

Regulatory Analysis Form

This space for use by IRRC

2008 OCT -6 AM 10: 28

INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Insurance Department

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

11-237

IRRC Number: 2686

(3) Short Title

Prohibited Phrases

(4) PA Code Cite

31 Pa. Code, Chapter 139, §§139.1-139.3

(5) Agency Contacts & Telephone Numbers

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

(6) Type of Rulemaking (check one)

- Final form Rulemaking
 Final Order Adopting Regulation
 Final Order, Final form 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 regulation was adopted to prohibit the use of the phrases "legal reserve", "old line reserve" or similar phrases to describe an insurer doing business in the Commonwealth and required that the phrases be eliminated from policies or other insurance forms.

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

The purpose of this rulemaking is to delete Chapter 139 (relating to prohibited phrases) to eliminate obsolete, unnecessary regulations. The provisions of this Chapter 139 adopted August 11, 1972, effective August 12, 1972, 2 Pa.B. 1516.

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(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?

The Insurance Department seeks to repeal Chapter 139 of Title 31 to be consistent with the authorizing statute. Moreover, it is in the public interest to delete obsolete regulatory requirements.

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

There are no public health, safety, environment or general welfare risks associated with this rulemaking.

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

Licensed insurance companies and the public will benefit from the regulation to the extent that obsolete regulatory requirements are eliminated.

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(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.)

There will be no adverse effects on any party as a result of the repeal of this regulation.

(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.)

The regulation applies to all insurance companies licensed to do business in the Commonwealth.

(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.

(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 regulation will not have any impact on costs associated with insurance companies or the public.

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(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 this rulemaking.

(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 associated to state government associated with this rulemaking.

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(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
SAVINGS:	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated Community	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Local Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
State Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Total Savings	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
COSTS:	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated Community	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Local Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
State Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Total Costs	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
REVENUE LOSSES:	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated Community	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Local Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
State Government	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Total Revenue Losses	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A

(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.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

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

No costs or adverse effects are anticipated as a result of this regulation.

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

Repealing Chapter 139 of Title 31 is the most efficient method to achieve consistency with the authorizing statute. No other alternatives were considered.

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

No other regulatory schemes were considered. The repeal of the regulation is the most efficient method of updating the regulatory requirements.

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(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.

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

The rulemaking will not put Pennsylvania at a competitive disadvantage with other states. It merely provides for consistency with the statute.

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

No.

(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.

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 regulation imposes no additional paperwork requirements on the Department, insurers, or the general public.

(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.

The rulemaking will have no effect on special needs of affected parties.

(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 rulemaking will take effect upon approval of the final form regulation 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.

Since this is a repeal no further review of the regulation has been scheduled.

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

INDEPENDENT REGULATORY
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

2686

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

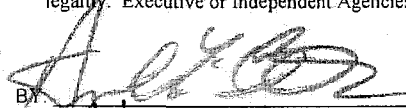
Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

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

By _____
(Deputy Attorney General)

Insurance Department

(AGENCY)

BY 
Andrew C. Clark

Date of Approval


DOCUMENT/FISCAL NOTE NO. 11-237

SEP 23 2008
DATE OF APPROVAL

DATE OF ADOPTION: _____

(DEPUTY GENERAL COUNSEL)
~~(CHIEF COUNSEL, INDEPENDENT AGENCY)~~
(STRIKE INAPPLICABLE TITLE)

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

BY: 
Joel Ario
Insurance Commissioner
TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

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

NOTICE OF FINAL FORM RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 139, §§139.1-139.3

Prohibited Phrases

PREAMBLE

The Insurance Department (Department) hereby amends Chapter 139 of Title 31 in the Pennsylvania Code, Prohibited Phrases, as set forth in Annex A.

Statutory Authority

The final form regulation is adopted 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 section 354 of The Insurance Company Law of 1921 (40 P.S. § 477b).

Comments and Response

Notice of proposed rulemaking was published at 38 Pa.B. 1960 (April 26, 2008) with a 30-day comment period. No comments were received during the 30-day comment period. During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department.

Affected Parties

The deletion of the regulation affects insurers doing the business of insurance in the Commonwealth.

Fiscal Impact

There is no fiscal impact as a result of the proposed rulemaking.

Paperwork

The proposed rulemaking will affect all licensed insurers domiciled in this Commonwealth, but no additional paperwork requirements will be imposed.

Effectiveness/Sunset Date

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. As this is a repeal, no sunset date has been assigned.

Contact person

Any questions regarding this regulation, should be directed to Peter J. Salvatore, Regulatory Coordinator, Bureau of Administration, 1326 Strawberry Square, Harrisburg, PA 17120, phone (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Regulatory review

Under section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), the agency submitted a copy of this regulation on April 16, 2008 to the Independent Regulatory Review Commission and to the Chairmen of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted regulation, the agency has provided the Commission 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 that material is available to the public upon request.

In preparing this final form regulation, the Department considered all comments received from IRRC, the Committees and the public. This final form regulation was (deemed) approved by the House and Senate Committees on _____. In accordance with section 5a(d) of the Regulatory Review Act (71 P.S. §745.5a(d)), IRRC met on _____ and (deemed) approved the regulation in accordance with section 5a(e) of the Regulatory Review Act (71 P.S. §745.5a(e)).

Findings

The Commissioner finds that:

- (1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No240) (45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 31 Pa. Code, are amended by adopting §§139.1-139.3 to read as set forth in Annex A.

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

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

(d) The regulation adopted by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

Joel Ario
Insurance Commissioner

Annex A

TITLE 31. INSURANCE. PART VIII. MISCELLANEOUS PROVISIONS. CHAPTER 139.
PROHIBITED PHRASES.

Sec.

Section

139.1.	[Purpose.] Reserved.
139.2.	[Prohibited phrases.] Reserved.
139.3.	[Effective date.] Reserved.

§ 139.1. [Purpose.]

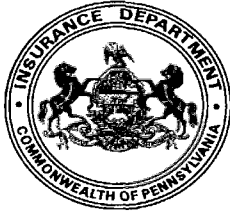
This chapter is not intended to prohibit a company from describing or referring to the specific reserves which it is required to maintain by law.] **Reserved.**

§ 139.2. [Prohibited phrases.]

The use of the phrases “legal reserve,” “old line reserve,” or a similar phrase as descriptive of an insurance company transacting business in this Commonwealth is prohibited.] **Reserved.**

§ 139.3. [Effective date.]

The phrases prohibited in § 139.2 (relating to prohibited phrases) shall be eliminated from policies or other insurance forms used by an insurance company transacting business in this Commonwealth upon the date of reprinting of a policy or form or by January 1, 1974, whichever date is sooner. This ruling shall affect a policy or insurance form reprinted subsequent to August 12, 1972.] **Reserved.**



COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT

BUREAU OF ADMINISTRATION
1326 Strawberry Square
Harrisburg, PA 17120

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

October 6, 2008

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

Re: Insurance Department Final Form Regulation No. 11-237, Chapter 139, Prohibited Phrases

Dear Senator White:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your review and approval is final form regulation 31 Pa. Code, Chapter 139, Prohibited Phrases.

The purpose of this rulemaking is to delete Chapter 139 (relating to prohibited phrases) to eliminate obsolete, unnecessary regulations. The regulation was adopted to prohibit the use of the phrases "legal reserve", "old line reserve" or similar phrases to describe an insurer doing business in the Commonwealth and required that the phrases be eliminated from policies or other insurance forms. Chapter 89a (relating to approval for life insurance, accident and health insurance and property and casualty insurance filing and form general filing provisions) gives the Department the authority to review all policies and forms filed with the Department. The Department has not encountered any problems or issues related to this regulation in any market conduct examination or enforcement action and believes the provisions of Chapter 139 are no longer necessary as they are standard practices for licensed insurance companies.

Comments were not received from the general public or the IRRC during their review.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

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

I.D. NUMBER: 11-237
 SUBJECT: PROHIBITED PHRASES
 AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- Proposed Regulation
- X 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

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 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/6/08	<i>[Signature]</i>	HOUSE COMMITTEE ON INSURANCE
10/6/08	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Rep ANTHONY DELOACH</u>
	<i>[Signature]</i>	SENATE COMMITTEE ON BANKING & INSURANCE
10/6/08	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>SEN DON WHITE</u>
10/6/08	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)