

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

<b>NOTICE OF PROPOSED RULE</b>		
<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>R590-98</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>
R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values
<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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, and the Severability section is being updated to use the department's current language. The changes do not add, remove, or change any regulations or requirements. The Penalty and Enforcement Date sections are being removed because penalties are already provided for in statute and the rule is currently being enforced.

**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-23a-402	

**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): 11/01/2021

**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): 11/08/2021

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):	09/10/2021
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**R590. Insurance, Administration.**

**R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values.**

**R590-98-1. Authority.**

This rule is ~~adopted~~ promulgated by the commissioner pursuant to Sections 31A-2-201 ~~[which empowers the commissioner to make rules necessary to implement Title 31A, and pursuant to Section]~~ and 31A-23a-402(8), which allows the commissioner to define methods of competition and acts and practices found to be unfair or deceptive].

**R590-98-2. Purpose and Scope.**

(1) The purpose of this rule is to:

(a) require a prompt response to a policyholder's request for policy values; and

(b) limit the exercise of the statutory deferral option to a situation where the financial stability of the insurer is at risk.

(2) This rule ~~[shall apply]~~ applies to ~~[all persons transacting insurance under Title 31A]~~ an insurer engaged in the business of insurance.

**R590-98-3. Purpose.**

~~The purpose of this rule is to require a prompt response to policyholder requests for policy values and limit the exercise of the statutory deferral option to situations in which the financial stability of the insurer is at risk.~~

**R590-98-4. Definitions.**

~~[In addition to the definitions in Section 31A-1-301, the following definitions apply for the purpose of this rule]~~ Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~A. "Policy Values" means the values to which the policyholder is entitled upon request for policy loans, withdrawals, or the surrender of the policy and include cash values, accumulated dividends, coupons and other values of a similar nature.~~

~~B. (1)(a) "Deferral" means [the] withholding or [delay in] delaying payment of policy values to the policyholder.~~

~~C. (b) "Deferral" does not include [the] withholding or [delay in] delaying payment [to a policyholder] of variable life insurance and variable annuity payments when the value of investment assets on which payments are based cannot be obtained because:~~

~~(1) i) the Securities and Exchange Commission (SEC) has restricted trading;~~

~~(2) ii) the stock exchange is closed; or~~

~~(3) iii) the SEC permits deferral to protect the policyholder.~~

~~D. (2) "Policyholder" [shall include, in addition to the definition in 31A-1-301,] includes a certificate holder under a group policy.~~

~~(3) "Policy value[s]" means any value to which the policyholder is entitled, upon request, for a policy loan, withdrawal, or surrender of a policy, and includes:~~

~~(a) cash values;~~

~~(b) accumulated dividends;~~

~~(c) coupons; and~~

~~(d) other similar values.~~

#### **R590-98-~~5~~4. Unfair or Deceptive Acts or Practices.**

~~The following are hereby defined as unfair or deceptive acts or practices]~~ Unfair or deceptive acts or practices include:

~~A. (1) Failing to comply with a policyholder request for a policy value[s] within 20 days of [receipt of such] receiving the request.~~

~~B. (2) Exercising the nonforfeiture deferral option of [Section] Subsections 31A-22-408(2)(h), 31A-22-409(3)(d), or 31A-22-420(5), in response to a request for policy values unless the financial stability of the insurer is at risk.~~

#### **R590-98-~~6~~5. Requirements.**

~~A. (1) Before an insurer exercises the right to defer [the] payment of any policy value[s], the insurer [must] shall file with the commissioner a written request [with the commissioner. The request must] that shall include:~~

~~(a) an explanation of the reason for [such action,] the deferment;~~

~~(b) the steps to be taken by the [company] insurer to alleviate the situation[;];~~

~~(c) the [manner in which] way the deferment is being imposed fairly and equitably on all policyholders[;];~~

~~(d) the notice to policyholders as to why the [company] insurer is [taking such action] deferring payment; and~~

~~(e) the anticipated date [on which] the policy values are expected to be available.~~

~~B. (2)(a) If the policy does not specify a policy value[s] between policy anniversaries, [such] the policy value[s may] shall be:~~

~~(i) the value[s] shown in the policy nonforfeiture value table[s] as of the end of the policy year; or [may be]~~

~~(ii) computed by the interpolation of values between policy years.~~

~~(b) If the [former] method in Subsection (2)(a)(i) is used[;]:~~

~~(i) the [company] insurer may deduct from the policy value any premium[s] required to pay the policy to the next succeeding anniversary date [In no event, may]; and~~

~~(ii) a premium[s] may not be deducted that [will] advances the paid-to date past the next succeeding anniversary date.~~

~~C. (3) [No] A surrender or service charge assessed by [the company will] an insurer may not be deducted from the policy value[s] unless specifically provided for in the policy.~~

~~D. (4) With the consent of the policyholder, [companies] an insurer may process a policy loan in lieu of cash surrender [as a means] to conserve business, but only if the following criteria are [strictly adhered to] followed:~~

~~(1) a) [F] the computation of policy values and premium deductions, if any, [will] shall be calculated on the same basis as enumerated in [B above] Subsection (2); [F]~~

~~(2) b) [F] the policyholder [must be informed fully and concisely as to the reasons the company] shall receive:~~

~~(i) the reason the insurer is sending the proceeds of a policy loan as opposed to the cash surrender value[;];~~

~~(ii) an explanation [as to] of the effect the loan will have [up] on the policyholder's interest charge[s], premium[s], and death benefit[s]; and~~

~~(iii) the procedures for the repayment of the loan[;]; and~~

~~(3) c) [F] if a policy loan check is issued in lieu of a cash surrender value[s];~~

~~(i) the loan shall be processed within 20 days of [receipt of] receiving the request to surrender [The];~~

~~(ii) the check for the policy loan value[s must] shall be immediately negotiable [A];~~

~~(iii) a stamped, self-addressed envelope and a cash surrender form [must] shall accompany the loan value check, together with appropriate instructions [as to] on how the policyholder [should proceed to] may obtain the full policy surrender value [A]; and~~

~~(iv) a request for the balance of the cash surrender value [must] shall be processed within [ten] 10 days of [receipt of such] receiving the request.~~

#### **R590-98-~~7~~7. Penalty.**

~~Insurers found in violation of this rule shall be subject to revocation of the Certificate of Authority or such other penalty as determined by the commissioner in accordance with law.~~

**~~R590-98 8. Separability.~~**

~~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.~~

**~~R590-98 9. Enforcement Date.~~**

~~The commissioner will begin enforcing the revised provisions of this rule 45 days from the effective date]~~**6. Severability.**

If any provision of this rule, Rule R590-98, 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: January 31, 2006**

**Notice of Continuation: April 3, 2019**

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