

<b>(1) Agency</b> Insurance Department	
<b>(2) I.D. Number (Governor's Office Use)</b> 11-211	
<b>(3) Short Title</b> Charter Amendments; Financial Requirements	
<b>(4) PA Code Cite</b> 31 Pa. Code, Chapter 65, Subchapter C	<b>(5) Agency Contact and Telephone Number:</b> Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429
<b>(6) Type (check one)</b> <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	<b>(7) Is a 120-Day Emergency Certification Attached?</b> <input type="checkbox"/> Yes: By the Governor <input type="checkbox"/> Yes: By the Attorney General <input checked="" type="checkbox"/> No
<b>(8) Briefly explain in clear and non-technical language the regulation:</b> The regulations were adopted May 16, 1969 and apply to property and casualty insurers authorized to write automobile insurance coverages under section 202(c)(11) of the act (40 P.S. § 382(c)(11)). The regulations provided for the automatic amendment of existing charters and established minimum capital and surplus requirements for domestic insurers affected by the provisions of the act of November 27, 1968, P.L. 118, No. 349 (Act 349-1968).	
<b>(9) Briefly explain why this regulation is proposed for repeal:</b> Subchapter C, §§ 65.21—65.26 are obsolete and unnecessary. Section 202 of the 1921 Act (40 P.S. § 382) delineates the underwriting authorities of various types of insurers. Act 349-1968 consolidated the underwriting authority to write automobile bodily injury liability and automobile property damage liability insurance coverages. The regulation was adopted May 16, 1969, to implement the provisions of Act 349-1968 with respect to insurers writing automobile insurance coverages in this Commonwealth. Section 65.23 provided for the automatic amendment of the existing charters of insurers that were authorized to write both of the consolidated coverages and delineated the effect of Act 349-1968 on the authority of insurers that had one of the two consolidated underwriting powers. The GAA Amendments Act of 1990 updated the Commonwealth's business corporation laws relating to insurance companies. The updates included the repeal of provisions in the 1921 Act requiring the Department's approval of charters for the creation of insurers. As a result of these updates, insurer charters are no longer required to specify underwriting authority. Therefore, the provisions in §§ 65.21—23 are outdated and no longer needed. Sections 65.24—65.26 established minimum capital and surplus requirements for mutual insurers with the authority to write automobile liability insurance. The current minimum capital and surplus requirements for these insurers are now found in sections 206 and 601 of the 1921 act (40 P.S. §§ 386 and 721). Therefore, §§ 65.24—65.26 also are outdated and no longer needed.	
<b>(10) Please list the proposed schedule for repeal noting any public comment periods:</b> The repeal of the regulations will take effect after a 30-day public comment period and upon final approval by the legislative standing committees, the Independent Regulatory Review Commission and the Office of the Attorney General.	
<b>(11) State any costs and/or savings associated with the repeal:</b> None.	

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency  
Insurance Department

(2) I.D. Number (Governor's Office Use)

11-211

IRRC Number:

(3) Short Title  
Charter Amendments; Financial Requirements

(4) PA Code Cite  
31 Pa. Code, Chapter 65, Subchapter C.

(5) Agency Contacts & Telephone Numbers  
Primary Contact: Peter J. Salvatore, Regulatory Coordinator,  
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429  
Secondary Contact: Elaine Leitzel, (717) 787-8840

(6) Type of Rulemaking (check one)  
 Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?  
 No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulations were adopted May 16, 1969 and apply to property and casualty insurers authorized to write automobile insurance coverages under section 202(c)(11) of the act (40 P.S. § 382(c)(11)). The regulations provided for the automatic amendment of existing charters and established minimum capital and surplus requirements for domestic insurers affected by the provisions of the act of November 27, 1968, P.L. 118, No. 349 (Act 349-1968).

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412); sections 202, 206 and 601 of The Insurance Company Law of 1921 (40 P.S. §§ 382, 386 and 721) (1921 Act); and the GAA Amendments Act of 1990 (Act of December 19, 1990, P.L. 834, No. 198)

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

There is currently no compelling public interest that justifies the regulations. Therefore, the Insurance Department proposes to repeal the regulations for the following reasons. Subchapter C, §§ 65.21—65.26 are obsolete and unnecessary. Section 202 of the 1921 Act (40 P.S. § 382) delineates the underwriting authorities of various types of insurers. Act 349-1968 consolidated the underwriting authority to write automobile bodily injury liability and automobile property damage liability insurance coverages. The regulation was adopted May 16, 1969, to implement the provisions of Act 349-1968 with respect to insurers writing automobile insurance coverages in this Commonwealth. Section 65.23 provided for the automatic amendment of the existing charters of insurers that were authorized to write both of the consolidated coverages and delineated the effect of Act 349-1968 on the authority of insurers that had one of the two consolidated underwriting powers. The GAA Amendments Act of 1990 updated the Commonwealth's business corporation laws relating to insurance companies. The updates included the repeal of provisions in the 1921 Act requiring the Department's approval of charters for the creation of insurers. As a result of these updates, insurer charters are no longer required to specify underwriting authority. Therefore, the provisions in §§ 65.21—23 are outdated and no longer needed.

Sections 65.24—65.26 established minimum capital and surplus requirements for mutual insurers with the authority to write automobile liability insurance. The current minimum capital and surplus requirements for these insurers are now found in sections 206 and 601 of the 1921 act (40 P.S. §§ 386 and 721). Therefore, §§ 65.24—65.26 also are outdated and no longer needed.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with the repeal of the regulations.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Affected insurers will benefit from the repeal of the regulations to the extent that unnecessary, outdated material will be eliminated from the Department's regulations, thereby reducing time spent by insurers in researching redundant, confusing material.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No persons, groups or entities will be adversely affected by the repeal of the regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

N/A

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Comments on these regulations were requested from The Insurance Federation of Pennsylvania, Inc., and the Pennsylvania Association of Mutual Insurance Companies as part of a prior review of all Department regulations. In addition, the regulatory process provides for a 30-day public comment period subsequent to publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The repeal of the regulations will impose no additional costs on affected insurers.

**Regulation Analysis Form**

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There is no fiscal impact on local governments associated with the repeal of the regulations.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There is no fiscal impact to state government associated with the repeal of the regulations.

### Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

N/A

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

N/A

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

N/A

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

N/A

**Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No federal standards are applicable to the repeal of the regulations.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The repeal of the regulations will not put Pennsylvania at a competitive disadvantage with other states. It will eliminate unnecessary information from Pennsylvania's insurance regulations.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The repeal of the regulations will not affect other existing or proposed regulations.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings have been scheduled on the repeal of the regulations.



**Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The repeal of the regulations will eliminate unnecessary, outdated information from the Department's regulations.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The repeal of the regulations will take effect after a 30-day public comment period and upon final approval by the legislative standing committees, the Independent Regulatory Review Commission and the Office of the Attorney General.

(31) Provide the schedule for continual review of the regulation.

N/A

<p>CDL-1</p> <p style="text-align: center;"><b>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</b></p> <p style="text-align: center;">(Pursuant to Commonwealth Documents Law)</p>		<p style="text-align: right;">2001 SEP 28 PM 6:57 REVENUE</p>
DO NOT WRITE IN THIS SPACE		
<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><i>Cristina S. Pope</i> _____ (Deputy Attorney General)</p> <p style="text-align: center;">SEP 19 2001 _____ Date of Approval</p> <p>→ Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Insurance Department _____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>11-211</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <i>M. Diane Koken</i> _____ M. Diane Koken Insurance Commissioner</p> <p>TITLE: _____ (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <i>John V. Turner</i> _____ 9/14/01 _____ DATE OF APPROVAL</p> <p>(DEPUTY GENERAL COUNSEL) (<del>CHIEF COUNSEL, INDEPENDENT AGENCY</del>) (STRIKE INAPPLICABLE TITLE)</p> <p>→ Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>

NOTICE OF PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 65  
Miscellaneous Provisions  
Subchapter C  
CHARTER AMENDMENTS

## PREAMBLE

The Insurance Department (Department) proposes to delete Chapter 65, Miscellaneous Provisions, Subchapter C, Charter Amendments; Financial Requirements, as set forth in Annex A. This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412); sections 202, 206 and 601 of The Insurance Company Law of 1921 (40 P.S. §§ 382, 386 and 721) (1921 Act); and the GAA Amendments Act of 1990, Act of December 19, 1990, P.L. 834, No. 198 (15 Pa.C.S. §§ 21201—21208). The chapter applies to property and casualty insurers authorized to write automobile insurance coverages under section 202(c)(11) of the act (40 P.S. § 382(c)(11)). The chapter provided for the automatic amendment of existing charters and established minimum capital and surplus requirements for domestic insurers affected by the provisions of the act of November 27, 1968, P.L. 118, No. 349 (Act 349-1968).

### *Purpose*

The purpose of this rulemaking is to delete §§ 65.21—65.26 to eliminate obsolete, unnecessary regulations. Section 202 of the 1921 Act (40 P.S. § 382) delineates the underwriting authorities of various types of insurers. Act 349-1968 consolidated the underwriting authority to write automobile bodily injury liability and automobile property damage liability insurance coverages. The regulations were adopted May 16, 1969, to implement the provisions of Act 349-1968 with respect to insurers writing automobile insurance coverages in this Commonwealth.

Section 65.23 provided for the automatic amendment of the existing charters of insurers that were authorized to write both of the consolidated coverages and delineated the effect of Act 349-1968 on the authority of insurers that had one of the two consolidated underwriting powers. The GAA Amendments Act of 1990 updated the Commonwealth's business corporation laws relating to insurance companies. The updates included the repeal of provisions in the 1921 Act requiring the Department's approval of charters for the creation of insurers. As a result of these updates, insurer charters are no longer required to specify underwriting authority. Therefore, the provisions in §§ 65.21—23 are outdated and no longer needed.

Sections 65.24—65.26 established minimum capital and surplus requirements for mutual insurers with the authority to write automobile liability insurance. The current minimum capital and surplus requirements for these insurers are now found in sections 206 and 601 of the 1921 act (40 P.S. §§ 386 and 721). Therefore, §§ 65.24—65.26 also are outdated and no longer needed.

### *Affected Parties*

The deletion of the regulations affects property and casualty insurers authorized to write automobile insurance coverages in this Commonwealth.

*Fiscal Impact*

There is no fiscal impact as a result of the deletion of the regulations.

*Paperwork*

The deletion of the regulations would impose no additional paperwork requirements on the Department or insurers.

*Effectiveness/Sunset Date*

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete the regulations, no sunset date has been assigned.

*Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429 within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions or comments also may be e-mailed to [psalvatore@state.pa.us](mailto:psalvatore@state.pa.us) or faxed to (717) 772-1969.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 26, 2001, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting this proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,  
Insurance Commissioner

**Annex A**

**TITLE 31. INSURANCE  
PART II. AUTOMOBILE INSURANCE  
CHAPTER 65 -- MISCELLANEOUS PROVISIONS  
SUBCHAPTER C. CHARTER AMENDMENTS; FINANCIAL REQUIREMENTS**

Sec.

- 65.21. [Definition of act.] Reserved.  
65.22. [Authority for writing certain policies.] Reserved.  
65.23. [Charters automatically amended.] Reserved.  
65.24. [Minimum paid-up capital for stock insurers.] Reserved.  
65.25. [Minimum surplus for mutual insurers.] Reserved.  
65.26. [Determining compliance.] Reserved.

**§ 65.21. [Definition of act.]**

When used in this subchapter, the term act shall mean the Insurance Company Law of 1921 (40 P.S. §§ 361 -- 488.5), unless the context clearly indicates otherwise.] Reserved.

**§ 65.22. [Authority for writing certain policies.]**

Prior to November 27, 1968, the authority to write automobile bodily injury liability coverage was found in section 202(c)(4) of The Insurance Company Law (40 P.S. § 382(c)(4)), and the authority to write automobile property damage liability coverage was found in section 202(c)(11) of such act (40 P.S. § 382 (c)(11)). The act has combined the authority for these two coverages in section 202(c)(11) (40 P.S. § 382(c)(11)).] Reserved.

**§ 65.23. [Charters automatically amended.]**

(a) It shall be the position of the Insurance Department that the act has automatically amended all affected existing charters of insurance companies to reflect the change indicated in § 65.22 (relating to authority for writing certain policies). Therefore, no insurer need formally amend its charter in order to retain the same authority which it had prior to the enactment of the act.

(b) An insurer licensed for section 202(c)(4) powers under the Insurance Company Law (40 P.S. § 382(c)(4)) but not section 202(c)(11) powers prior to the act (40 P.S. § 382(c)(11)) shall hold full section 202(c)(4) powers plus a limited section 202(c)(11) power permitting the writing of automobile bodily injury liability coverage but none of the other coverages authorized by section 202(c)(11).

(c) An insurer licensed for section 202(c)(11) powers but not section 202(c)(4) powers prior to the act does not, by virtue of the act, automatically obtain the authority to write automobile bodily injury liability coverage; such additional authority may be obtained only by a formal amendment to the charter.] Reserved.

**§ 65.24. [Minimum paid-up capital for stock insurers.**

Domestic or foreign stock insurers which were authorized prior to November 27, 1968 to write policies of automobile liability insurance (whether bodily injury or property damage liability or both) in this Commonwealth shall, by November 27, 1973, have a minimum paid-up capital stock of \$500,000.] Reserved.

**§ 65.25. [Minimum surplus for mutual insurers.**

(a) *Nonassessable policies.* Domestic mutual insurance companies which were authorized prior to November 27, 1968 to write nonassessable policies of automobile liability insurance, whether bodily injury or property damage liability, or both, in this Commonwealth shall, by November 27, 1973, have and thereafter maintain unimpaired a minimum surplus of \$500,000 for this class of insurance.

(b) *Only assessable policies.* Domestic mutual insurance companies which were authorized prior to November 27, 1968, to write only assessable policies of automobile liability insurance, whether bodily injury or property damage liability, or both, in this Commonwealth shall, by November 27, 1973, have and thereafter maintain unimpaired a minimum surplus of \$100,000 for this class of insurance.

(c) *Foreign insurers.* Foreign mutual insurers which were licensed prior to November 27, 1968, to write such policies, whether assessable or nonassessable, in this Commonwealth shall meet the same respective minimum surplus requirement by November 27, 1973.] Reserved.

**§ 65.26. [Determining compliance.**

The Insurance Department will contact each insurer not presently in compliance with the minimum financial requirement provisions of this subchapter in order to determine what course of action such insurer proposes to follow to meet the November 27, 1973, deadline.] Reserved.



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

OFFICE OF SPECIAL PROJECTS  
1326 Strawberry Square  
Harrisburg, PA 17120

Phone: (717) 787-4429  
Fax: (717) 705-3873  
E-mail: psalvato@ins.state.pa.us

September 26, 2001

Mr. Robert Nyce  
Executive Director  
Independent Regulatory Review Comm.  
333 Market Street  
Harrisburg, PA 17101

Re: Insurance Department Proposed  
Regulation No. 11-211, Charter  
Amendments

Dear Mr. Nyce:

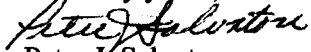
Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is proposed regulation 31 Pa. Code, Chapter 65, Charter Amendments.

The purpose of this rulemaking is to delete §§ 65.21—65.26 of 31 Pa. Code, Chapter 65 to eliminate obsolete, unnecessary regulations. Section 202 of The Insurance Company Law (40 P.S. § 382) delineates the underwriting authorities of various types of insurers. Act 349-1968 consolidated the underwriting authority to write automobile bodily injury liability and automobile property damage liability insurance coverages. The regulations were adopted May 16, 1969, to implement the provisions of Act 349-1968 with respect to insurers writing automobile insurance coverages in this Commonwealth.

The GAA Amendments Act of 1990 updated the Commonwealth's business corporation laws relating to insurance companies. The updates included the repeal of provisions in the act requiring the Department's approval of charters for the creation of insurers. As a result of these updates, insurer charters are no longer required to specify underwriting authority. Sections 65.24—65.26 established minimum capital and surplus requirements for mutual insurers with the authority to write automobile liability insurance. The current minimum capital and surplus requirements for these insurers are now found in sections 206 and 601 of the 1921 act (40 P.S. §§ 386 and 721). Therefore, the provisions in §§ 65.21-26 are outdated and no longer needed.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

  
Peter V. Salvatore  
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 11-211  
 SUBJECT: Miscellaneous Provisions  
 AGENCY: DEPARTMENT OF INSURANCE

**TYPE OF REGULATION**

X Proposed Regulation  
 Final Regulation  
 Final Regulation with Notice of Proposed Rulemaking Omitted  
 120-day Emergency Certification of the Attorney General  
 120-day Emergency Certification of the Governor  
 Delivery of Tolled Regulation  
 a. With Revisions                      b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9-26-01	<i>Shirley Carhart</i>	HOUSE COMMITTEE ON INSURANCE
9/26/01	<i>[Signature]</i>	
9/26/01	<i>Denise Patton</i>	SENATE COMMITTEE ON BANKING & INSURANCE
9/26/01	<i>T. McDaniel</i>	
9/26/01	<i>Olivia Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
9/26/01	<i>Mayra Garcia</i>	LEGISLATIVE REFERENCE BUREAU

September 21, 2001