



**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
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HARRISBURG, PA 17101**

**(717) 783-5417  
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January 30, 1998

Honorable M. Diane Koken, Commissioner  
Insurance Department  
1326 Strawberry Square  
Harrisburg, PA 17120

Re: IRRC Regulation #11-165 (#1901)  
Insurance Department  
Evidence of Financial Responsibility

Dear Commissioner Koken:

The Independent Regulatory Review Commission (Commission) has enclosed comments on your proposed regulation #11-165. These comments outline areas of concern raised by the Commission. The comments also offer suggestions for your consideration when you prepare the final version of this regulation. These comments should not, however, be viewed as a formal approval or disapproval of the proposed version of this regulation.

If you or you staff have any questions on these comments or desire to meet to discuss them in greater detail, please contact John Jewett at 783-5475. He has been assigned to review this regulation.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce  
Executive Director

REN:wbg

cc: Peter Salvatore  
Office of General Counsel  
Office of Attorney General  
Pete Tartline

**COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION**

**ON**

**INSURANCE DEPARTMENT REGULATION NO. 11-165**

**EVIDENCE OF FINANCIAL RESPONSIBILITY**

**JANUARY 30, 1998**

We have reviewed this proposed regulation from the Insurance Department (Insurance) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to statutory authority, fiscal impact, clarity, consistency with other statutes and regulations, and reasonableness. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

**1. Section 67.24(b)(8), Expiration date - Need for the rule; Reasonableness; and Clarity**

The proposed regulation would require that identification (I.D.) cards include a specific month, day, and year for the insurance policy's expiration date. It would delete the existing requirement that I.D. cards include the following inscription below the effective date: "Not valid more than 1 year from effective date." The Insurance Federation of Pennsylvania (IFP) suggests that the proposal's requirement for a precise expiration date be amended to also allow for continued use of an inscription similar to language in the existing regulation. We agree.

In the preamble of the proposed rulemaking, Insurance explains that the proposed requirement for a precise expiration date conforms with 75 Pa.C.S.A § 1782(d) by requiring that I.D. cards disclose the period for which coverage has been paid by the insured. However, this same section of the Motor Vehicle Financial Responsibility Law includes the following statement:

In such instance where the insured has financed premiums through a premium finance company or where the insured is on an insurer-sponsored or agency sponsored payment plan, financial responsibility identification cards may be issued for periods of six months even though such payment by the insured may be for a period of less than six months.

Hence, even a precise expiration date would not necessarily disclose the period for which coverage was actually paid by the insured. Furthermore, the inscription is no less precise than listing a specific date. Adding a year to the effective date to determine the expiration date is a relatively simple calculation.

We recommend that Insurance revise this regulation to give insurance companies and agents the option of using a precise expiration date or an inscription which reads: "Not valid more than 6 months (or 1 year) from effective date." As long as the I.D. card includes an effective date which is required by both the existing and proposed rule, the inscription with the six-month or

one-year limit discloses the period for which the insured is covered by insurance. Hence, this approach is consistent with the Motor Vehicle Financial Responsibility Law and would prevent needless changes on forms currently used by insurance companies and agents.

## **2. Section 67.24, Standard form - Costs; Paperwork; Reasonableness; and Clarity**

In their comments on the proposed regulation, the Professional Insurance Agents Association (PIA) and IFP expressed concerns regarding the costs of creating and printing new forms that conform to the requirements of this regulation. The changes proposed in this regulation may prevent the use of a standardized insurance industry identification card produced by the Agency-Company Organization for Research and Development (ACORD). If agents can no longer use the ACORD card, agents and companies would need to design and produce new forms, adding costs and an unnecessary burden to agents and insurers.

In response to the concerns expressed by the industry, Insurance staff state that the regulation will be revised to include a six-month "phase-in" period for the new content requirements for I.D. cards. This would allow insurance companies and agents to use their current stocks of existing forms for I.D. cards. However, they would need to replace these stocks within six months with new I.D. cards that match this regulation's requirements. Although we see this approach as a positive first step in responding to the affected industry's concerns, we do not see a compelling need to require insurers to create a special I.D. card form exclusively for use in Pennsylvania when many insurers also sell insurance in a number of other states.

It is our understanding that insurance companies and agents are currently permitted by Insurance to use the ACORD card under the existing rule. Since the proposed changes to the I.D. card form and content requirement in Section 67.24 are minimal, we see no reason for a change in policy that would require the industry to abandon using the ACORD card. For the sake of clarity and to prevent unnecessary costs, we recommend that Insurance amend this regulation to specify the ACORD I.D. card continues to be an acceptable standard for use as an I.D. card in Pennsylvania.

## **3. Section 67.27, Use of binders and other forms of proof - Statutory authority; Need for the rule; and Reasonableness**

The IFP opposes the total replacement of binders by temporary identification cards as proof of insurance. Section 4727(d)(3)(iv) of the Vehicle Code (Title 75) specifically describes four types of documents, including binders, that can be used as proof of insurance. However, Insurance seems to be limiting these options by amending Section 67.27 in the proposed regulation to replace binders with temporary I.D. cards. Deletion of binders from the regulation as proof of insurance or financial responsibility is inconsistent with the Vehicle Code.

In addition, there is a concern with the acceptance of various methods by which temporary cards may be completed or issued. PIA notes that methods such as I.D. cards being "faxed, hand-typed or hand-written" are not addressed in the regulation. Act 115 of 1996 added language to 75 Pa.S.C.A. § 4727(d)(3)(v) that states that "a legible photocopy, facsimile or printout of an electronic transmission of a document" such as a binder or I.D. card can be used as proof of financial responsibility or insurance.

We recommend that Insurance revise the proposed regulation to include the statutory language at 75 Pa.S.C.A. §§ 4727(d)(3)(ii) - (v) and 4727(d)(4). Use of the statutory language will retain binders as proof of insurance and allow for the use of other forms of proof that are specifically identified in statute.

**4. Section 67.27, Authority of insurance agents to issue I.D. cards - Reasonableness; and Clarity**

In its comments, PIA refers to an ongoing concern with whether the Department of Transportation (PennDOT) will accept temporary I.D. cards issued by insurance agents rather than insurance companies. Although the proposed regulation specifically states in Subsection 67.27(a) that agents may issue temporary I.D. cards, Act 115 also allows agents to provide other documents as proof of insurance at 75 Pa.S.C.A. § 4727(d)(3)(v). This section states that a "licensed insurance company *or licensed insurance agency*" can provide a "legible photocopy, facsimile or printout of electronic transmission" of an I.D. card or other documents, such as a valid binder, to a certified inspection mechanic as proof of insurance and financial responsibility.

In the past, PennDOT has objected to the use of temporary I.D. cards issued by agents. However, if an agent has the authority to provide a photocopy of a document as proof of insurance, we see no reason why they cannot issue I.D. cards which meet the basic requirements set forth by Insurance and provide the same type of information included in the documents specified by statute at 75 Pa.S.C.A. §§ 4727(d)(3)(i) - (v).

Act 115 is consistent with the long-standing practice of Insurance in recognizing I.D. cards issued by insurance agents as valid proof of financial responsibility. To avoid potential confusion on this point, we recommend that Insurance amend this proposed rulemaking to clarify that licensed insurance agents may provide I.D. cards and other documents, as specified in Section 4727(d)(3) of the statute, as valid proof of financial responsibility.

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# INDEPENDENT REGULATORY REVIEW COMMISSION

**To:** Pete Salvatore  
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**From:** Kristine M. Shomper, Executive Assistant  
**Company:** Independent Regulatory Review  
Commission  
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**Date:** January 30, 1998  
**# of Pages:** 5

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Insurance Department's regulation #11-165. Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

*Jennifer A. Weber*

Date:

*1-30-98*