

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

Insurance Department

(2) Agency Number:

Identification Number: 11-245

IRRC Number: 2862

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(3) Short Title:

Property and Casualty Actuarial Opinion

(4) PA Code Cite:

31 Pa. Code, Chapter 118a

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

Peter J. Salvatore, Regulatory Coordinator

1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429

Secondary Contact:

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this rulemaking is to establish by regulation the requirements for statements of actuarial opinion and related documents filed by property and casualty insurers with the Department. Section

Regulatory Analysis Form

320(a)(1) of The Insurance Company Law of 1921 (40 P.S. § 443(a)(1)) requires insurers to file annual financial statements with the Department and such additional statements concerning their affairs and financial condition as the Insurance Commissioner (Commissioner) may, in the Commissioner's discretion, require. Section 320(a)(2)(40 P.S. § 443(a)(2)) further requires insurers to adhere to the instructions and accounting practices and procedures prescribed by the National Association of Insurance Commissioners (NAIC) unless otherwise provided by law, regulation or order of the Commissioner. Under this authority, the Commissioner requires property and casualty insurers to include statements of actuarial opinion with annual financial statements filed on or before the first day of March and domestic property and casualty insurers to file an actuarial opinion summary on or before the fifteenth day of March each year. If requested by the Department, domestic insurers must also submit the supporting actuarial report and workpapers on or before the first day of May each year. The Department reviews this information in conducting financial analyses and on-site financial examinations of domestic insurers. Specifically, Chapter 118a will clarify requirements for the filing of the actuarial opinion summary, which became effective for financial statements reporting an insurer's condition as year-end 2005. The actuarial opinion summary provides the Department with information needed to quickly identify insurers with potential reserving problems and then focus heightened solvency monitoring efforts on those insurers.

(9) Include a schedule for review of the regulation including:

- | | |
|---|-------------------|
| A. The date by which the agency must receive public comments: | <u>09/27/2010</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>NA</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>03/15/2010</u> |
| D. The expected effective date of the final-form regulation: | <u>03/15/2010</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>03/15/2010</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>NA</u> |

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

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

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SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) relating to the general rulemaking authority of the Department; sections 320 and 655 of The Insurance Company Law of 1921 (40 P.S. §§ 443 and 815) relating to the authority of the Insurance Commissioner to require insurance companies, associations, and exchanges to file statements concerning their affairs and financial condition; sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P.S. §§ 1600.205 and 1600.206) and section 731 of the Medical Care Availability and Reduction of Error (Mcare) Act (40 P.S. § 1303.731) relating respectively to the specific regulatory and rulemaking authority of the Department regarding financial reporting by the Pennsylvania Fair Plan and the Pennsylvania Professional Liability Joint Underwriting Association.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. However, because of the regulation's significance in efforts to prevent insolvencies, the NAIC Financial Regulation Standards and Accreditation Program includes substantially similar requirements for the establishment of insurance company liabilities and reserves. (See NAIC Property and Casualty Actuarial Opinion Model Law No. 745). The Department must continue to meet these standards to maintain its accreditation by the NAIC.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This rulemaking is needed to clarify and strengthen annual actuarial reporting requirements for property/casualty insurers. It will enhance the Department's ability to monitor insurers' reserves for purposes of assessing their ongoing ability to pay policyholder claims. Licensed property and casualty insurers and actuaries retained to review insurers' reserves will benefit to the extent the regulation clarifies existing filing requirements. The general public will benefit to the extent the regulation enhances compliance with regulatory and actuarial standards for the preparation of insurer financial statements and promotes the integrity and stability of the insurance market in this Commonwealth.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

N/A

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No adverse effects are anticipated as a result of this rulemaking.

(16) 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 rulemaking applies to property and casualty insurers licensed to do business in this Commonwealth. Actuaries who wish to conduct annual reviews of insurers' reserves must meet the qualification requirements of the regulation and perform the actuarial reviews as required by the regulation and related laws and standards. As of November 1, 2010, the regulation would apply to 1,095 licensed insurers, 194 of which were domestic insurers.

Regulatory Analysis Form

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The rulemaking should impose no additional costs on licensed insurers. It is based on existing financial and reporting requirements and is consistent with national standards adopted by all states participating in the NAIC Financial Regulation Standards and Accreditation Program.

(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. Explain how the dollar estimates were derived.

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. Explain how the dollar estimates were derived.

The regulation clarifies and strengthens existing requirements; there are no material costs or savings 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.

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

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

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

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The rulemaking benefits efforts to minimize insurance company insolvencies by updating and clarifying existing regulatory standards for the establishment of reserves for the payment of obligations under insurance policies. The rulemaking benefits the insurance industry and actuaries by clarifying regulatory standards, thereby assisting in their efforts to avoid noncompliance that could trigger regulatory intervention. There are no anticipated adverse effects or costs associated with the rulemaking.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

In 2006, the Department proposed a similar rulemaking at 36 Pa.B. 3271 (July 1, 2006). The Department considered comments from The Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies, the Reinsurance Association of America, and the Casualty Actuaries of the Mid-Atlantic Region in the development of that rulemaking. In response to comments on the proposed rulemaking relating to the statutory and legal foundations for the confidentiality of work product supporting the statement of actuarial opinion, the Department withdrew the initial rulemaking, pending enactment of a legislative initiative to address those concerns. See Section 1 of Act 14 of 2010 (SB 237) amending section 320 of the act of May 17, 1921 (P.L.682, No.284) (40 P.S. § 443). The current rulemaking includes updates consistent with the Department's strengthened statutory authority and other clarifications in response to comments submitted by the Independent Regulation Review Commission (IRRC) on the initial rulemaking published at 36 Pa.B. 5839 (September 16, 2006). In addition, the regulatory process provided for a 30-day public comment period subsequent to publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No other regulatory schemes were considered. The rulemaking is the most efficient means to establish clearly defined requirements for statements of actuarial opinion, actuarial opinion summaries and related documents filed by insurers with the Department. Establishing these requirements by regulation for property and casualty insurers is consistent with the approach used to establish similar requirements for actuarial review of the reserves of life and health insurers under 31 Pa. Code, Chapter 84b (relating to actuarial opinion and memorandum). The rulemaking will clarify and update regulatory requirements consistent with standards promulgated by the NAIC.

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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 regulations.

No.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The rulemaking is substantially similar to standards developed by the NAIC. 50 states and the District of Columbia are currently accredited by the NAIC as having substantially similar requirements.

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

No.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The rulemaking reflects but does not change current reporting requirements established under the Department's statutory authority.

(28) 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 includes provisions developed to meet the particular needs of smaller domestic insurers. Specifically, the rulemaking provides a process for the Department's approval of an individual as a qualified actuary who is not a member of the Casualty Actuarial Society or the American Academy of Actuaries. If warranted, this mechanism will be used to avoid unnecessary costs of compliance with the regulation. Factors to be considered include, among other things, the nature, type and volume of business conducted by a domestic insurer.

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

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

By _____
(Deputy Attorney General)

Date of Approval

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

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

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-245

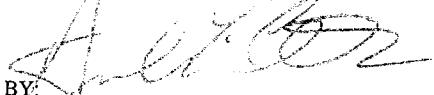
DATE OF ADOPTION: _____

BY: 

Robert L Pratter
Acting Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

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

BY: 

Andrew C. Cbrk

NOV - 8 2010

DATE OF APPROVAL

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

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

NOTICE OF FINAL FORM RULEMAKING

INSURANCE DEPARTMENT

PROPERTY AND CASUALTY ACTUARIAL OPINION

31 Pa. Code, Chapter 118a

§§ 118a.1—118a.7

PREAMBLE

The Insurance Department (Department) adopts Chapter 118a (relating to property and casualty actuarial opinion) to read as set forth in Annex A.

Statutory Authority

The final-form rulemaking is adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) relating to the general rulemaking authority of the Department; sections 320 and 655 of The Insurance Company Law of 1921 (40 P.S. §§ 443 and 815) relating to the authority of the Insurance Commissioner to require insurance companies, associations, and exchanges to file statements concerning their affairs and financial condition; sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P.S. §§ 1600.205 and 1600.206) and section 731 of the Medical Care Availability and Reduction of Error (Mcare) Act (40 P.S. § 1303.731) relating respectively to the specific regulatory and rulemaking authority of the Department regarding financial reporting by the Pennsylvania Fair Plan and the Pennsylvania Professional Liability Joint Underwriting Association.

Purpose

The purpose of this rulemaking is to establish by regulation the requirements for statements of actuarial opinion and related documents filed by property and casualty insurers with the Department. Establishing these requirements by regulation for property and casualty insurers is consistent with the approach used to establish similar requirements for actuarial review of the reserves of life and health insurers under 31 Pa. Code, Chapter 84b (relating to actuarial opinion and memorandum). Section 320(a)(1) of The Insurance Company Law of 1921 (40 P.S. § 443(a)(1)) requires insurers to file annual financial statements with the Department and such additional statements concerning their affairs and financial condition as the Insurance Commissioner (Commissioner) may, in the Commissioner's discretion, require. Section 320(a)(2) of The Insurance Company Law of 1921 (40 P.S. § 443(a)(2)) further requires insurers to adhere to the instructions and accounting practices and procedures prescribed by the National Association of Insurance Commissioners (NAIC) unless otherwise provided by law, regulation or order of the Commissioner. Under this authority, the Commissioner requires property and casualty insurers to include statements of actuarial opinion with annual financial statements filed on or before the first day of March and domestic property and casualty insurers to file an actuarial opinion summary on or before the fifteenth day of March each year. These filings must be prepared as prescribed by the NAIC's annual statement instructions and include the actuary's opinion with respect to the proper establishment and adequacy of the insurer's reserves. If requested by the Department, domestic insurers must also submit the supporting actuarial report and workpapers on or before the first day of May each year. The Department reviews this information in conducting financial analyses and on-site financial examinations of domestic insurers.

Specifically, Chapter 118a will clarify requirements for the filing of the actuarial opinion summary, which became effective for financial statements reporting an insurer's condition as year-end 2005. The actuarial opinion summary provides the Department with information

needed to quickly identify insurers with potential reserving problems and then focus heightened solvency monitoring efforts on those insurers. Therefore, Chapter 118a will strengthen the Department's financial regulation tools to the extent it clarifies and supplements the Department's statutory authority and related NAIC instructions for actuarial opinions and related documents filed by property and casualty insurers doing business in this Commonwealth.

Comments and Response

Notice of proposed rulemaking was published at 40 Pa.B. 4966 (August 28, 2010) with a 30-day comment period. Comments supporting the rulemaking and recommending prompt promulgation were received from The Insurance Federation of Pennsylvania, Inc. during the 30-day comment period. The Independent Regulatory Review Commission (IRRC) reviewed the proposed regulation and had no objections, comments or recommendations.

Affected Parties

The chapter applies to insurers licensed to write property and casualty insurance in this Commonwealth, as provided under the scope and definitions of the authorizing statutes.

Fiscal Impact

State Government

The regulation will clarify and strengthen existing requirements. Department costs in monitoring the financial condition of insurers will not increase as a result of this rulemaking.

General Public

The public will benefit to the extent the rulemaking strengthens financial solvency requirements for property and casualty insurers, thereby promoting the ability of those insurers to meet obligations under insurance policies and the Department's ability to minimize the number and impact of insurer insolvencies.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The strengthened filing requirements in this rulemaking are consistent with NAIC standards that became effective for annual financial statements as of year-end 2005. The information needed for the actuarial opinion summary due March 15 should be known to the insurer's appointed actuary when preparing the statement of actuarial opinion due March 1. Therefore, the rulemaking should impose no significant additional costs on insurers in obtaining annual actuarial reviews and required supporting documentation.

Paperwork

The rulemaking will not impose significant additional paperwork on the Department. Since the information required in the actuarial opinion summary should be included in the work done by actuaries in preparing actuarial reports and workpapers for statements of actuarial opinion already required to be filed with insurers' annual financial statements, any additional paperwork requirements for affected insurers will be minimal.

Effectiveness/Sunset Date

The rulemaking will become effective upon publication in final form in the *Pennsylvania Bulletin*. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Any questions regarding the final-form rulemaking should be directed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. 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 these final-form regulations on November 9, 2010 to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee (Committees). In addition to the submitted regulations, the agency 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 that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulations were (deemed) approved by the Committees on _____. Under section 5(g) of the Regulatory Review Act the final-form regulations were deemed approved, effective _____.

Findings

The Insurance Commissioner finds that:

1. Public notice of intention to adopt these final-form regulations was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notices of proposed rulemaking required; and adoption of regulations).

2. The adoption of this final-form 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 adding Chapter 118a to read as set forth in Annex A.
- b. The Department 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 Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- d. The final-form regulations adopted by this order take effect immediately upon publication in the *Pennsylvania Bulletin*.

Robert L Pratter
Acting Insurance Commissioner

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

ANNEX A

TITLE 31. INSURANCE, PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE.
CHAPTER 118a. PROPERTY AND CASUALTY ACTUARIAL OPINION.

Sec.

118a.1.	Purpose.
118a.2.	Definitions.
118a.3.	Statement of Actuarial Opinion and supporting documentation.
118a.4.	General requirements for domestic insurers.
118a.5.	Confidentiality.
118a.6.	Exemptions.
118a.7.	Penalties.

§ 118a.1. Purpose.

This chapter sets forth requirements relating to statements of actuarial opinion and related documents filed under section 320 of The Insurance Company Law of 1921 (40 P.S. § 443) with the Commissioner by insurers licensed to transact property or casualty insurance, or both, in this Commonwealth.

§ 118a.2. Definitions.

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

Appointed Actuary—A qualified actuary appointed by an insurer in accordance with the property and casualty annual statement instructions relating to actuarial opinions prescribed by the NAIC.

Commissioner—The Insurance Commissioner of the Commonwealth.

Department—The Insurance Department of the Commonwealth.

Domestic insurer—An insurer incorporated or organized under the laws of the Commonwealth.

Insurer—The term includes the following entities licensed to transact property or casualty insurance, or both in this Commonwealth:

(i) An insurance company, association or exchange.

(ii) A reciprocal or interinsurance exchange.

(iii) An employers' mutual liability insurance association.

(iv) The Industry Placement Facility under The Pennsylvania Fair Plan Act (40 P.S. §§ 1600.101-1600.502).

(v) The Pennsylvania Professional Liability Joint Underwriting Association under section 731 of the Medical Care Availability and Reduction of Error (Mcare) Act (40 P.S. § 1303.731).

Foreign insurer—An insurer not incorporated or organized under the laws of the Commonwealth.

NAIC—The National Association of Insurance Commissioners, or successor organization.

Qualified Actuary—an individual who meets the following requirements:

(i) Is one or more of the following:

(A) A member in good standing of the Casualty Actuarial Society.

(B) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

(C) Approved by the Commissioner as otherwise having demonstrated competency in loss reserve evaluation for property or casualty insurance, or both, to

the Commissioner's satisfaction under § 118a.4 (a) (relating to general requirements for domestic insurers).

(ii) Has not been found by the Commissioner, following appropriate notice and hearing, to have done one or more of the following:

(A) Violated any provision of, or any obligation imposed by, this chapter or other laws or regulations in the course of the individual's dealings as a qualified actuary.

(B) Been found guilty of fraudulent or dishonest practices.

(C) Demonstrated incompetence, lack of cooperation or untrustworthiness to act as a qualified actuary.

(D) Prepared a Statement of Actuarial Opinion or Actuarial Opinion Summary that was submitted to the Commissioner during the past 5 years and rejected for failure to adhere to provisions of this chapter, including acceptable actuarial standards.

(E) Resigned or been removed as an actuary within the past 5 years as a result of acts or omissions identified in a report by the Department or other regulatory or law enforcement official of this Commonwealth or other jurisdiction pursuant to an investigation or examination, or as a result of failure to adhere to generally acceptable actuarial standards.

(iii) Has not failed to notify the Department of any action taken against the individual by a regulatory or law enforcement official of this Commonwealth or other jurisdiction relating to activities similar to those described in subparagraph (ii) of this definition.

§ 118a.3. Statement of Actuarial Opinion and supporting documentation.

(a) Statement of Actuarial Opinion. Unless exempted under § 118a.6 (relating to exemptions), an insurer shall annually file with the Department an opinion of an appointed actuary entitled “Statement of Actuarial Opinion.” Under section 320 of The Insurance Company Law of 1921 (40 P.S. § 443), the Statement of Actuarial Opinion shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the first day of March.

(b) Actuarial Opinion Summary. A domestic insurer required to file a Statement of Actuarial Opinion under subsection (a) shall annually file with the Department a document entitled “Actuarial Opinion Summary” written by the insurer’s appointed actuary and supporting the Statement of Actuarial Opinion. The Actuarial Opinion Summary shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the 15th day of March. The Department may require a foreign insurer to file an Actuarial Opinion Summary by providing 60 days’ advance notice to the insurer.

(c) Actuarial Report and Workpapers. An actuarial report and underlying workpapers shall be prepared and maintained to support a Statement of Actuarial Opinion as required by the property and casualty annual statement instructions prescribed by the NAIC and provided to the Department upon request.

§ 118a.4. General requirements for domestic insurers.

(a) The following requirements apply to a request by a domestic insurer for the Commissioner’s approval of an individual under subparagraph (i)(C) of the definition of “qualified actuary” in § 118a.2 (relating to definitions):

(1) The domestic insurer shall file the request with the Department at least 90 days prior to the filing of the domestic insurer's annual financial statement.

(2) Requests filed under paragraph (1) must contain the following:

(i) A properly completed biographical affidavit in the form adopted by the NAIC. The NAIC biographical affidavit form is available on the Department's web site at www.insurance.pa.gov or upon request from the Department.

(ii) A list of the loss reserve opinions for property or casualty insurance, or both, issued by the individual in the past 3 years.

(iii) Other information that the Commissioner in the Commissioner's discretion may require to determine the individual's qualifications. The Department will provide the domestic insurer with a written request for the information, describing the type of information required and why the information is needed.

(b) The appointed actuary shall annually provide the domestic insurer's board of directors with the Statement of Actuarial Opinion and Actuary Opinion Summary, and the receipt of these documents shall be recorded in the meeting minutes of the board of directors.

(c) If an actuary who was the appointed actuary for the immediately preceding filed Statement of Actuarial Opinion is replaced by an action of the domestic insurer's board of directors, the domestic insurer shall:

(1) Notify the Department in writing within 5 business days of the board's action.

(2) Provide the Department with a separate written notice within 10 business days of providing notice under paragraph (1) stating whether, in the 24 months preceding the appointed actuary's replacement, there were any disagreements with the former appointed actuary relating to the content of the Statement of Actuarial Opinion, Actuarial Opinion

Summary, actuarial report or underlying workpapers on matters of the risk of material adverse deviation, required disclosures, scope, procedure, or data quality. The disagreements required to be reported include both those resolved to the former appointed actuary's satisfaction and those not resolved to the former appointed actuary's satisfaction. The notice shall include a written letter addressed to the domestic insurer by the former appointed actuary stating whether the appointed actuary agrees with the statements in the domestic insurer's notice and, if not, stating the reasons why the appointed actuary does not agree.

(d) The domestic insurer shall require its appointed actuary to notify the domestic insurer's board of directors or audit committee in writing within 5 business days after a determination by the appointed actuary that the Statement of Actuarial Opinion or Actuarial Opinion Summary filed with the Department was in error if:

(1) The error is as a result of reliance on data or other information (other than assumptions) that, as of the balance sheet date, were factually incorrect.

(2) The determination is made between the date the Statement of Actuarial Opinion is issued and the balance sheet date for which the next Statement of Actuarial Opinion will be issued.

(3) The Statement of Actuarial Opinion or Actuarial Opinion Summary would not have been issued or would have been materially altered had the correct data or other information been used; except that the Statement of Actuarial Opinion or Actuarial Opinion Summary shall not be considered to be in error if it would not have been issued or would have been materially altered solely because of data or information concerning events subsequent to the balance sheet date or because actual results differ from those projected.

(e) Notification provided by an appointed actuary to a domestic insurer under subsection (d) must include a summary of the appointed actuary's findings and an amended Statement of Actuarial Opinion and Actuarial Opinion Summary. The domestic insurer shall forward a copy of the summary and amended Statement of Actuarial Opinion and Actuarial Opinion Summary to the Commissioner within 5 business days of receipt and shall provide the appointed actuary with a copy of the information forwarded to the Commissioner. If the appointed actuary does not receive a copy of the information forwarded to the Commissioner within the 5 business day period, the appointed actuary shall provide the Commissioner with the information within the next 5 business days, including a statement whether the Department should rely upon the Statement of Actuarial Opinion or Actuarial Opinion Summary filed under this chapter.

(f) If an appointed actuary learns that data or other information relied upon in rendering a Statement of Actuarial Opinion or Actuarial Opinion Summary under this chapter were factually incorrect, but the appointed actuary cannot immediately determine what, if any, changes are needed in the Statement of Actuarial Opinion or Actuarial Opinion Summary, the appointed actuary and the domestic insurer shall take the actions necessary for the appointed actuary to make the determination. If the domestic insurer does not provide the necessary data corrections and other support (including financial support) within 10 business days, the appointed actuary should provide the Commissioner with notice of the situation within the next 5 business days.

§ 118a.5. Confidentiality.

(a) The Statement of Actuarial Opinion shall be filed with an insurer's annual statement in accordance with the property and casualty annual statement instructions prescribed by the NAIC and shall be treated as a public document.

(b) The documents, materials or other information prepared or provided by an insurance company, association or exchange solely in support of the Statement of Actuarial Opinion filed under this chapter, including actuarial reports, workpapers or actuarial opinion summaries and any other material solely prepared by the insurance company, association or exchange for the purpose of providing it to the Department in connection with actuarial reports, workpapers or actuarial opinion summaries are treated as confidential and privileged as provided under section 320 of The Insurance Company Law of 1921 (40 P.S. § 443).

(c) The Commissioner may share confidential information received under this chapter with regulatory or law enforcement officials of this Commonwealth or other jurisdictions and the NAIC under sections 201-A and 202-A of The Insurance Department Act of 1921 (40 P.S. §§ 65.1-A and 65.2-A) and section 320 of The Insurance Company Law of 1921 (40 P.S. § 443), including the release of documents to the Actuarial Board for Counseling and Discipline (ABCD) if the material is required for the purpose of professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents. A waiver of any applicable privilege or claim of confidentiality in the documents, materials or information will not occur as a result of sharing information under this subsection.

§ 118a.6. Exemptions.

(a) A domestic insurer may annually submit a written request to the Commissioner for approval of an exemption from the requirement to file a Statement of Actuarial Opinion in the manner set forth by the property and casualty annual statement instructions prescribed by the NAIC.

(b) A foreign insurer exempted from filing a Statement of Actuarial Opinion by the chief insurance regulatory official in its domiciliary jurisdiction is exempt from filing a Statement of Actuarial Opinion under this chapter if the foreign insurer files a copy of the approved exemption with the Commissioner in accordance with the property and casualty annual statement instructions prescribed by the NAIC.

§ 118a.7. Penalties.

Failure to file the Statement of Actuarial Opinion, Actuarial Opinion Summary and additional statements, letters, workpapers or reports required under this chapter will subject the insurer to the penalties provided by law.

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

<i>Reg #</i>	<i>Regulation Title</i>				
<i>11-245</i>	<i>Property and Casualty Actuarial Opinion</i>				
<i>Mr. Samuel R. Marshall</i>		<i>Date Received</i>	<i>9/24/2010</i>	<i>Date Sent To Cmtes/IRRC</i>	<i>9/27/2010</i>
<i>President</i>					
<i>Insurance Federation of Pennsylvania, Inc.</i>					
<i>1600 Market St.</i>					
<i>Philadelphia, PA 19103</i>					
<i>Phone (215) 665-0505 X00000</i>					
			<i>Letter Co-Author</i>		
			<i>EMail</i>	<i>sammy1@ifpenn.org</i>	



November 9, 2010

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

Re: Insurance Department Final Regulation No. 11-245, Property and Casualty Actuarial Opinion

Dear Mr. Kaufman:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final regulation 31 Pa. Code, Chapter 118a, Property and Casualty Actuarial Opinion.

The purpose of this rulemaking is to establish by regulation the requirements for statements of actuarial opinion and related documents filed by property and casualty insurers with the Department.

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

Sincerely yours,

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

Peter J. Salvatore
Regulatory Coordinator

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

I.D. NUMBER: 11-245
 SUBJECT: PROPERTY AND CASUALTY ACTUARIAL OPINION
 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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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11-9-10	<i>Bonnie G. Brackbill</i>	HOUSE COMMITTEE ON INSURANCE
11-9-10	<i>Linda Hoff</i>	MAJORITY CHAIRMAN <u>REP. ANTHONY DELUCA</u>
11-9-10	<i>[Signature]</i>	SENATE COMMITTEE ON BANKING & INSURANCE
11-9-10	<i>Macki Powers</i>	MAJORITY CHAIRMAN <u>SEN. DONALD C. WHITE</u>
11/9/10	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU