

NOTICE OF
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

Agency Information

1. Agency: Insurance - Administration
 Room no.: 3110
 Building: STATE OFFICE BLDG
 Street address 1: 450 N MAIN ST
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84114-1201
 Mailing address 1: PO BOX 146901
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Jilene Whitby	801-538-3803	801-538-3829	jwhitby@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 35179 Date filed: 08/23/2011 03:02 PM
 State Admin Rule Filing Key: 151459
 Utah Admin. Code ref. (R no.): R 590 - 244 -
 Changed to Admin. Code ref. (R no.): - -

Title

2. Title of rule or section (catchline):
 Individual and Agency Licensing Requirements.

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:
 The purpose of the revision is to establish minimum limits for the new Errors and Omissions (E&O) requirement resulting from House Bill 43, Errors and Omissions, of the recent 2011 legislative session, to correct the expiration date for bail bond agency licenses to be consistent with the date as changed in House Bill 19, Insurance Law Related Amendments, of the 2011 legislative session, and to add clarity to the definition of Sircon, and to allow for opening up the application process via NIPR as they become available with regard to resident license types that currently may only be applied for via Sircon.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.
 No

Rule Summary

6. Summary of the rule or change:

The following changes are being made to the rule: (1) A new citation is being added to the Authority Section authorizing the commissioner to adopt a rule prescribing terms and conditions of legal liability insurance coverage to be maintained by an individual resident producer licensees; (2) Section 5 sets the minimum coverage amount for legal liability errors and omissions insurance coverage required to be maintained by individual resident producer licensees as per HB43 passed this year; (3) allows resident licensees to apply for issuance or renewal of their insurance license through either Sircon Corporation (Sircon) or National Insurance Producer Registry (NIPR), licensing vendors for the department; and (4) Section 7 changed the expiration date for a bail bond agency license from July 15 to August 14, as per the passage this year of HB19, Insurance Law Related Amendments.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No

There will be no change in fees or workload for the department. There will be no change in filings received by the department or revenues. This rule will impact the department's licensing vendors, Sircon and NIPR as well as residents seeking a new insurance license and producers renewing existing licensees.

B) Local government:

Affected: No

This rule will not affect local government since it deals solely with the relationship between the department and its licensees.

C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

HB43, Errors and Omissions Coverage for Insurance, authorizes the department to set terms and conditions for the errors and omissions coverage to be maintained by Utah resident individual producer insurance licensees. Currently this E&O requirement focuses on the 18,476 resident licensees in Utah. The rule requires a resident producer to either purchase an E&O policy, be covered under their agencies policy, or be covered under a written agreement with an insurer on whose behalf they are working. E&O coverage is handled differently by lines of insurance. Property and casualty insurance companies or agencies generally provide the coverage for producers who work for them; Life and Health insurance producers are generally required by the insurance company they represent to obtain their own coverage and often at much higher limits than that required now by the law, those affiliated with an insurance association can often obtain it from them at a reduced price.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Regarding E&O coverage, insurance companies are not mandated to provide E&O coverage to their producers but it has been a common practice for property and casualty companies and agencies to provide it for their producers. Cost varies greatly based upon the agency's premium volume or number of producers working for them, as well as experience. In regards to obtaining or renewing an insurance license through the two vendors associated with the department, Sircon and NIPR; in the past resident licensees have been limited to doing business with Sircon. As a result of the change they will also have the option of purchasing the license from NIPR. To satisfy the Dodd-Frank Wall Street Reform and Consumer Protection Act of 6-29-2010, surplus lines brokers can now be licensed through NIPR also. Even though the rule opens the possibility for those seeking licensure as a resident licensee or to renew an existing license, the opportunity to do so will be made available gradually to allow time for NIPR to make sure they can provide the fingerprinting services and background checks resident licensees are required to have before obtaining an insurance license. As more and more resident licensees are allowed to choose between NIPR and Sircon to handle their licensing needs Sircon could find their Utah business reduced, thus reducing their revenues and NIPR could find the reverse true. NIPR and SIRCON licensing processing fees are similar for both vendors charging under \$10 for a new and renewal license. NIPR may be \$1 - \$2 less in certain circumstances. On a monthly basis an average of 270 individuals apply for a new resident license and 535 renew their licenses, about half of those licensed fail to renew each year.

Compliance Cost Information

8. Compliance costs for affected persons:

Individual life and health insurance producers that have not had E&O coverage in the past are now required to obtain it at a minimum limit of \$250,000/\$500,000. Since most life and health insurers have not generally obtained this coverage the producer will likely be required to pay this cost themselves. The cost range is wide depending on experience, coverage limits, and premium volume. As far as licensing goes, the individual resident licensee will have two instead of one licensing vendor to choose from. This will have minimal financial impact on the licensee. Initially it will have little impact on the two providers. Once all resident insurance licensees are allowed to choose from both vendors they will be impacted by an increase or decrease in their business from Utah resident licensees. It should be noted that both vendors do a new and renewal resident licensing processing business in other states, NIPR in all 50 states and SIRCON in around 20 states.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

Sircon and NIPR will ultimately be affected by the change in law allowing resident licensees a choice between the two vendors. In addition, the requirement for all resident producers to be covered by E&O coverage will mostly impact health and life producers who have not traditionally been required to have this coverage by the insurer or agency for whom they work. The new requirement will have little impact, if any, on property and casualty producers who generally are required to have this coverage already. Service and reliability will be key to getting and keeping resident licensee business.

B) Name and title of department head commenting on the fiscal impacts:

Neal T. Gooch, Insurance Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

31A-25-208(9)

31A-23a-111(10)

31A-26-210(1)

31A-26-213(10)

31A-23a-203.5(3)

31A-23a-115(1)

31A-35-406(1)

31A-23a-302(2)

31A-23a-104(2)

31A-23a-110(1)

31A-25-201(1)

31A-35-301(1)

31A-35-104

31A-26-202(1)

31A-35-401(2)

Incorporated Materials

11. 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 DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page): Publisher: Date Issued: Issue, or version: ISBN Number: ISSN Number: Cost of Incorporated Reference: Adds, updates, removes:

Comments

12. 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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) :

10/17/2011

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

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

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy):

10/24/2011

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):
 insurance licensing requirements

File Information

15. Attach an RTF document containing the text of this rule change (filename):

There is a document associated with this rule filing.

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.

Agency Authorization

Agency head or designee, and title:

Jilene Whitby Information
Specialist

Date (mm/dd/yyyy): 08/23/2011