

**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>R590-95</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>
R590-95. Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables
<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 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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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. Others are changes to make the language of the rule more clear. It also removes a section that is essentially an editorial aside that has no bearing on the application of the rule, and updates the Severability section to use the department's current language. It does 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) 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>	
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**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.**

**R590-95. ~~Rule to Permit the Same~~ Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables.**

**R590-95-1. Authority.**

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

**R590-95-2. Purpose and Scope.**

(1) The purpose of this rule is to permit an individual life insurance policy~~ies~~ to provide the same cash surrender values and paid-up nonforfeiture benefits to both a man and a woman~~men and women. No change in minimum valuation standards is implied by this rule.~~

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

**R590-95-3. 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 Factors" 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 Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors.

~~[B. As used in this rule,]~~ (2) "1980 CSO Table (M), with or without Ten-Year Select Mortality Factors" means ~~that~~ the mortality table consisting of the rates of mortality for male lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

~~[C. As used in this rule,]~~(3) "1980 CSO Table (F), with or without Ten-Year Select Mortality Factors means ~~[that]~~the mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table with or without Ten-Year Select Mortality Factors.

~~[D. As used in this rule,]~~(4) "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 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Extended Term Insurance Table.

~~[E. As used in this rule,]~~(5) "1980 CET Table (M)" means ~~[that]~~the mortality table consisting of the rates of mortality for male lives from the 1980 CET Table.

~~[F. As used in this rule,]~~(6) "1980 CET Table (F)" means ~~[that]~~the mortality table consisting of the rates of mortality for female lives from the 1980 CET Table.

~~[G. As used in this rule,]~~(7) "1980 CSO and 1980 CET Smoker and Nonsmoker Mortality Tables" mean the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the 1980 CSO and 1980 CET Mortality Tables by the Society of Actuaries Task Force on Smoker/Nonsmoker Mortality and adopted by the NAIC in December 1983.

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

#### **R590-95-4. Rule A.**

For any ~~[policy of]~~life insurance policy on ~~[the life of]~~either a male or female ~~[insured]~~delivered or issued for delivery in this state after the operative date ~~[of]~~under Subsection 31A-22-408(6)(d)~~[, U.C.A.]~~ for that policy form, at the option of the company, the following substitutions are allowed:

(~~[(i)]~~1) a mortality table ~~[which]~~that is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) with or without Ten-Year Select Mortality Factors may ~~[at the option of the company]~~be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors~~];~~ and

(~~[(ii)]~~2) a mortality table ~~[which]~~that is of the same blend as used in Subsection (1)~~[(+)]~~ but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F) may ~~[at the option of the company]~~be substituted for the 1980 CET Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(3) The following tables ~~[will be considered as the basis for acceptable tables]~~are acceptable:

~~[A.]~~(a) 100% Male 0% Female for tables to be designated as "the 1980 CSO-A" and "1980 CET-A" tables.

~~[B.]~~(b) 80% Male 20% Female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables.

~~[C.]~~(c) 60% Male 40% Female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables.

~~[D.]~~(d) 50% Male 50% Female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables.

~~[E.]~~(e) 40% Male 60% Female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

~~[F.]~~(f) 20% Male 80% Female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables.

~~[G.]~~(g) 0% Male 100% Female for tables to be designated as the "1980 CSO-G" and "1980 CET-G" tables.

(4) Tables ~~[A and G are not to]~~(a) and (g) may not be used with ~~[respect to]~~policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex~~];~~ or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986 must use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered as extensions of the Norris decision~~[-This consideration has not been clearly defined by court or legislative action in all jurisdictions. The values of 1000qx for blended Tables B, C, D, E and F are shown in Appendix I. The letter in Appendix II states the method by which selection factors may be obtained. Table A is the same as 1980 CSO Table (M) and 1980 CET Table (M) and Table G is the same as 1980 CSO Table (F) and 1980 CET Table (F). Appendices I and II are available from the Insurance Department].~~

#### **R590-95-~~[4A]~~5. Rule B.**

In determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits for any ~~[policy of]~~life insurance policy on ~~[the life of]~~either a male or female ~~[insured]~~on a policy form ~~[of insurance]~~with separate rates for smokers and nonsmokers delivered or issued for delivery in this state after the operative date ~~[of]~~under Subsection 31A-22-408-(6)(d) for that policy form, at the option of the company, in addition to substitutions allowed under Section R590-95-4, the following substitutions are allowed:~~[the mortality tables that may be used according to Section 4,]~~

(~~[(i)]~~1) a mortality table ~~[which]~~that is a blend of the male and female rates of mortality according to the 1980 CSO Smoker Mortality Table, in the case of lives classified as smokers, or the 1980 CSO Nonsmoker Mortality Table, in the case of lives classified as nonsmokers, with or without Ten-Year Select Mortality Factors, may ~~[at the option of the company]~~be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors~~];~~ and

(~~[(ii)]~~2) a mortality table ~~[which]~~that is of the same blend as used in Subsection (1)~~[(+)]~~ but applied to form a blend of the male and female rates of mortality according to the corresponding 1980 CET Smoker Mortality Table or 1980 CET Nonsmoker Mortality Table may ~~[at the option of the company]~~be substituted for the 1980 CET Table.

(3) The following blended mortality tables ~~[will be considered]~~are acceptable:

(a) SA: 100% Male 0% Female smoker tables designated as "1980 CSO-SA" and "1980 CET-SA" ~~[F]~~tables.

(b) SB: 80% Male 20% Female smoker tables designated as "1980 CSO-SB" and "1980 CET-SB" ~~[F]~~tables.

(c) SC: 60% Male 40% Female smoker tables designated as "1980 CSO-SC" and "1980 CET-SC" ~~[F]~~tables.

(d) SD: 50% Male 50% Female smoker tables designated as "1980 CSO-SD" and "1980 CET-SD" ~~[F]~~tables.

(e) SE: 40% Male 60% Female smoker tables designated as "1980 CSO-SE" and "1980 CET-SE" [F]tables.

(f) SF: 20% Male 80% Female smoker tables designated as "1980 CSO-SF" and "1980 CET-SF" [F]tables.

(g) SG: 0% Male 100% Female smoker tables designated as "1980 CSO-SG" and "1980 CET-SG" [F]tables.

(h) NA: 100% Male 0% Female nonsmoker tables designated as "1980 CSO-NA" and "1980 CET-NA" [F]tables.

(i) NB: 80% Male 20% Female nonsmoker tables designated as "1980 CSO-NB" and "1980 CET-NB" [F]tables.

(j) NC: 60% Male 40% Female nonsmoker tables designated as "1980 CSO-NC" and "1980 CET-NC" [F]tables.

(k) ND: 50% Male 50% Female nonsmoker tables designated as "1980 CSO-ND" and "1980 CET-ND" [F]tables.

(l) NE: 40% Male 60% Female nonsmoker tables designated as "1980 CSO-NE" and "1980 CET-NE" [F]tables.

(m) NF: 20% Male 80% Female nonsmoker tables designated as "1980 CSO-NF" and "1980 CET-NF" [F]tables.

(n) NG: 0% Male 100% Female nonsmoker tables designated as "1980 CSO-NG" and "1980 CET-NG" [F]tables.

(4) Tables [SA, SG, NA and NG](a), (g), (h), and (n) are not acceptable as blended tables unless the proportion of persons insured is anticipated to be 90% or more of one sex or the other.

#### **R590-95-[5]6. Unfair Discrimination.**

It ~~shall not be~~is not a violation of Subsection 31A-23a-[3]402(3) [of Utah Code]for an insurer to issue [the same kind of]a life insurance policy [of life insurance on both]on a sex distinct [and]or a sex neutral basis.

#### **R590-95-[6]7. ~~Separability~~Severability.**

~~[If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.]If any provision of this rule, Rule R590-95, 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: 1993**

**Notice of Continuation: January 9, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-2-101; 31A-2-201; 31A-22-408**