

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$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

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This rule change is not expected to have any fiscal impacts on large businesses revenues or expenditures, because none of the changes affect large businesses. The rule change sets forth additional responsibilities and factors that must be taken into account by an individual making a consent request.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.

R590. Insurance Department, Administration.

R590-278. Consent Requests Under 18 USC 1033(e) (2) .

R590-278-1. Authority.

This rule is adopted pursuant to the following:

(1) Subsection 31A-2-201(3) that authorizes the commissioner to make rules to implement the provisions of Title 31A; and

(2) Subsection 31A-23a-111(5)(b) that authorizes the commissioner to act in compliance with the federal Violent Crime Control and Law Enforcement Act of 1994, 18 USC 1033.

R590-278-2. [~~Consent~~]Request for Consent Made by Filing Request for Agency Action.

(1) A request under 18 USC 1033(e)(2) for the commissioner's written consent to engage or participate in the business of insurance shall be ~~initiated~~made by filing a request for agency action. The form "Request for Agency Action Re: 18 USC 1033(e)(2)", available on the department's website, shall be used to make the request. The person making the request shall attach to the form all relevant documents that support the request. After completion, the form shall be filed as directed in Sections R590-160-5 or R590-160-[5.5]6.

(2) A request for agency action under this rule is a request for a formal adjudicative proceeding and is governed by the relevant provisions of the Utah Administrative Procedures Act, Title 63G, Chapter 4, and Section R590-160.

(3) The provisions of R590-160 apply to proceedings under this rule.

R590-278-3. Hearing on Request for Agency Action.

(1) A presiding officer shall conduct a hearing on the merits of a request for agency action under this rule.

(2) After the hearing, the presiding officer shall submit to the commissioner the record of the proceeding, recommended findings of fact and conclusions of law, and a recommended order.

(3) The commissioner shall consider the presiding officer's recommendations and then issue ~~final~~Ffindings of ~~fact~~Ffact and ~~conclusions of law~~conclusions of ~~law~~Llaw and an ~~final~~Oorder which constitute final agency action~~[-that is not subject to agency review].~~

(4) A party may submit to the commissioner a written request for reconsideration of the final agency action. The request is governed by Section 63G-4-302 and must be submitted within 20 days of the date of the final agency action.

(5) A party may seek judicial review of the final agency action as provided in the Utah Administrative Procedures Act, Title 63G, Chapter 4.

R590-278-4. Determining ~~Consent~~Request for Consent.

Written consent may be granted if, in the commissioner's sole discretion, a preponderance of the evidence shows that the petitioner is trustworthy to engage or participate in the business of insurance. The petitioner bears the burden of production of evidence and the burden of persuasion. The following are relevant to ~~that determination~~determining whether written consent will be granted:

(1) Any materially false or misleading statement or omission in the request for agency action;

(2) The nature, severity, and number of the petitioner's crimes;

(3) The petitioner's age at the time the crimes were committed;

(4) ~~The lengths of the sentences~~petitioner's punishment for the crimes;

(5) The length of time since the petitioner's most recent conviction;

(6) The petitioner's rehabilitation, including evidence of counseling, community service, completion of probation, and payment of restitution, fines, and interest if applicable;

(7) ~~Any~~Current reference letters;

(8) The presence of any fact or circumstance in the petitioner's

current life that may have motivated the petitioner to commit crime in the past;

(9) Any unpaid judgment; [~~or~~]

(10) If the petitioner intends to apply for an insurance license, the duties of a holder of that type of license;

(11) The extent to which the petitioner, if granted a license, will work under the supervision of another licensee or another person;

(12) The petitioner's trustworthiness in employment, community service, or other endeavors since the most recent conviction;

(13) Information received from the National Association of Insurance Commissioners and any insurance regulatory official;

(14) Whether the petitioner has had any occupational or professional licenses, certifications, or designations revoked and, if so, the basis for the revocation; and

(15) Whether the petitioner has previously requested written consent in any jurisdiction and, if so, the outcome of that request.

R590-278-5. Severability.

If any provision [~~or clause~~] of this rule or its application to any person or situation is held to be invalid, that invalidity [~~may~~] 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: insurance

Date of Enactment or Last Substantive Amendment: December 24, 2018
Authorizing, and Implemented or Interpreted Law:
31-A-23a-111 (5) (b) ; 31A-2-201 (3)