

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:

R590-93-4

Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
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:
R590-93-4. Duties of an Insurer That Uses a Producer
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being changed to expand the options a producer may use when replacing a life insurance policy or annuity contract for compliance with 31A-22-429.
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 change allows a producer to utilize the form in both Appendix A or Appendix C, rather than just Appendix A.

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 expand a producer's options, and will not change how the department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes expand a producer's options, 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 expand a producer's options, 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 expand a producer's options, 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 expand a producer's options.

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 expand a producer's options.

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	FY2023	FY2024	FY2025
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	FY2023	FY2024	FY2025
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-22-429	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 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	
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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.)

A) Comments will be accepted until: **11/14/2022**

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

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

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.

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/30/2022
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R590-93-4. Duties of an Insurer That Uses a Producer.

(1) Each insurer shall maintain a system of supervision to ensure compliance with the requirements of Section 31A-22-429 and this rule that includes the following:

- (a) inform each producer of the requirements of Section 31A-22-429 and this rule and incorporate the requirements into each relevant producer training manual prepared by the insurer;
- (b) provide each producer guidance and a written statement of the company's position regarding the acceptability and appropriateness of a replacement transaction;
- (c) maintain a system to review the appropriateness of each replacement transaction that a producer does not indicate is in accord with Subsection (1)(b);
- (d) establish procedures to confirm that the requirements of Section 31A-22-429 and this rule have been met;
- (e) establish procedures to detect any transaction that is a replacement of an existing policy or contract by the existing insurer, but that has not been reported as such by the applicant or producer;
- (f) establish procedures to determine that the sales material and illustrations required by Section 31A-22-429 are complete and accurate for the proposed policy or contract; and
- (g) maintain any record in any means that accurately reproduces the actual document.

(2) Each insurer shall monitor each producer's policy and contract replacements and make available to the department, upon request, a record of each producer's:

- (a) life replacements, including financed purchases, as a percentage of the producer's total annual sales for life insurance;
- (b) number of lapses of policies by the producer as a percentage of the producer's total annual sales for life insurance;
- (c) annuity contract replacements as a percentage of the producer's total annuity contract sales;
- (d) number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by Subsection R590-93-4(1)(e); and
- (e) replacements, indexed by replacing producer and existing insurer.

~~_____ (3)(a) An insurer shall require each application for life insurance or an annuity to include:~~

- ~~_____ (i) a signed statement by both the applicant and the producer declaring whether or not:~~
- ~~_____ (A) the applicant has existing policies or contracts; and~~
- ~~_____ (B) the proposed life insurance or annuity will replace, discontinue, or change an existing policy or contract; and~~
- ~~_____ (ii) a completed replacement notice in Appendix A if there is a replacement, discontinuance, or change of an existing policy or contract.]~~

~~_____ (3)(a)(i) An insurer shall require a completed replacement notice with each application for life insurance or an annuity that indicates the proposed life insurance or annuity will replace, discontinue, or change an existing policy or contract.~~

~~_____ (ii) The producer may elect to use the replacement notice in Appendix A or Appendix C.~~

(b) When the applicant has an existing policy or contract, an insurer shall maintain for at least five years after the termination or expiration of the proposed policy or contract:

- (i) any sales material required by Subsection 31A-22-429(5);
- (ii) the basic illustration and any supplemental illustrations related to the specific policy or contract that is purchased; and
- (iii) the [applicant's and producer's] signed statement regarding financing and replacement.

(4) If an application does not meet the requirements of this rule, the insurer shall notify the producer and applicant and fulfill the outstanding requirements.

(5) Compliance with this rule may include the use of systematic customer surveys, interviews, confirmation letters, or internal monitoring programs.

KEY: life insurance, annuity replacement

Date of Last Change: August 8, 2022

Notice of Continuation: April 3, 2019

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402; 31A-22-429