

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

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IRRC

(1) Agency:
Insurance Department

(2) Agency Number:
Identification Number: **11-250**

IRRC Number: **2971**

(3) PA Code Cite:

31 Pa. Code, Chapter 163, §163.1

(4) Short Title:
Requirements for Funds Held as Security for the Payment of Obligations of Unlicensed, Unqualified Reinsurers

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

Primary Contact:

Peter J. Salvatore, Regulatory Coordinator
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429
psalvatore@pa.gov

Secondary Contact:

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

- | | |
|--|--|
| <input type="checkbox"/> Proposed Regulation | <input type="checkbox"/> Emergency Certification Regulation; |
| <input checked="" type="checkbox"/> Final Regulation | <input type="checkbox"/> Certification by the Governor |
| <input type="checkbox"/> Final Omitted Regulation | <input type="checkbox"/> Certification by the Attorney General |

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

The purpose of this proposed rulemaking is to update Chapter 163 in accordance with amendments made to 40 P.S. § 442.1 by Act 2012 -136 (S.B. 1464), P.L. ___, approved July 5, 2012("Act 136"), which grants the Insurance Commissioner the authority to "certify" reinsurers so that ceding insurers may receive credit for reinsurance ceded to duly certified reinsurers. These amendments are proposed in conjunction with amendments to Chapter 161 (relating to Requirements for Qualified Reinsurers). Specifically, Chapter 163 is proposed to be amended to clarify that the requirements of Chapter 163 do not apply to assuming reinsurers that have been duly certified by the Commissioner as permitted by the amendments of Act 136.

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

The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) relating to the general rulemaking authority of the Department and sections 319--319.2 of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921 (40 P. S. §§ 442--442.2).

(9) 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, these proposed regulations are part of the financial regulation standards the Department must meet in order to maintain its accreditation by the NAIC. Thus, if a jurisdiction opts to certify reinsurers, as Pennsylvania has done with the enactment of Act 136, the standards by which it does so must be substantially similar to NAIC requirements in order for the jurisdiction to maintain NAIC accreditation.

(10) 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 update Chapter 163 in accordance with amendments made to 40 P.S. § 442.1 by Act 136, which grants the Insurance Commissioner the authority to "certify" reinsurers so that ceding insurers may receive credit for reinsurance ceded to duly certified reinsurers. The general public will benefit to the extent that allowing reduced collateral for reinsurers that are financially solvent and licensed in well-regulated jurisdiction will reduce the cost of reinsurance to ceding insurers in the Commonwealth and reduce trade barriers allowing for more competition in the reinsurance marketplace.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data was not used as a basis for this regulation.

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

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

(13) 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.

This proposed rulemaking would apply to all insurance companies domesticated in the Commonwealth and the reinsurers with whom they do business. There are approximately 270 Pennsylvania domiciled licensed companies.

(14) 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 amended requirements in Chapter 163 will impose no significant costs upon the regulated community on the transaction of business in this Commonwealth. However, the amended requirements will allow for reduced collateral for reinsurers that are financially solvent and licensed in well-regulated jurisdiction. This reduced collateral will reduce the cost of reinsurance to ceding insurers in the Commonwealth and reduce trade barriers allowing for more competition in the reinsurance marketplace.

(15) 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.

(16) 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.

There are no costs or savings to state government associated with this rulemaking

(17) 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						

(17a) Provide the past three year expenditure history for programs affected by the regulation.

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

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

As noted above, these proposed regulations are part of the financial regulation standards the Department must meet in order to maintain its accreditation by the NAIC. Thus, if a jurisdiction opts to certify reinsurers, as Pennsylvania has done with the enactment of Act 136, the standards by which it does so must be substantially similar to NAIC requirements in order for the jurisdiction to maintain NAIC accreditation.

(19) 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.

The Department circulated pre-exposure drafts of the regulations to the Insurance Federation of Pennsylvania, Inc. and the Pennsylvania Association of Mutual Insurance Companies.

(20) 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 updates Chapter 163 in accordance with the recent amendments to the reinsurance credits law.

(21) 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.

There are no provisions in the regulation which are more stringent than federal standards.

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

The rulemaking has no impact on Pennsylvania's ability to compete with other states. The rulemaking is based upon an NAIC model, the requirements of which are necessary to maintain accredited regulator status. As such, other jurisdictions who elect to "certify" reinsurers must implement substantially regulatory similar requirements. However, if Pennsylvania does not enact standards to certify reinsurers, it may be at a disadvantage to other states that do allow certification.

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

Other than the changes to Chapter 161 submitted concurrently with these changes, this regulation will not affect regulations of the Insurance Department or other state agencies.

(24) 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.

No additional procedures, reporting, recordkeeping or other paperwork will be required.

(25) 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.

This regulation does not include any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses or farmers. Nor were any special provisions required.

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

- | | |
|---|-------------------------|
| A. The date by which the agency must receive public comments: | <u>October 8, 2012</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>January 29, 2013</u> |
| D. The expected effective date of the final-form regulation: | <u>May 1, 2013</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>May 1, 2013</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>NA</u> |

(27) 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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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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. 11-250

DATE OF ADOPTION: _____

BY: Michael Considine
Michael F. Considine
Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

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

BY: Shawn E. Smith
SHAWN E. SMITH

FEB 11 2013

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 RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 163, §§ 163.1

REQUIREMENTS FOR FUNDS HELD AS SECURITY FOR THE PAYMENT OF
OBLIGATIONS OF UNLICENSED, UNQUALIFIED REINSURERS

Preamble

The Insurance Department (Department) amends Chapter 163 of the Department's regulations (31 Pa. Code Ch. 163) (relating to requirements for funds held as security for the payment of obligations of unlicensed, unqualified reinsurers) to read as set forth in Annex A 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 and sections 319--319.2 of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921 (40 P. S. §§ 442--442.2).

Purpose

The purpose of this final-form rulemaking is to update Chapter 163 in accordance with amendments made to 40 P.S. § 442.1 by Act 2012 -136 (S.B.1464), P.L.1111, approved July 5, 2012, which grants the Insurance Commissioner the authority to "certify" reinsurers so that ceding insurers may receive credit for reinsurance ceded to duly certified reinsurers. These amendments were proposed in conjunction with amendments to Chapter 161 (relating to requirements for qualified reinsurers). Specifically, Chapter 163 is amended to clarify that the requirements of Chapter 163 do not apply to assuming reinsurers that have been duly certified by the Commissioner as permitted by the amendments of Act 2012-136.

Comments and Response

Notice of proposed rulemaking was published on September 1, 2012, in the Pennsylvania Bulletin at 42 Pa.B. 5628 with a 30-day comment period. Comments were received from the Insurance Federation of Pennsylvania and Ace Group expressing support for the regulation. On October 31, 2012, the Independent Regulatory Review Commission (IRRC) indicated that it did not have any comments objections, comments, or recommendations regarding on this regulation.

Affected Parties

This final-form rulemaking will apply to insurance companies domesticated in this Commonwealth and the reinsurers with whom they do business.

Fiscal Impact

State government. The final-form rulemaking will strengthen and clarify existing regulatory requirements. There will not be material increase in cost to the Department as a result of this final-form rulemaking.

General public. While Chapter 163 does not have immediate fiscal impact on the general public, the general public will benefit to the extent that allowing reduced collateral for reinsurers that are financially solvent and licensed in well-regulated jurisdictions will reduce the cost of reinsurance to ceding insurers in this Commonwealth and reduce trade barriers allowing for more competition in the reinsurance marketplace.

Political subdivisions. This final-form rulemaking will not impose additional costs on political subdivisions.

Private sector. This final-form rulemaking will not impose significant costs on the transaction of business in this Commonwealth.

Effectiveness/Sunset Date

This final-form rulemaking will become effective 30 days after final-form publication in the *Pennsylvania Bulletin*. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, a sunset date has not been assigned.

Contact Person

Questions regarding this final-form rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 705-3873, psalvatore@pa.gov.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 22, 2012, the Department submitted a copy of the notice of proposed rulemaking, published at 42 Pa.B. 5628, to IRRC and the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on _____, _____, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

Findings

The Commissioner finds that:

(1) Public notice of intention to adopt this 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.

(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 Chapter 163, are amended 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 regulation adopted by this order shall take effect 30 days following publication in the Pennsylvania Bulletin.

Michael F. Considine
Insurance Commissioner

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 163. REQUIREMENTS FOR FUNDS HELD AS SECURITY FOR THE
PAYMENT OF OBLIGATIONS OF UNLICENSED, UNQUALIFIED REINSURERS

Sec.

163.1. Definitions.

§ 163.1. Definitions.

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

* * * * *

Unlicensed, unqualified reinsurer—An assuming insurer which is neither:

- (i) Licensed by the Department to transact insurance business in this Commonwealth.
- (ii) Included on a list of qualified **or certified** reinsurers published and periodically reviewed by the Commissioner under section 319.1(a) of the act (40 P. S. § 442.1(a)).

The Final Form Regulation listed below has been sent to the following:

Reg #	Regulation Title	Date Sent	3/7/2013
11-250	Requirements for funds held as security for the payment of obligations of unlicensed, unq		
<hr/>			
Mr. E. Blaine Stanley			
Vice President and General Counsel			
ACE Group			
Routing WAO4P			
Philadelphia, PA 19106		Letter Co-Author	
Phone	(215) 640-5291 X00000	Email	blaine.stanley@acegroup.com
<hr/>			
Mr. Samuel R. Marshall			
President			
Insurance Federation of Pennsylvania, Inc.			
1600 Market St.			
Philadelphia, PA 19103		Letter Co-Author	
Phone	(215) 665-0505 X00000	Email	sammy1@ifpenn.org



March 7, 2013

Mr. David Sumner
Executive Director
Independent Regulatory Review Comm.
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Insurance Department Final Regulation No. 11-250, Requirements for Funds Held as Security for the Payment of Obligations of Unlicensed, Unqualified Reinsurers

Dear Mr. Sumner:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final regulation 31 Pa. Code, Chapter 163, Requirements for Funds Held as Security for the Payment of Obligations of Unlicensed, Unqualified Reinsurers.

The purpose of this final-form rulemaking is to update Chapter 163 in accordance with amendments made to 40 P.S. § 442.1 by Act 2012 -136 (S.B.1464), P.L.1111, approved July 5, 2012, which grants the Insurance Commissioner the authority to "certify" reinsurers so that ceding insurers may receive credit for reinsurance ceded to duly certified reinsurers.

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

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

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

I.D. NUMBER: 11-250
 SUBJECT: REQUIREMENTS FOR FUNDS HELD AS SECURITY FOR THE PAYMENT OF OBLIGATIONS OF UNLICENSED, UNQUALIFIED REINSURERS
 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
03-07-13	<i>[Signature]</i>	HOUSE COMMITTEE ON INSURANCE
3-7-13	<i>Shirley Eubank</i>	MAJORITY CHAIRMAN <u>REP. NICHOLAS MICOZZIE</u>
3-7-13	<i>Cheryl Schiel</i>	SENATE COMMITTEE ON BANKING & INSURANCE
3-7-13	<i>Colleen Kennedy</i>	MAJORITY CHAIRMAN <u>SEN. DONALD C. WHITE</u>
3/7/13	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)