

Comments on the regulation listed below have been received from the following:

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<i>Reg #</i>	<i>Regulation Title</i>
11-225	<i>Property and Casualty Actuarial Opinion</i>

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<i>Mr. Samuel R. Marshall</i>	Date Received	<i>07/31/2006</i>	Date Sent To Cmtes/IRRC	<i>08/01/2006</i>
<i>President</i>				
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**Samuel R. Marshall**  
President & CEO

July 31, 2006

Peter J. Salvatore  
Regulatory Coordinator  
1326 Strawberry Square  
Harrisburg, PA 17120

RECEIVED  
2006 AUG -2 AM 9:54  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**Re: Proposed Chapter 118a - property and casualty  
actuarial opinion regulation**

Dear Mr. Salvatore:

On behalf of our member companies and affiliated national trade associations, the Insurance Federation submits the following with respect to the Insurance Department's proposed regulation implementing the NAIC's instructions for actuarial opinions as published in the July 1 Pennsylvania Bulletin.

While we are generally supportive of the proposed regulation, we are concerned with the Department's statutory authority to provide the confidentiality it proposes under Section 118a.5(b).

Section 5(b) proposes a broad assurance of confidentiality that extends to materials papers submitted by insurers to it. We agree with that. But the only statutory authority cited by the Department is Section 320(d) of the Insurance Company Law, 40 P.S. Section 443(d). That subsection covers confidentiality and extends to work products developed by Insurance Department staff in conducting financial analyses of financial statements filed pursuant to this section.

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That, however, arguably does not include materials submitted by insurers as set forth in Section 5(b) of the proposed regulation - "work products developed by Department staff" are not the same as materials submitted to the Department.

This is highlighted by the contrast between the confidentiality language in 40 P.S. Section 443(d) and similar provisions in other parts of the insurance laws:

- 40 P.S. Section 221.12-A covering RBC reports: This specifically covers RBC reports and plans filed by insurers with the Department;

- 40 P.S. Section 323.5(f) covering examinations: This specifically covers "all working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the department";

- 40 P.S. Section 991.1407 covering Section 1406 Holding Company Act examinations: This specifically covers "all information, documents and copies thereof obtained by or disclosed to the department".

All those sections recognize and expressly provide confidentiality for documents submitted to the Insurance Department, as distinct from those the Department generates on its own. 40 P.S. Section 443(d), however, does not do this, covering only Department work product.

From our study of the history of the enactment of these statutes, it does not seem the General Assembly intended more limited confidentiality protections in 40 P.S. Section 443(d) than in the other statutes covering similar reports and examinations. Further, we can think of no rational reason for more limited confidentiality protections here than in those statutes.

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Nonetheless, the language "is what it is". Accordingly, we recommend the IRRC and the legislative standing committees provide specific guidance on whether the confidentiality provisions in Section 5(b) of the proposed regulation - providing protection to documents submitted to as well as prepared by the Department - have the requisite statutory authority.

If the IRRC and the standing committees determine that Section 5(b) does not have such authority, we recommend the Department delay promulgation of this regulation until 40 P.S. Section 443(d) is amended to be consistent with the confidentiality of the other statutes noted above - namely, specific protection for materials submitted to the Department, as well as those prepared by it.

Sincerely,

Samuel R. Marshall

C: Kim Kaufman, Executive Director, IRRC