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INDEPENDENT REGULATORY REVIEW COMMISSION

IRRC Number: 2546

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Insurance Department

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

11-233

(3) Short Title

Advances Made to Companies (Other Than Mutual Life)

(4) PA Code Cite

31 Pa. Code, Chapter 105 §§ 105.1-105.20

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429

Secondary Contact: Elaine M. Lane, Program Analyst, Office of Corporate and Financial Regulation, 1345 Strawberry Square, Harrisburg, PA 17120 (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 November 25, 1968 and apply to mutual insurance companies (other than mutual life companies). The regulations established form, content, and reporting requirements for cash advances made to strengthen the surplus of these types of insurers.

(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, 422 and 412) and sections 320 and 322.2 of The Insurance Company Law of 1921 (40 P.S. §§ 443 and 445.2) (act).

Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204(3)).

(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.

**Regulatory Analysis Form**

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

The regulations are being repealed because there is currently no compelling public interest that justifies the regulations. Chapter 105 was adopted November 25, 1968, under the authority of section 809 of the act (40 P.S. § 919). Section 809 was repealed by Act 216 of 2004, effective November 30, 2004. Act 216 included a section 322.2 (40 P.S. § 445.2) relating to the issuance of surplus notes by all types of domestic insurers. (A surplus note is issued by an insurer in exchange for cash or other liquid assets that have been loaned or advanced to strengthen the insurer's surplus.) The new statute is consistent with current national statutory accounting standards for surplus notes and requires insurers to report the issuance and holding of surplus notes in compliance with statutory accounting practices prescribed or otherwise permitted by the Insurance Commissioner under section 320 of the act. Therefore, §§ 105.1—105.20 are outdated, no longer needed and have been superseded by section 322.2 of the act.

(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 regulation to the extent that outdated, confusing material will be eliminated from the Department's regulations.

**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 The regulations will be repealed.

(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.

The Department notified The Insurance Federation of Pennsylvania, Inc. and The Pennsylvania Association of Mutual Insurance Companies of the intended repeal of the regulations.

(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.

**Regulatory 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 are no costs or savings to 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 are no costs or savings 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.

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

Program	FY -3	FY -2	FY -1	Current FY

(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. The repeal will eliminate unnecessary, confusing information from Pennsylvania's insurance regulations that is not consistent with current national statutory accounting standards.

(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 are anticipated 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 Chapter 105 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 are 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 approval by the legislative standing committees, the Independent Regulatory Review commission and the Office of the Attorney General; and upon final publication in the *Pennsylvania Bulletin*.

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

Because the rulemaking proposes to delete the chapter, continued review of the regulation is not applicable.



<b>Repeal Analysis Form</b>	
<p><b>(1) Agency</b></p> <p>Insurance Department</p>	<p><b>This space for use by IRRC:</b></p> <p>IRRC Number: _____</p> <p>Date received: _____</p>
<p><b>(2) I.D. Number (Governor's Office Use)</b></p> <p>11-233</p>	
<p><b>(3) Short Title</b></p> <p>Advances Made to Companies (Other Than Mutual Life)</p>	
<p><b>(4) PA Code Cite</b></p> <p>31 Pa .Code , Chapter 105</p>	<p><b>(5) Agency Contact and Telephone Number:</b></p> <p>Primary Contact: Peter J. Salvatore, Regulatory Coordinator, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429</p> <p>Secondary Contact: Elaine M. Lane, Program Analyst, Office of Corporate and Financial Regulation, 1345 Strawberry Square, Harrisburg, PA 17120 (717) 787-8840</p>
<p><b>(6) Type (check one)</b></p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted</p>	<p><b>(7) Is a 120 Day Emergency Certification Attached?</b></p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>
<p><b>(8) Briefly explain in clear and non-technical language the regulation:</b></p> <p>The regulations were adopted November 25, 1968 and apply to mutual insurance companies (other than mutual life companies). The regulations established form, content, and reporting requirements for cash advances made to strengthen the surplus of these types of insurers.</p>	
<p><b>(9) Briefly explain why this regulation is proposed for repeal:</b></p> <p>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, 422 and 412) and sections 320 and 322.2 of The Insurance Company Law of 1921 (40 P.S. §§ 443 and 445.2) (act). Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204(3)).</p>	
<p><b>(10) Please list the proposed schedule for repeal noting any public comment periods:</b></p> <p>The Department notified the Insurance Federation of Pennsylvania, Inc. and The Pennsylvania Association of Mutual Insurance Companies of the intended repeal of the regulations.</p>	
<p><b>(11) State any costs and/or savings associated with the repeal:</b></p> <p>There are no costs or savings associated with the repeal of this regulation because the proposal merely eliminates an obsolete regulation.</p>	

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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form and legality. Attorney General

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copy of a document issued, prescribed or promulgated  
by:

Copy below is hereby approved as to form and  
legality. Executive or Independent Agencies

Insurance Department

BY DAVID J. DEWRIES

By \_\_\_\_\_  
(Deputy Attorney General)

(AGENCY)

MAY 09 2006

DOCUMENT/FISCAL NOTE NO. 11-233

DATE OF APPROVAL  
**EXECUTIVE**  
(DEPUTY GENERAL COUNSEL)  
~~(CHIEF COUNSEL, INDEPENDENT AGENCY)~~  
(STRIKE INAPPLICABLE TITLE)

\_\_\_\_\_ Date of Approval

DATE OF ADOPTION: \_\_\_\_\_

BY: M. Diane Koken

M. Diane Koken  
Insurance Commissioner

→ Check if applicable. No Attorney General  
approval or objection within 30 days after  
submission.

TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR  
SECRETARY)

→ Check if applicable.  
Copy not approved. Objections  
attached.

**NOTICE OF FINAL-OMITTED RULEMAKING**

**INSURANCE DEPARTMENT**

31 Pa. Code, Chapter 105  
§§ 105.1-105.20

**Advances Made to Companies (Other Than Mutual Life)**

## **PREAMBLE**

The Insurance Department (Department) proposes to delete Chapter 105 (relating to advances made to companies (other than mutual life)) to read 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, 422 and 412) and sections 320 and 322.2 of The Insurance Company Law of 1921 (40 P.S. §§ 443 and 445.2) (act).

Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204(3)). Under Section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

### ***Purpose***

The purpose of this rulemaking is to delete §§ 105.1—105.20 to eliminate obsolete, unnecessary regulations. Chapter 105 was adopted November 25, 1968, under the authority of section 809 of the act (40 P.S. § 919). The chapter established form, content and reporting requirements for cash advances made to mutual insurance companies (other than mutual life companies). Section 809 was repealed by Act 216 of 2004, effective November 30, 2004. Act 216 included a new section 322.2 (40 P.S. § 445.2) relating to the issuance of surplus notes by all types of domestic insurers. (A surplus note is issued by an insurer in exchange for cash or other liquid assets that have been loaned or advanced to strengthen the insurer's surplus.) The new statute is consistent with current national statutory accounting standards for surplus notes and requires insurers to report the issuance and holding of surplus notes in compliance with statutory accounting practices prescribed or otherwise permitted by the Insurance Commissioner under section 320 of the act. Therefore, §§ 105.1—105.20 are outdated and no longer needed.

### ***Affected Parties***

The deletion of the chapter affects domestic mutual insurance companies (other than mutual life companies).

### ***Fiscal Impact***

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

### ***Paperwork***

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

### ***Effectiveness/Sunset Date***

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

**Contact Person**

Questions regarding the final omitted rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, phone number (717) 787-4429. Questions may also 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)), the agency submitted a copy of the regulations with the proposed rulemaking omitted on June 15, 2006 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101 - 732-506).

In accordance with section 5(c) of the Regulatory Review Act (71 P.S. §§745.5(c)), the regulations were (deemed) approved by the Senate Banking and Insurance Committee on \_\_\_\_\_, and (deemed) approved by the House Insurance Committee on \_\_\_\_\_. The Attorney General approved the regulation on \_\_\_\_\_. IRRC met on \_\_\_\_\_ and approved the regulation.

**Findings**

The Insurance Commissioner finds that:

(1) There is good cause to repeal Chapter 105 effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of these regulations would be impractical and not serve the public interest. Under Section 204(3) of the CDL there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to amend Chapter 105 because notice of the amendment under the circumstances is unnecessary and impractical (45 P.S. §1204(3)) because the underlying statutory authority no longer exists.

**Order**

The Insurance Commissioner, acting under the authority in Sections 206, 506, 1501 and 1502 of the Administrative Code of 1929, orders that:

(1) The Regulations of the Department at 31 Pa Code, Chapter 105, are amended as set forth in Annex A.

(2) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to form and legality as required by law.

(3) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon its publication in the *Pennsylvania Bulletin*.

M. Diane Koken  
Insurance Commissioner

CONTINUATION SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE  
REFERENCE BUREAU Pursuant to Commonwealth Documents Law

**Annex A**

**TITLE 31. INSURANCE. PART VI. MUTUAL INSURANCE. CHAPTER 105.  
ADVANCES MADE TO COMPANIES (OTHER THAN MUTUAL LIFE).  
GENERAL PROVISIONS**

Sec.

- 105.1. [Definitions.] **Reserved.**
- 105.2. [Purpose.] **Reserved.**
- 105.3. [Numbering of 809 Certificates.] **Reserved.**
- 105.4. [Advances to be cash transactions.] **Reserved.**
- 105.5. [Penalties.] **Reserved.**

**PREPARATION OF 809 CERTIFICATES**

- 105.11. [Report of outstanding 809 Certificates.] **Reserved.**
- 105.12. [Contents of 809 Certificates.] **Reserved.**
- 105.13. [Information required from company receiving an advance.] **Reserved.**
- 105.14. [Statement required from person making an advance.] **Reserved.**
- 105.15. [Sale, assignment, transfer, or pledge of 809 Certificates.] **Reserved.**
- 105.16. [Payment of principal and interest.] **Reserved.**
- 105.17. [Selection of certificates for payment of principal and interest.] **Reserved.**
- 105.18. [Certification of information filed with the Department.] **Reserved.**
- 105.19. [Report of 809 Certificates in Annual Statement.] **Reserved.**
- 105.20. [Merger or consolidation.] **Reserved.**

**GENERAL PROVISIONS**

§ 105.1. [Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Insurance Company Law of 1921 (40 P. S. § 361 et seq).

*Department*—The Insurance Department of the Commonwealth.

*809 Certificate*—The document evidencing an advance made pursuant to section 809 of the act (40 P. S. § 919).] **Reserved.**

§ 105.2. [Purpose.

The purpose of this Chapter is to interpret and implement section 809 of the act (40 P. S. § 919) by prescribing all of the following:

- (1) The information required in 809 Certificates.
- (2) The information to be filed with the Department prior to the making of advances pursuant to the act.
- (3) The information to be filed with the Department prior to the redemption of 809 Certificates or the payment of principal or interest on account of such certificates.
- (4) The method of selection of 809 Certificates for payment or redemption.]

**Reserved.**

§ 105.3. [Numbering of 809 Certificates.

(a) All 809 certificates of a company shall be numbered consecutively for purposes of identification and shall be issued only in the numerical order of such consecutive identification numbers.

(b) Subsection (a) will not affect the validity of any 809 Certificate in force on the effective date of this chapter. The certificate, however, shall be subject to all other provisions of this chapter.] **Reserved.**

§ 105.4. [Advances to be cash transactions. \

Any advance made pursuant to section 809 of the act (40 P. S. § 919) shall be a cash transaction evidenced by a certified, bank cashier's or trust company treasurer's check. The cancelled check, or a copy thereof, shall be retained by the mutual insurance company as a permanent record of such company.] **Reserved.**

§ 105.5. [Penalties.

Failure to comply with the provisions of this chapter shall constitute a violation of the insurance laws of the Commonwealth and subject any company so failing to comply to all the penalties provided by law.] **Reserved.**

§ 105.11. [Report of outstanding 809 Certificates.

Each mutual insurance company subject to the provisions of this chapter shall file with the Department a list of all outstanding 809 Certificates issued by such company. The list shall set forth all of the following information with regard to each 809 Certificate:

- (1) The certificate identification number, if any.
- (2) The date of the certificate.
- (3) The original amount of the certificate.
- (4) The current amount of the certificate.
- (5) The name, address and occupation of both the original and present holder of the certificate.
- (6) A statement as to whether the present holder of the certificate is an officer, director, or member of the company.
- (7) The rate of interest, if any, payable on the certificate.] **Reserved.**

§ 105.12. [Contents of 809 Certificates.

(a) Each 809 Certificate issued shall set forth on its face at least all of the following information:

- (1) The certificate identification number.
- (2) The date of the advance.
- (3) The amount of the advance.
- (4) The rate of interest, if any, to be paid on the advance.
- (5) The name, address and occupation of the person making the advance and the person to whom the certificate is issued, if different from the person making the advance.
- (6) A statement as to whether the person making the advance or the person in whose name the 809 Certificate is issued is an officer, director, or member of the company to which the advance is made.
- (7) A statement setting forth the manner in which the certificate shall be selected for payment, which statement shall be consistent with the requirements of § 105.17 (relating to selection of certificates for payment of principal and interest).

(b) All of the following statements shall appear prominently on the face of each 809 Certificate issued:



(1) "The advance represented by this certificate is not a liability or claim against the issuer or any of its assets, and shall be repaid only out of the surplus earnings of the insurer. Payments of principal and interest on said advance are not guaranteed."

(2) "The issuer hereby certifies that no commission or promotion expenses have been or will be paid in connection with the advance represented by this certificate."

(3) "The rate of interest to be paid on the advance represented by this certificate may not exceed 10% per annum."

(c) The provisions of subsections (a) and (b) shall not affect the validity of any 809 Certificate in force on the effective date of this chapter. The certificate, however, shall be subject to all other provisions of this chapter.] **Reserved.**

§ 105.13. [Information required from company receiving an advance.

At least 15 days prior to the making of any advance pursuant to section 809 of the act (40 P. S. § 919), all of the following information shall be filed with the Department by the company to which the advance is to be made:

(1) The date upon which the advance is to be made.

(2) The amount of the advance.

(3) The rate of interest, if any, to be paid on the advance.

(4) The name, address and occupation of the person intending to make the advance and the person in whose name the 809 Certificate is to be issued, if different from the person intending to make the advance.

(5) A statement as to whether the person intending to make the advance or the person in whose name the 809 Certificate is to be issued is a director, officer, or member of the company to which the advance is to be made.

(6) The source of the funds to be used for the advance and, if funds are borrowed or are to be borrowed, the name or names of the lender or lenders and a summary of the terms and conditions of the loan transactions.] **Reserved.**

§ 105.14. [Statement required from person making an advance.

At the time of filing the information required by § 105.13 (relating to information required from company receiving an advance), a statement signed by the person intending to make the advance shall also be filed. The statement shall be in the form shown in Exhibit A.

EXHIBIT A  
Statement by Person Intending to Make Advance

I hereby acknowledge my intention to make the following advance to

\_\_\_\_\_  
(name of company)

1. Date advance intended to be made:

\_\_\_\_\_

2. Amount of advance:

\_\_\_\_\_

3. Rate of interest:

\_\_\_\_\_

I further acknowledge that I fully understand that my rights as the maker of this advance are limited as follows:

(1) This advance will not be a liability or claim against the company or any of its assets.

(2) Redemption of, or payment of principal or interest on this advance shall be made only out of the surplus earnings of the company in the manner prescribed in 31 Pa. Code §§ 105.16 and 105.17.

(3) Payment of principal and interest on this loan is not guaranteed.

\_\_\_\_\_  
(Signature of Person  
Intending to Make Advance)

Dated: ] **Reserved.**

**§ 105.15. [Sale, assignment, transfer or pledge of 809 Certificates.**

Upon receiving notice of the sale, assignment, transfer or pledge of any of its outstanding 809 Certificates, the company, within 10 days of receipt of the notice, shall advise the Department of the date of the sale, assignment, transfer or pledge together with the certificate identification number, original date of issuance, name, address and occupation of the new holder of the certificate, and whether the new holder is an officer, director or member of the company.] **Reserved.**

**§ 105.16. [Payment of principal and interest.**

(a) At least 15 days prior to redeeming or making any payments of principal or interest on account of 809 advances, regardless of when such advances were made, the company shall file all of the following information with the Department:

(1) The date upon which such payment or redemption is to be made.

(2) The certificate identification number and date of issuance, and name and address of the person to whom the payment is to be made.

(3) The principal balance represented by the certificate on the date upon which payment is to be made.

(4) The amount of payment, including allocation, if any, between principal and interest.

(5) As to any payment on account of interest, the interest rate, interest period, and amount of principal upon which such interest is computed.

(6) The balance of principal which will remain outstanding after the making of the payment.

(b) Redemption of or payment of principal or interest on outstanding 809 Certificates shall be made only out of the surplus earnings of the company existing at the time of the redemption or payment, provided that no such redemption or payment shall be made if the effect thereof is to reduce the surplus of the company below the minimum amount of the statutory surplus required of the company by the laws of the Commonwealth at the time of the redemption or payment, for the issuance of a certificate of authority to transact the class or classes of insurance which the company is authorized to transact.]

**Reserved.**

§ 105.17. [Selection of certificates for payment of principal and interest.

All 809 Certificates shall be selected by the board of directors of the company for payment of principal or interest, or for redemption in full, in the following manner:

(1) Payment of principal or interest, except for redemption in full of any 809 Certificate as provided in paragraph (2), shall be made on a prorated basis taking into consideration all 809 Certificates outstanding at the time the board determines to make such payment, provided that the board, in its discretion, may exclude from such prorated payment of principal or interest any 809 Certificate the holder of which requests the company in writing at least 20 days prior to the date the payment is intended to be made, that the 809 Certificate of such holder not be included in the prorated payment of principal or interest.

(2) Redemption in full of 809 Certificates shall be made on the basis of the order of issuance of certificates as determined by their respective dates and certificate numbers, provided that the board, in its discretion, may exclude from redemption any 809 Certificate, the holder of which requests the company in writing at least 20 days prior to the date the redemption is intended to be made, that the 809 Certificates of such holder not be redeemed at that time.

(3) At least 30 days prior to redeeming or making any payments of principal or interest on 809 Certificates, the company shall give written notice to the holders of all outstanding 809 Certificates of the date upon which such redemption or payment is intended to be made. The notice shall set forth a list of all such certificates indicating which, if any, are to be redeemed and, as to each such certificate, its identification number, date, holder's name and principal balance, and the amount of principal and interest intended to be paid on account of such certificate.] **Reserved.**

105.18. [Certification of information filed with the Department.

Information filed with the Department pursuant to the provisions of this chapter shall be certified as accurate by the president or vice president of the company, attested by the secretary, and given under the seal of such company.] **Reserved.**

§ 105.19. [Report of 809 Certificates in Annual Statement.

Every mutual insurance company subject to the provisions of this chapter shall list on Page 3 of the Annual Statement of such company the number and respective amounts of 809 Certificates outstanding, which amounts shall correlate with Question 3C on the Interrogatory Page of the Annual Statement.] **Reserved.**

§ 105.20. [Merger or consolidation.

As advances represented by 809 Certificates are not liabilities or claims against the company or any of its assets, any proposed merger or consolidation should make provision for the equitable disposition of such advances. Therefore, prior to giving approval of any total reinsurance and assumption agreement as provided by section 319(a) of the act (40 P. S. § 442(a)) or of any merger or consolidation agreement as provided by section 333(c) of the act (40 P. S. § 456(c)), the Department will consider what provision has been made for the equitable disposition of outstanding 809 Certificates.] **Reserved.**



COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT

SPECIAL PROJECTS OFFICE  
1326 Strawberry Square  
Harrisburg, PA 17120

Phone: (717) 787-4429  
Fax: (717) 772-1969  
E-Mail: psalvatore@state.pa.us

June 15, 2006

Mr. Kim Kaufman  
Executive Director  
Independent Regulatory Review Comm.  
333 Market Street  
Harrisburg, PA 17101

Re: Insurance Department Final- Omitted Regulation No. 11-233, Advances Made to Companies  
(Other Than Mutual Life)

Dear Mr. Kaufman:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final-omitted regulation 31 Pa. Code, Chapter 105, Advances Made to Companies (Other Than Mutual Life).

The purpose of this rulemaking is to delete §§ 105.1—105.20 to eliminate obsolete, unnecessary regulations. Chapter 105 was adopted November 25, 1968, under the authority of section 809 of the act (40 P.S. § 919). The chapter established form, content and reporting requirements for cash advances made to mutual insurance companies (other than mutual life companies). Section 809 was repealed by Act 216 of 2004, effective November 30, 2004. Act 216 included a new section 322.2 (40 P.S. § 445.2) relating to the issuance of surplus notes by all types of domestic insurers.

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

Sincerely yours,

A handwritten signature in blue ink that reads "Peter J. Salvatore".

Peter J. Salvatore  
Regulatory Coordinator

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

I.D. NUMBER: #11-233  
 SUBJECT: REPEAL: Advances Made to Companies (Other Than Mutual Life)  
 AGENCY: DEPARTMENT OF INSURANCE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- X 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

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 REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
6/15/06	<i>Shirley Eckhart</i>	HOUSE COMMITTEE ON INSURANCE
6/15/06	<i>[Signature]</i>	
6-15-06	<i>Amber Datta</i>	SENATE COMMITTEE ON BANKING & INSURANCE
6-15-06	<i>Cheryl Schell</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
6/15/06	<i>Kathryn Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
6-15-06	<i>M. Mummert</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)