

**State of Utah**  
**Administrative Rule Analysis**  
 Revised June 2021

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>R590-94</b>	<b>Filing ID (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room no.:</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 person(s):</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>
R590-94. Smoker and Nonsmoker Mortality Tables for Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
<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 as a result of Executive Order 2021-12. During the review of this rule, the department discovered that the rule language was too broadly applied, and also found numerous items that need to be fixed due to changes in language and rulewriting standards.
<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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This filing restricts the applicability of the rule to apply only to life insurers. The language as currently written applies to all insurers; however, the department has only applied the rule to life insurers due to the content of the rule. The filing also fixes a number of style issues to bring the rule text more in line with current rulewriting standards and updates the Severability section to use the department's current language.

**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 rule is being changed to make it clear that the rule only applies to life insurers, and will require no more and no less work or cost on the state's part.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The rule is being changed to make it clear that the rule only applies to life insurers.
<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 rule is being changed to make it clear that the rule only applies to life insurers.
<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 rule is being changed to make it clear that the rule only applies to life insurers. Life insurers to which this rule applies are already regulated according to this rule; any other insurer that would have been formerly regulated according to this rule have not been and will continue to not be.

**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 rule is being changed to make it clear that the rule only applies to life insurers.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There is no anticipated compliance cost for any affected persons. The rule is being changed to make it clear that the rule only applies to life insurers. Insurers affected by the rule are already required to comply with the rule.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

**6. A) 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>FY2022</b>	<b>FY2023</b>	<b>FY2024</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>

**B) Department head approval of regulatory impact analysis:**

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

**Citation Information**

**7. 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-22-408	

**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*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	

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

#### 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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until** (mm/dd/yyyy): 09/14/2021

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

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

**10. This rule change MAY become effective on** (mm/dd/yyyy): 09/21/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

#### 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> (mm/dd/yyyy):	07/22/2021
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#### R590. Insurance, Administration.

**R590-94. ~~Rule Permitting~~ Smoker~~/~~ and Nonsmoker Mortality Tables ~~F~~ for ~~Use In~~ Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.**

##### R590-94-1. Authority.

This rule is promulgated by the ~~Insurance C~~ commissioner pursuant to Sections 31A-2-201~~;~~ and 31A-22-408.

##### R590-94-2. Purpose and Scope.

(1) The purpose of this rule is to permit the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for ~~plans of insurance~~ life insurance policy forms with separate premium rates for smokers and nonsmokers.

(2) This rule applies to an insurer offering a life insurance policy.

##### R590-94-3. Definitions.

~~A. As used in this rule,~~ Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "1980 CSO Table, with or without Ten-Year Select Mortality Factor" means ~~that~~ the mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioner's 1980 Standard Ordinary

Mortality table, with or without Ten-Year Select Mortality Factors. The same select factors will be used for both smokers and nonsmokers tables.

~~[B. As used in this rule,](2) "1980 CET Table" means [that]the mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioner's 1980 Extended Term Insurance Table.~~

~~[C. As used in this rule,](3) "1958 CSO Table" means [that]the mortality table developed by the Society of Actuaries Special Committee on New Mortality [t]Tables, incorporated in the NAIC Model Standard Nonforfeiture Law for Life Insurance, and referred to in that model as the Commissioners 1958 Standard Ordinary Mortality Table.~~

~~[D. As used in this rule,](4) "1958 CET Table" means [that]the mortality table developed by the Society of Actuaries Special Committee on New Mortality Tables, incorporated in the NAIC Model Standard Nonforfeiture Law for Life Insurance, and referred to in that model as the Commissioners 1958 Extended Term Insurance Table.~~

~~[E. As used in this rule, the phrase](5) "Composite mortality tables" refers to the mortality tables defined in Subsections (1) through (4) as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers.~~

~~(6) "NAIC" means the National Association of Insurance Commissioners.~~

~~(7) "[s]Smoker and nonsmoker mortality tables" refers to the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in Subsections (1) through (4)[A through D] of this section which were developed by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and the California Insurance Department staff and recommended by the NAIC Technical Staff Actuarial Group. These tables are available from the Insurance Department.~~

~~F. As used in this rule, the phrase "composite mortality tables" refers to the mortality tables defined in A through D of this section as they were originally published with rates of mortality that do not distinguish between smokers and nonsmokers].~~

#### **R590-94-4. Alternate Tables.**

~~[A.](1) For any life insurance policy [of insurance]delivered or issued for delivery in this state after July 1, 1985, and before January 1, 1989, at the option of the company and subject to the conditions stated in [sections 5 of this rule]Section R590-94-5:~~

~~[(1)a] the 1958 CSO Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors[;]; and~~

~~[(2)b] the 1958 CET Smoker and Nonsmoker Mortality Tables may be substituted for the 1980 CET Table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits[;~~

~~Provided that for any category of insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, these minimum values may be calculated according to an age not more than six years younger than the actual age of the insured.~~

~~Provided further that the substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each policy of insurance on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989].~~

~~[B.](2) For any life insurance policy [of insurance]delivered or issued for delivery in this state after July 1, 1985, at the option of the company and subject to the conditions stated in [section 5 of this rule]Section R590-94-5:~~

~~[(1)a] the 1980 CSO Smoker and Nonsmoker Mortality Tables, with or without Ten-Year Select Mortality Factors, may be substituted for the 1980 CSO Table, with or [with our]without Ten-Year Select Mortality Factors[;]; and~~

~~[(2)b] the 1980 CET Smoker and Nonsmoker Mortality tables may be substituted for the 1980 CET Table for use in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.~~

#### **R590-94-5. Conditions.**

~~(1) For each life insurance policy form [plan of insurance]with separate rates for smokers and nonsmokers an insurer may:~~

~~[A.](a) use composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;~~

~~[B.](b) use smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by Section 31A-17-511[; U.C.A.], and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or~~

~~[C.](c) use smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.~~

~~(2) For life insurance issued on female lives with minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits determined using the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables, these minimum values may be calculated according to an age not more than six years younger than the actual age of the insured.~~

~~(3) The substitution of the 1958 CSO or 1958 CET Smoker and Nonsmoker Mortality Tables is available only if made for each life insurance policy on a policy form delivered or issued for delivery on or after the operative date for that policy form and before a date not later than January 1, 1989.~~

#### **R590-94-6. [Separability]Severability.**

~~[If any provision of this rule or the application of any person or circumstance is for any reason held to be invalid, the remainder of~~

the rule and the application of the provision to other persons or circumstances may not be affected. If any provision of this rule, Rule R590-94, 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 law**

**Date of Enactment or Last Substantive Amendment: 1988**

**Notice of Continuation: March 14, 2018**

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