

**State of Utah**  
**Administrative Rule Analysis**  
 Revised May 2020

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-281</b>	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Department:</b>		
<b>Agency:</b>	Insurance Department	
<b>Room no.:</b>	3110	
<b>Building:</b>	State Office Building	
<b>Street address:</b>	450 N. State St.	
<b>City, state:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
License Applications Submitted by Individuals Who Have a Criminal Conviction.
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The current rule establishes license eligibility standards for those who have been convicted of a crime. The amendments: (1) limit the rule to new license applications; (2) address how to treat pleas in abeyance and reductions in level of offense; and (3) describe how the rule will operate with the federal law that requires certain convicts to obtain consent to engage in the insurance business before obtaining a license.
<b>4. Summary of the new rule or change:</b>
The changes to the rule limit the rule to new license applications, address how to treat please in abeyance and reductions in level of offense, and describe how the rule will operate with the federal law that requires certain convicts to obtain consent to engage in the insurance business before obtaining a license. It also removes the enforcement date because the rule is already in force, and changes the language in the Severability section to meet current department standards.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The amendment merely makes clarifications and does not require any new action from any party.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The amendment concerns the relationship between the department and potential licensees and does not involve local government.
<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 amendment merely makes clarifications and does not require any new action from any party.

**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 amendment merely makes clarifications and does not require any new action from any party.

**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 amendment merely makes clarifications and does not require any new action from any party.

**F) Compliance costs for affected persons:**

There are no compliance costs for any affected persons. The amendment merely makes clarifications and does not require any new action from any party.

**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.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</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>			
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 approval of regulatory impact analysis:**

The interim head of the Insurance Department, Tanji J. Northrup, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Tanji J. Northrup, Interim Insurance Commissioner

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 31A-2-201(3)		

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. 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*):

First Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**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*):

Second Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**Public Notice Information**

**9. 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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 12/15/2020

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

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

**10. This rule change MAY become effective on** (mm/dd/yyyy): 12/22/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**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	<b>Date</b> (mm/dd/yyyy):	11/02/2020
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## **R590. Insurance, Administration.**

### **R590-281. License Applications Submitted by Individuals Who Have a Criminal Conviction.**

#### **R590-281-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-2-201(3) which authorizes the commissioner to adopt rules to implement the provisions of Title 31A.

#### **R590-281-2. Purpose and Scope.**

- (1) This rule sets eligibility requirements for license applicants who have a criminal conviction.
- (2) This rule applies to license applicants who have a criminal conviction.

#### **R590-281-3. Definitions.**

The following definitions shall apply for the purpose of this rule:

(1) "License" means an initial ~~[-, a renewal, or a reinstated]~~ resident individual or resident agency insurance license issued by the commissioner; and

(2) "Proceeding" means:

(a) a criminal proceeding in which an individual is charged with a felony, or a misdemeanor involving fraud, misrepresentation, theft, or dishonesty, including ~~[one] a proceeding involving a plea in abeyance~~;

(b) a regulatory enforcement proceeding in which an individual is alleged to have engaged in conduct involving fraud, misrepresentation, theft, or dishonesty.

#### **R590-281-4. Eligibility to Apply for a License.**

(1) Except as provided in Subsections (2) ~~[and] through~~ ~~([3]4)~~, and except in the case of a juvenile adjudication, an individual who has been convicted of or pleaded no contest to a felony, or a misdemeanor involving fraud, misrepresentation, theft, or dishonesty is eligible to apply for a license if:

(a) the individual has completed probation, parole, or has been released from incarceration;

(b) the individual has no criminal proceeding pending;

(c) the individual has paid in full all fines and interest ordered by the court related to the conviction;

~~(b)~~ d) the individual has paid in full all restitution ordered by the court related to the conviction; and

~~(e)~~ e) the following time periods have elapsed from the date the individual was convicted or released from incarceration, parole, or probation, whichever occurred last:

(i) seven years in the case of a felony;

(ii) five years in the case of a class A misdemeanor;

(iii) four years in the case of a class B misdemeanor; or

(iv) three years in the case of any other misdemeanor.

(2) Subsection (1) does not apply to an individual whose criminal charge was dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance.

(3) In applying this rule, the department will give effect to a conviction for a lower degree of offense pursuant to Section 76-3-402. ~~[An individual may not apply for a license if a proceeding is pending against the individual].~~

~~([3]4)~~ (a) (i) An individual who has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, or who ~~[has]~~ is deemed under 18 U.S.C. Sec. 1033 to have been convicted of a felony involving dishonesty or breach of trust, may not apply for a license without first obtaining written consent from the commissioner to engage or participate in the business of insurance.

(ii) The policy and application for written consent are available on the department's website at [www.insurance.utah.gov](http://www.insurance.utah.gov).

(b) An individual who obtains written consent may apply for a license ~~[-and].~~ The individual remains subject to all other license application requirements.

(c) An application for written consent is required even if:

(i) a felony charge involving dishonesty or breach of trust has been dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance; or

(ii) a felony conviction involving dishonesty or breach of trust has been reduced to a lower degree of offense pursuant to Section 76-3-402.

([4]5) The department will deny a license application submitted by an individual who is not eligible under this Section.

(6) Eligibility to apply for a license under R590-281 is a separate determination from and does not affect eligibility to engage in the business of insurance under 18 U.S.C. Sec. 1033.

#### **R590-281-5[-] Enforcement Date.**

~~The commissioner will begin enforcing this rule when it takes effect.~~

#### **R590-281-6]. Severability.**

If any provision of this rule, R590-281, or its application to any person or situation is held ~~[to be]~~ invalid, ~~[that]~~ such invalidity ~~[shall]~~

~~]~~does 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].~~ The remainder of this rule shall be given effect without the invalid provision or application.

**KEY: insurance, licensing**

**Date of Enactment or Last Substantive Amendment: 2020**

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