

R590. Insurance, Administration.

R590-244. Individual and Agency Licensing Requirements.

R590-244-1. Authority.

This rule is promulgated pursuant to:

- (1) Subsection 31A-2-201(3) that authorizes the commissioner to adopt rules to implement the provisions of Title 31A, Insurance Code;
- (2) Subsections 31A-23a-104(2), 31A-23a-110(1), 31A-25-201(1), 31A-26-202(1), 31A-23b-203(2), 31A-23b-208(1), 31A-35-104, 31A-35-301(1) and 31A-35-401(2) that authorize the commissioner to prescribe the forms and manner in which an initial or renewal individual or agency license application under Title 31A, Chapters 23a, 23b, 25, 26, and 35 is to be made to the commissioner;
- (3) Subsections 31A-23a-111(10), 31A-23b-401(9), 31A-25-208(9), 31A-26-213(10), and 31A-35-406(1) that authorize the commissioner to adopt a rule prescribing license renewal and reinstatement requirements for individual and agency licensees under Title 31A, Chapters 23a, 23b, 25, 26, and 35;
- (4) Subsections 31A-23a-108(1), 31A-23b-205(2), 31A-23b-205(3), 31A-26-207(1), and 31A-26-207(5), that authorize the commissioner to adopt a rule prescribing how examination and training requirements may administered to licensees under Title 31A, Chapters 23a, 23b, and 26;
- (5) Subsections 31A-23a-115(1) and 31A-23a-115(2) that authorize the commissioner to adopt a rule prescribing reporting and notification requirements to be utilized by an insurer for the initial appointment or the termination of appointment of a person authorized to act on behalf of the insurer under Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
- (6) Subsection 31A-23a-203.5(3) that authorizes the commissioner to adopt a rule prescribing the terms and conditions of any required legal liability insurance coverage to be maintained by or on behalf of a licensed resident individual producer;
- (7) Subsection 31A-23b-207(1) that authorizes the commissioner to adopt a rule prescribing the amount of any surety bond required to be maintained by a licensed navigator to cover the legal liability of a navigator as the result of an erroneous act or failure to act in the navigator's capacity as a navigator;
- (8) Subsections 31A-23a-302(2), 31A-23a-302(3), 31A-23b-209(3), 31A-23b-209(4), 31A-26-210(2), and 31A-26-210(3) that authorize the commissioner to adopt a rule prescribing reporting and notification requirements to be utilized by an agency for the initial designation or the termination of designation of a person authorized to act on behalf of the agency under Title 31A, Chapters 23a, 23b, and 26; and
- (9) Subsections 31A-23a-102(10) and 31A-23b-102(7) that authorize the commissioner to adopt a rule to define the word "resident".

R590-244-2. Purpose and Scope.

- (1) The purpose of this rule is to provide standards for:
 - (a) an individual or agency licensee for:
 - (i) obtaining, renewing, or reinstating a license;
 - (ii) maintaining any legal liability coverage or surety bond requirements; and
 - (iii) making other miscellaneous license amendments;
 - (b) an insurer for the initial appointment or the termination of an appointment of an individual or agency licensee; and
 - (c) an agency for the initial designation or the termination of a designation of an individual licensee to the agency's license.
- (2) Scope.
 - (a) This rule applies to each individual and agency licensed under Title 31A, Chapters 23a, 23b, 25, 26, and 35.
 - (b) This rule applies to any admitted insurer doing business in Utah.

R590-244-3. Definitions.

For the purpose of this rule the commissioner adopts the definitions as set forth in Sections 31A-1-301, 31A-23a-102, 31A-23b-102, 31A-26-102, and 31A-35-102 and the following:

- (1) "Active license" means a license under which a licensee has been granted authority by the commissioner to engage in some activity that is part of or related to the insurance business.
- (2) "Inactive license" means a formerly active license where a licensee is no longer authorized by the commissioner to engage in some activity that is part of or related to the insurance business.
- (3) "Lapse" means the inactivation of an active license by expiration of the period for which the license was issued or by operation of law.
- (4) "License application" means information submitted by a license applicant to provide information about the license applicant that is used by the commissioner to evaluate the applicant's qualifications and decide whether to:
 - (a) issue or decline to issue a license;
 - (b) add or decline to add an additional line of authority to an active license;
 - (c) renew or decline to renew an active license; or
 - (d) reinstate or decline to reinstate an inactive license.
- (5) "Line of authority" means a line of insurance of a particular subject matter area within a license type for which the commissioner may grant authority to do business.
- (6) "License type" means a category of license identifying a specific functional area of insurance activity for which the commissioner may grant authority to do business.
- (7) "NIPR" means an electronic application software provided by the National Insurance Producer Registry (NIPR).
- (8) "Reinstate" means the activation of an inactive license within 365 days of the inactivation date.
- (9) "Renewal" means the continuation of an active license from one two-year licensing period to another, except that the licensing period for a bail bond agency is one year.
- (10) "Resident," for the purpose of a resident insurance license in this state, means a person who claims this state as the person's home state in which the person maintains the principal:
 - (a) place of residence; or
 - (b) place of business, and
 - (c) is licensed to do insurance business.
- (11) "SIRCON" means an electronic application software provided by Sircon Corporation or its acquiring parent company, Vertafore, Inc.
- (12) "Termination for cause" means:
 - (a) an insurer or an agency has ended its relationship with a licensee or has cancelled the licensee's authority to act on behalf of the insurer or agency for one of the reasons identified in Subsection 31A-23a-111(5); or

(b) a licensee has been found to have engaged in any of the activities identified in Subsections 31A-23a-111(5), 31A-23b-401(4), or 31A-26-213(5), by a court, government body, or self-regulatory organization authorized by law.

R590-244-4. Requirement to Electronically Submit License Applications, Appointments, Designations, and License Amendments.

(1) Except as otherwise provided in this rule the following shall be submitted electronically to the department using SIRCON or NIPR:

(a) each individual and agency license application under Title 31A, Chapters 23a, 23b, 25, 26, and 35 as prescribed in Sections R590-244-7, R590-244-9, and R590-244-10 for:

- (i) a new license;
- (ii) an additional license type or line of authority;
- (iii) a license renewal; or
- (iv) a license reinstatement;

(b) any appointment, termination of appointment, designation, and termination of designation as prescribed in Sections R590-244-11 and R590-244-12;

(c) all miscellaneous license amendments pertaining to individual and agency licenses under Title 31A, Chapters 23a, 23b, 25, 26 and 35 as prescribed in Section R590-244-13;

(d) all documents related to reporting to the commissioner of criminal prosecution or administrative action taken against a licensee as required under Title 31A, Chapters 23a, 23b, 25, 26 and 35; and

(e) any additional documentation required in connection with an application, except as shown in (iv) below, including:

- (i) written explanation and documentation for positive responses to background questions on a license application;
- (ii) evidence of meeting specific experience, bonding, or other requirements for certain license types or lines of authority; or
- (iii) evidence of meeting continuing education requirements for a renewal or reinstatement application when there is a question regarding the number of course hours completed.

(iv) If an electronic attachment function for attaching a document required in connection with an application is not available in the attachment utility from SIRCON or NIPR, the document shall be submitted electronically via a facsimile or as a PDF attachment to an email, until such time that an electronic attachment function for submitting the document in connection with the application becomes available from SIRCON or NIPR.

(2) Attestation. Submission of an electronic application or other form under this rule constitutes the applicant's or submitter's attestation under penalties of perjury that the information contained in the application or form is true and correct.

(3) Any submission subject to this rule that does not comply with this rule, including an application that remains incomplete for a period of 30 days following the initial submission, may be rejected as incomplete and returned to the submitter without being processed, with any paid fees forfeited to the State.

R590-244-5. Requirement of an Active License to Sell, Solicit, or Negotiate Insurance.

(1) A person must have the following to sell, solicit, or negotiate insurance:

- (a) an active license matching the type and line of insurance being sold, solicited, or negotiated; and
- (b) if the person is an agency, an appointment from an insurer; or
- (c) if the person is an individual:

(i) an appointment from an insurer or a designation from an agency; and

(ii) if the individual is a resident producer, legal liability errors and omissions insurance coverage in an amount not less than \$250,000 per claim and \$500,000 annual aggregate limit, as applicable in accordance with Section 31A-23a-203.5.

(2) A licensee whose license is inactivated for any reason shall not sell, solicit, or negotiate insurance from the date the active license is inactivated until the date the inactive license is reactivated.

R590-244-6. Requirement of an Active License to Act as a Navigator.

(1) A person must have the following to act as a navigator:

(a)(i) an active navigator license issued under Chapter 31A-23b, Navigator License Act, or

(ii) an active producer license issued under Chapter 31A-23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, with an accident and health line of authority; and

(b)(i) a surety bond in an amount not less than \$50,000 to cover the legal liability of the navigator as the result of an erroneous act or failure to act in the navigator's capacity as a navigator, as applicable in accordance with Section 31A-23b-207; or

(ii) legal liability errors and omissions insurance coverage in an amount not less than \$250,000 per claim and \$500,000 annual aggregate limit, as applicable in accordance with Section 31A-23b-207.

(2) A professional liability coverage plan is considered to be a form of errors and omissions insurance coverage.

(3) A navigator whose license is inactivated for any reason shall not act as a navigator from the date the active license is inactivated until the date the inactive license is reactivated.

(4) A navigator license includes the following lines of authority:

- (a) navigator; and
- (b) certified application counselor.

R590-244-7. New License Application.

(1) A resident or non-resident license application for a new license, or for the addition of an additional license type or line of authority, shall be submitted using either SIRCON or NIPR, except as stated in Subsections R590-244-7(2) and R590-244-7(3).

(2) An application for a navigator license shall be submitted using SIRCON, except as stated in Subsection R590-244-7(3).

(3) A non-resident license application for a license type or line of authority not offered in the person's home state shall be submitted to the commissioner via facsimile or as a PDF attachment to an email using a form available through the Department's website, until such time that an electronic application becomes available from SIRCON or NIPR.

R590-244-8. Examination and Training.

(1) Examination and training requirements may be administered by:

- (a) the commissioner;

- (b) a testing vendor approved and contracted by the commissioner; or
- (c) navigator related examination and training administered through the United States Department of Health and Human Services.

(2) To act as a navigator in Utah, a person must successfully complete the federal navigator training and certification program requirements as established by federal regulation under PPACA and administered through the United States Department of Health and Human Services, including any applicable training, examination, certification or recertification requirements under that program.

(3) A person who has successfully completed the federal navigator training and certification identified in Subsection R590-244-8(2) is considered to have successfully completed the required Utah training and examination requirements for a navigator license in accordance with Section 31A-23b-205.

(4) An applicant for the crop insurance license class who has satisfactorily completed a national crop adjuster program is exempt from an examination requirement under Section 31A-26-207.

R590-244-9. Renewal and Non-renewal of an Active License.

(1) An active license shall be renewed on or before the license expiration date by submitting a resident or non-resident license renewal application online via SIRCON or NIPR.

(2) A new individual license shall expire on the last day of the licensee's birth month following the two-year anniversary of the license issue date, unless renewed, except as shown in Subsection R590-244-9(4).

(3) A renewed individual license shall expire on the last day of the licensee's birth month every two years, unless renewed, except as shown in Subsection R590-244-9(4).

(4) An individual navigator license shall expire annually on the last day of the month from the most recent license issue or renewal date, unless renewed.

(5) An agency license shall expire on the last day of the month every two years from the most recent license issue or renewal date, unless renewed, except as shown in Subsection R590-244-9(6).

(6) A bail bond agency license shall expire annually on August 14, unless renewed.

(7) Renewal Notice.

(a) Prior to the license expiration date, the commissioner may, as a courtesy, send a renewal notice to the licensee's business email address as shown on the records of the department.

(b) A renewal notice sent by the commissioner to the business email address, as shown on the records of the department, shall be considered received by the licensee.

(c) A licensee who fails to properly submit to, and maintain with, the commissioner a valid business email address may be subject to administrative penalties.

(8) A license shall non-renew effective the license expiration date if it is not renewed on or before the expiration date, and:

(a) the non-renewed license shall be inactivated;

(b) all agency designations and insurer appointments shall be terminated; and

(c) a lapse license notice will be sent to the affected licensee.

(9) An active licensee who fails to renew a license shall not engage in the business of insurance during the period of time from the expiration date of the license until the date the inactive license is reinstated or a new license is issued.

R590-244-10. Reinstatement of Inactive License.

(1) An inactive license that has been inactive for a period of one year or less following the license expiration date can be reinstated as stated in Subsections R590-244-10(3) through R590-244-10(7).

(2) An inactive license that has not been reinstated within one year following its expiration date shall not be reinstated and the inactive licensee shall apply as a new license applicant.

(3) A reinstatement applicant shall:

(a) comply with all requirements for renewal of a license, including any applicable continuing education or examination requirements if the reinstatement applicant is an individual; and

(b) pay a reinstatement fee as shown in Rule R590-102.

(4) A resident or non-resident license application for reinstatement of an inactive license shall be submitted using either SIRCON or NIPR, except as stated in Subsection R590-244-10(5).

(5) The following license applications for reinstatement of an inactive license must be submitted to the department via facsimile or as a PDF attachment to an email using a form available through the department's website, until such time that an electronic application becomes available from SIRCON or NIPR:

(a) a non-resident reinstatement application for a person whose license has been inactivated for failure to maintain an active license in the person's home state;

(b) a resident or non-resident reinstatement application for a person whose license has been voluntarily surrendered; and

(c) a resident or non-resident reinstatement application for a person whose license has been inactivated due to an incomplete renewal application, except as stated in Subsection R590-244-10(5)(c)(i).

(i) If a resident license has been inactivated due to a renewal application that was incomplete solely for failure to meet the continuing education requirements, a resident reinstatement application must be submitted to the department:

(A) during the first 30 days after a license expiration date as a facsimile or as a PDF attachment to an email using a form available through the department's website; or

(B) 31 days to one year after a license expiration date through SIRCON or NIPR.

(7) A license that has been voluntarily surrendered:

(a) may be reinstated:

(i) during the license period in which the license was surrendered; and

(ii) no later than one year from the date the license was surrendered; and

(b) must comply with the reinstatement requirements stated in Subsection R590-244-10(3), except that no continuing education requirement will apply for an individual license applicant because the reinstatement is within the current license period.

(8) A reinstated license shall expire on the same date it would have expired had the license not become inactive.

(9) A person with a reinstated license must complete any required insurer contracts and appointments or agency designations before the reinstated licensee can resume doing business.

R590-244-11. Appointment and Termination of Appointment by an Insurer.

- (1) Appointment.
 - (a) An insurer shall appoint an individual or agency licensee with whom the insurer has a producer contract.
 - (b) An appointment is continuous until terminated by the insurer or canceled by the department.
 - (c) An insurer is not required to appoint an individual who is designated by an appointed agency.
 - (d) To appoint, an insurer shall:
 - (i) state the date on which the appointment is effective; and
 - (ii) submit the appointment to the commissioner using SIRCON or NIPR no later than 15 days after:
 - (A) the date on which the producer contract is executed; or
 - (B) the date on which the insurer receives the first insurance application from the licensee.
- (2) Terminating an Appointment.
 - (a) An insurer shall terminate an appointment when a previously appointed individual or agency is no longer authorized to conduct business for the insurer in Utah.
 - (b) To terminate an appointment, an insurer shall:
 - (i) state the date on which the termination is effective; and
 - (ii) submit the termination to the commissioner using SIRCON or NIPR no later than 30 days after the effective date of termination.
 - (c) Within 15 days after submitting a termination, an insurer shall notify the licensee of the termination and the reason for it by mail or email at the licensee's last known address or email address.
 - (3) Reporting Termination for Cause.
 - (a) An insurer that terminates an appointment for cause shall report to the commissioner the cause of termination if required by Subsection 31A-23a-115(3)(a).
 - (b) The report with attachments shall be submitted to licensing.uid@utah.gov within 15 days after submitting the notice of termination required by Subsection R590-244-11(2)(c).
 - (c) The report shall:
 - (i) quote the specific reason or reasons from Subsection 31A-23a-111(5)(b);
 - (ii) state the specific facts and reasoning on which the decision to terminate was based;
 - (iii) list and include any document, photograph, video and audio recording, and other materials that support the facts and reasoning on which the insurer relied in deciding to terminate;
 - (iv) include a copy of every known written finding or conclusion by a court, government body, agency, or self-regulatory organization that supports the reason or reasons for termination; and
 - (v) include a copy of the notice required by Subsection R590-244-11(2)(c).
 - (d) A report of a termination for cause is not required to include information that is unknown to an insurer.

R590-244-12. Designation and Termination of Designation by an Agency.

- (1) Designation.
 - (a) An agency shall designate a licensed individual to the agency license to do business on behalf of the agency in Utah.
 - (b) A designation is continuous until terminated by the agency or canceled by the department.
 - (c) To designate, an agency shall:
 - (i) state the date on which the designation is effective; and
 - (ii) submit the designation to the commissioner using SIRCON or NIPR no later than 15 days after the designation effective date.
- (2) Terminating a Designation.
 - (a) An agency shall terminate a designation when a previously designated individual is no longer authorized to conduct business for the agency in Utah.
 - (b) To terminate a designation, an agency shall:
 - (i) state the date on which the termination is effective; and
 - (ii) submit the termination to the commissioner using SIRCON or NIPR no later than 30 days after the termination effective date.
 - (c) Within 15 days after submitting a termination, an agency shall notify the licensee of the termination and the reason for it by mail or email at the licensee's last known address or email address.
 - (3) Reporting Termination for Cause.
 - (a) An agency that terminates a designation for cause shall report to the commissioner the cause of termination if required by Subsection 31A-23a-302(4).
 - (b) The report with attachments shall be submitted to licensing.uid@utah.gov within 15 days after submitting the notice of termination required by Subsection R590-244-12(2)(c).
 - (c) The report shall:
 - (i) quote the specific reason or reasons from Subsection 31A-23a-111(5)(b);
 - (ii) state the specific facts and reasoning on which the decision to terminate was based;
 - (iii) list and include any document, photograph, video and audio recording, and any other materials that support the facts and reasoning on which the agency relied in deciding to terminate;
 - (iv) include a copy of every known written finding or conclusion by a court, government body, agency, or self-regulatory organization that supports the reason or reasons for termination; and
 - (v) include a copy of the notice required by Subsection R590-244-12(2)(c).
 - (d) A report of a termination for cause is not required to include information that is unknown to an agency.

R590-244-13. Miscellaneous License Amendments and Changes to an Agency's Employer Identification Number (EIN).

- (1) Miscellaneous license amendments shall be submitted electronically.
- (2) The following six miscellaneous license amendments shall be submitted via SIRCON or NIPR:
 - (a) a change of residence, business, or mailing address within the same state;
 - (b) a change of residence, business, or mailing address from one nonresident state to another nonresident state;

- (c) a change of email address;
- (d) a change of telephone number;
- (e) a change of an individual licensee's name; or
- (f) a change of the licensed individual designated as the person responsible for the regulatory compliance of the agency.

(3) The following four miscellaneous license amendments shall be submitted electronically via facsimile or as a PDF attachment to an email, except that the license amendment identified in Subsection R590-244-13(3)(d) shall be submitted via SIRCON or NIPR once the amendment becomes available electronically from SIRCON or NIPR:

- (a) a voluntary surrender of a license or line or authority;
 - (b) a clearance letter request;
 - (c) a change of an agency name; or
 - (d) a change of an owner, partner, officer, or director of an agency.
- (4) A miscellaneous license amendment submitted in accordance with this section shall contain:

- (a) the name and title of the individual submitting the amendment;
- (b) the relationship to the licensee of the individual submitting the amendment; and
- (c) the following attestation made by the individual submitting the amendment: "I hereby attest that the information submitted is true and correct, and that I am the individual licensee for whom the requested change is being submitted, or an authorized responsible representative of the individual or agency licensee for whom the requested change is being submitted."

- (5) A change of Employer Identification Number (EIN):
 - (a) cannot be processed as a miscellaneous license amendment; and
 - (b) the entity must apply as a new license applicant.

R590-244-14. Penalties.

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

R590-244-15. Severability.

If any provision of this rule, Rule R590-244, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which 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 licensing requirements

Date of Enactment or Last Substantive Amendment: January 8, 2021

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Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-102(10); 31A-23a-104; 31A-23a-108; 31A-23a-110; 31A-23a-111; 31A-23a-115; 31A-23a-302; 31A-23b-102; 31A-23b-102(7); 31A-23b-203; 31A-23b-205; 31A-23b-207; 31A-23b-208; 31A-23b-209; 31A-23b-401; 31A-25-201; 31A-25-208; 31A-26-202; 31A-26-207; 31A-26-210; 31A-26-213; 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406