

**R590. Insurance, Administration.**

**R590-133. Variable Contracts. (Effective 1/10/2011)**

**R590-133-1. Authority.**

This rule is adopted pursuant to Subsection 31A-2-201(3) which authorizes rules to implement Title 31A and Subsection 31A-20-106(1)(b)(ii) that gives the commissioner authority to regulate by rulemaking the issuance and sale of variable contracts.

**R590-133-2. Definition.**

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purposes of this rule:

A. "Variable contract," means a policy or contract that provides life insurance or annuity benefits that may vary according to the investment experience of any separate account or accounts maintained by the insurer as to the policy or contract, as provided for in Sections 31A-5-217 and 31A-18-102.

B. "Variable contract producer," means a licensed producer or licensed consultant with a variable contracts line of authority.

**R590-133-3. Qualification of Insurers to Issue Variable Contracts.**

No insurer may deliver or issue for delivery a variable contracts within this state unless the insurer is licensed to do a variable life, annuity, or both, business in this state in accordance with Section 31A-20-106.

**R590-133-4. Governance of Separate Accounts.**

All separate accounts shall be governed specifically by Sections 31A-5-217; 31A-5-217.5; 31A-18-102; 31A-20-106; 31A-21-301 and 31A-22-411 and this rule. They shall be governed generally by the provisions of the code applicable to life insurance companies not explicitly exempted by the code.

**R590-133-5. Required Reports.**

A. Any insurer issuing an individual variable contracts providing benefits in variable amounts shall mail to the contract holder at least once in each contract year after the first at the last address known to the insurer, a statement or statements reporting the investments held in the separate account.

B. The insurer shall submit annually to the commissioner a statement of the business of its separate account or accounts in a form as may be prescribed by the National Association of Insurance Commissioners.

C. An insurer issuing an individual variable contracts shall mail to the contract holder, at least once in each contract year after the first, at the last address known to the insurer, a statement reporting as of a date not more than four months previous to the date of mailing:

(1) in the case of an annuity contract under which payments have not yet commenced:

(a) the number of accumulation units credited to the contract and the dollar value of a unit; or

(b) the value of the contract holder's account; and

(2) in the case of a life insurance policy, the dollar amount of the death benefit.

**R590-133-6. Foreign Insurers.**

If the law or rule in the place of domicile of a foreign insurer provides a degree of protection to the contract holders and the public that is substantially equal to that provided by this rule, the commissioner, to the extent deemed appropriate in the commissioner's discretion, may consider compliance with the law or rule as compliance with this rule.

**R590-133-7. Licensing of Variable Contract Producers.**

(A) No producer or consultant is eligible to sell, offer for sale, or make a recommendation to purchase or terminate a variable contract unless licensed as a variable contract producer prior to making a solicitation, sale, or recommendation.

(B) The licensing as a variable contract producer may not become effective until satisfactorily completing the following requirements:

- (1) be licensed in the line of life insurance;
- (2) evidence that the applicant has previously passed Financial Industry Regulatory Authority examinations series six or seven and 63. Approval of registration to take the examinations is not acceptable;
- (3) evidence of being Utah approved from the Financial Industry Regulatory Authority, Central Registration Depository;
- (4) if the applicant is a non-resident, requirements of the state of domicile may be acceptable; and
- (5) every application for a license as a variable contract producer shall be accompanied by the appropriate fee designated in the fee schedule adopted by the legislature.

**R590-133-8. Additional Provisions Applicable to Variable Contract Producers.**

A. A person licensed in this state as a variable contract producer shall immediately report to the commissioner:

- (1) any suspension or revocation of the variable contract producer's license or life insurance producer's license in any other state or territory of the United States;
- (2) the imposition of any disciplinary sanction imposed upon the producer by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over securities or contracts on a variable basis;
- (3) any judgment or injunction entered against the producer on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law or rule.

B. The commissioner may reject any application or suspend or revoke or refuse to renew any variable contract producer's license upon any ground that would bar the application or the producer from being licensed to sell life insurance contracts in this state. The statutes governing any proceeding relating to the suspension or revocation of a life insurance producer's license

shall also govern any proceeding for suspension or revocation of a variable contract producer's license.

C. Renewal of a variable contract producer's license shall follow the same procedure established for renewal of a life insurance producer's license.

**R590-133-9. Disclosure.**

(A). The following information shall be furnished to an applicant for a variable contract prior to execution of the application:

(1) a summary description of the insurer and its principal activities;

(2) a summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account;

(3) a brief description of the investment policy for the separate account with respect to the contract;

(4) a list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the commissioner of the state of domicile; and

(5) summary financial statements of the insurer and the separate account based upon the last annual statement filed with the commissioner, except that for a period of four months after the filing of any annual statement, the summary required may be based upon the annual statement immediately preceding the last annual statement filed with the commissioner.

B. The insurer may include additional information as the insurer deems appropriate.

**R590-133-10. Penalties.**

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

**R590-133-11. Enforcement Date.**

The commissioner will begin enforcing this rule 30 days from the rule's effective date.

**R590-133-12. Severability.**

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provisions may not be affected.

**KEY: insurance law**

**Date of Enactment or Last Substantive Amendment: January 10, 2011**

**Notice of Continuation: January 12, 2007**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-20-106**