

**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:**

**R590-280**

**Filing ID: 55050**

**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**

<b>2. Rule or section catchline:</b>
R590-280. Counting Short-Term Funds
<b>3. Purpose of the new rule or reason for the change</b> (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.
<b>4. Summary of the new rule or change</b> (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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, combine Purpose and Scope into one section, remove the Enforcement Date section, 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**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
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>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
<b>C) Small businesses</b> ("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.
<b>D) Non-small businesses</b> ("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-18-105	
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**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.)

<b>A) Comments will be accepted until:</b>	01/03/2023
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<b>9. This rule change MAY become effective on:</b>	01/10/2023
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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>	11/04/2022
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R590. Insurance, Administration.  
R590-280. Counting Short-Term Funds.  
R590-280-1. Authority.

This rule is ~~[adopted pursuant to Section 31A-2-201(3), which authorizes the commissioner to make rules that implement the provisions of Title 31A, and Section 31A-18-105(16), which states that the commissioner may authorize investments for risk-based capital determinations]~~ promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-18-105.

~~**R590-280-2. Scope.**~~

~~This rule applies to an insurer subject to Title 31A, Chapter 17, Part 6.~~

~~**R590-280-3. Purpose.**~~

~~The purpose of this rule is to state the requirements that an insurer must satisfy to count short term funds as defined in this rule.]~~

~~**R590-280-2. Purpose and Scope.**~~

~~(1) The purpose of this rule is to define short-term funds as a permitted class of investment.~~

~~(2) This rule applies to an insurer authorized to do business in Utah.~~

~~**R590-280-[4]3. Definitions.**~~

~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-17-601. Additional terms are defined as follows:~~

~~(1) "SBA" means the United States Small Business Administration.~~

~~(2) "Short-term funds" means a sum of money that an insurer loans to an SBA borrower to fund the SBA borrower's anticipated use of SBA 504 loan proceeds where the insurer's loan is secured by a lien on real property or by any other form of collateral authorized by the commissioner.~~

~~**R590-280-[5]4. Requirements for Counting Short-Term Funds.**~~

~~An insurer may count short-term funds for the purposes specified under Title 31A, Chapter 17, Part 6, ~~[only]~~ Risk-Based Capital, if:~~

~~(1) the total amount of short-term funds ~~[at any point in time does]~~, set forth in the insurer's annual or quarterly statutory financial statement that was last filed with the NAIC, does not exceed the following ~~[as set forth in the insurer's annual or quarterly statutory financial statement, whichever was last filed with the National Association of Insurance Commissioners]~~:~~

~~(a) 1.5% of the insurer's total assets ~~[as]~~ determined ~~[according to]~~ under Subsection 31A-18-106(4); and~~

~~(b) 15% of the insurer's capital and surplus;~~

~~(2) the duration of each loan does not exceed 150 days;~~

~~(3) the insurer provides ~~[on request]~~ satisfactory proof of compliance with this rule, upon request;~~

~~(4) the filing of the insurer's most recent RBC report did not qualify as an action level event or as a control level event under Title 31A, Chapter 17, Part 6, Risk-Based Capital; and~~

~~(5) at the time of the insurer's loan to the SBA borrower, the insurer is not subject to administrative action under Title 31A, Chapter 27, Part 5, Administrative Actions.~~

~~**R590-280-6. Enforcement Date.**~~

~~The commissioner will begin enforcing the provisions of this rule on the rule's effective date.~~

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~~**R590-280-[7]5. Severability.**~~

~~[If any provision of this rule or its application to any persons or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.] If any provision of this rule, Rule R590-280, 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**

**Date of Last Change: 2022[~~April 23, 2019~~]**

**Authorizing, and Implemented or Interpreted Law: 31A-18-105(16); 31A-2-201(3)**

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