

R590. Insurance, Administration.

R590-280. Counting Short-Term Funds.

R590-280-1. Authority.

This rule is adopted pursuant to Section 31A-2-201(3), which authorizes the commissioner to make rules that implement the provisions of Title 31A, and Section 31A-18-105(16), which states that the commissioner may authorize investments for risk-based capital determinations.

R590-280-2. Scope.

This rule applies to an insurer subject to Title 31A, Chapter 17, Part 6.

R590-280-3. Purpose.

The purpose of this rule is to state the requirements that an insurer must satisfy to count short-term funds as defined in this rule.

R590-280-4. Definitions.

(1) "SBA" means the United States Small Business Administration.

(2) "Short-term funds" means a sum of money that an insurer loans to an SBA borrower to fund the SBA borrower's anticipated use of SBA 504 loan proceeds where the insurer's loan is secured by a lien on real property or by any other form of collateral authorized by the commissioner.

R590-280-5. Requirements for Counting Short-Term Funds.

An insurer may count short-term funds for the purposes specified under Title 31A, Chapter 17, Part 6, only if:

(1) the total amount of short-term funds at any point in time does not exceed the following as set forth in the insurer's annual or quarterly statutory financial statement, whichever was last filed with the National Association of Insurance Commissioners:

(a) 1.5% of the insurer's total assets as determined according to Subsection 31A-18-106(4); and

(b) 15% of the insurer's capital and surplus;

(2) the duration of each loan does not exceed 150 days;

(3) the insurer provides on request satisfactory proof of compliance with this rule;

(4) the filing of the insurer's most recent RBC report did not qualify as an action level event or as a control level event under Title 31A, Chapter 17, Part 6; and

(5) at the time of the insurer's loan to the SBA borrower, the insurer is not subject to administrative action under Title 31A, Chapter 27, Part 5.

R590-280-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule on the rule's effective date.

R590-280-7. Severability.

If any provision of this rule or its application to any persons or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

KEY: insurance

Date of Enactment or Last Substantive Amendment: April 23, 2019

**Authorizing, and Implemented or Interpreted Law: 31A-18-105(16);
31A-2-201(3)**