agreement for goods and services [~~to be~~] provided at the time of [~~and~~] or immediately following the death of the insured.

[~~— (a) Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased.~~]

(b) The status of the policy or contract as preneed insurance is determined at the time of issue [~~in accordance with the policy form filing~~].

(4) [~~The tables identified in Subsections R590 251 3(1) and R590 251 3(2) are hereby incorporated by reference within this rule and are available for public inspection at the Insurance Department during normal business hours~~] "Ultimate 1980 CSO" means the Commissioners' 1980 Standard Ordinary Life Valuation Mortality Tables without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

#### **R590-251-4. Minimum Standards.**

[~~— This section sets minimum standards for determining reserve liabilities and nonforfeiture values for policies subject to the rule.~~]

(1) Mortality Standards. The mortality standard used [~~in determining the minimum standard for valuation and the minimum standard for~~] to determine reserve liabilities and nonforfeiture values for both male and female insureds [~~shall be~~] is the Ultimate 1980 CSO.

(2) Interest [~~rates~~] Rate Standards.

(a) The interest rates used [~~in determining~~] to determine the minimum standard for valuation [~~shall be~~] are the calendar year statutory valuation interest rates [~~as~~] defined in Section 31A-17-506.

(b) The interest rates used [~~in determining~~] to determine the minimum standard for nonforfeiture values [~~shall be~~] are the calendar year statutory nonforfeiture interest rates [~~as~~] defined in Section 31A-22-408.

(3) [~~Methods~~] Valuation and Nonforfeiture Method Standards.

(a) The method used [~~in determining~~] to determine the minimum standard for valuation [~~shall be~~] of reserves of preneed insurance is the method defined in Title 31A[-], Chapter 17, Part 5, Standard Valuation Law.

(b) The method used [~~in determining~~] to determine the minimum [~~standard for nonforfeiture values shall be~~] nonforfeiture values for preneed insurance is the method defined in Section 31A-22-408.

#### **R590-251-5. Transition Rules.**

(1) [~~For~~] Preneed policies subject to this rule issued before January 1, 2012, may use the 2001 CSO [~~may be used~~] Mortality Table as the minimum mortality standard for [~~valuation~~] reserves and minimum [~~mortality~~] standard for nonforfeiture values for both male and female insureds.

(2)(a) If an insurer elects to use the 2001 CSO Mortality Table as a minimum [~~mortality~~] standard for [~~any~~] a policy subject to this rule issued before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the [~~company's~~] insurer's asset adequacy testing, an annual written notification to the [~~domiciliary~~] commissioner of its domiciliary state.

(b) The notification shall include:

[~~(a) A~~](i) a complete list of all policy forms that use the 2001 CSO Mortality Table as a minimum mortality standard;

[~~(b) A~~](ii) a certification signed by the appointed actuary stating that the reserve methodology [~~employed~~] used by the [~~company~~] in determining [~~insurer to determine~~] reserve liabilities for the policies subject to this rule and using the 2001 CSO Mortality Table as a minimum mortality standard, develop[s] adequate reserves; and

[~~(c) S~~](iii) supporting information regarding the adequacy of reserves for policies subject to this rule and using the 2001 CSO Mortality Table as a minimum mortality standard for reserve liabilities.

(3) [~~For the purpose of the certification required under Subsection R590 251 5(2)(b), the policies subject to this rule and using the 2001 CSO as a minimum mortality standard cannot be aggregated with any other policies~~] When determining the adequacy of the reserves required under Subsection (2)(b), the policies subject to this rule and using the 2001 CSO Mortality Table as a minimum mortality standard may not be aggregated with other policies.

(4) [~~Policies~~] A policy subject to this rule issued on or after January 1, 2012, [~~must~~] shall use the Ultimate 1980 CSO [~~in the calculation of~~] to calculate minimum reserve liabilities and minimum nonforfeiture values.

#### **R590-251-6. Effective Date.**

[~~— This rule applies to policies issued on or after January 1, 2009.~~]

#### **R590 251 7. 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 31A 2 308.~~]

#### **R590 251 8. Enforcement Date.**

[~~— The commissioner will begin enforcing this rule 45 days from the rule's effective date.~~]

**~~R590-251-9.~~ Severability.**

~~[If any provision of this rule or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this rule and its application to other persons and circumstances are not affected.]~~If any provision of this rule, Rule R590-251, 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: preneed life insurance standards**

**Date of Enactment or Last Substantive Amendment: August 25, 2008**

**Notice of Continuation: August 3, 2018**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-17-402; 31A-22-408**