

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 3]

Allocation of Joint Expenses

The Insurance Department (Department) proposes to delete Chapter 3 (relating to allocation of joint expenses) 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); the act of May 9, 1949 (P. L. 1025, No. 298) (act) (40 P. S. §§ 1261—1264); and section 320 of The Insurance Company Law of 1921 (40 P. S. § 443). The regulations apply to property and casualty insurers, the State Workmen's Insurance Fund and title insurers. The regulations prescribe accounting rules for allocation of joint expenses in financial statements.

Purpose

The purpose of this rulemaking is to delete Chapter 3 to eliminate obsolete, unnecessary regulations. The regulations were initially adopted October 21, 1949, and last amended July 7, 1970, under the authority of the act. Specifically, sections 1 and 2 of the act (40 P. S. §§ 1261 and 1262) require property and casualty insurers, the State Workmen's Insurance Fund and title insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner (Commissioner) and, in addition, to file reports in a form determined by the Commissioner. The regulations were adopted to prescribe uniform accounting rules for the allocation of joint expenses in financial reports filed with the Commissioner. Joint expenses are expenses shared among members of a group of entities.

Section 320(a) of The Insurance Company Law of 1921 requires insurers to file annual financial statements and, as amended by the act of December 18, 1992 (P. L. 792, No. 176) states, in pertinent part:

(a)(1) Every stock and mutual insurance company, association, and exchange, doing business in this Commonwealth, shall annually, on or before the first day of March, file in the office of the Insurance Commissioner and with the National Association of Insurance Commissioners a statement which shall exhibit its financial condition on the thirty-first day of December of the previous year . . . The Insurance Commissioner shall require each insurance company, association and exchange to report its financial condition on the statement convention blanks, in such form as adopted by the National Association of Insurance Commissioners . . . and may make such changes, from time to time, in the form of the same as shall seem best adapted to elicit from them a true exhibit of their financial condition.

(2) Unless otherwise provided by law, regulation or order of the Insurance Commissioner, each insurance company, association and exchange shall adhere to the annual or quarterly statement instructions and the accounting practices and procedures manuals prescribed by the National Association of Insurance Commissioners . . .

Under the authority of the act and section 320 of The Insurance Company Law of 1921, the Insurance Commissioner has determined that the annual statement instructions and the accounting practices and procedures manual

(manual) prescribed by the National Association of Insurance Commissioners (NAIC)¹, sufficiently address the allocation of joint expenses. Specifically, Statement of Statutory Accounting Principles No. 70 in the manual establishes statutory accounting principles for the apportionment of shared expenses and refers to the applicable annual statement instructions. The regulations in no manner enhance the NAIC instructions and manual. In addition, §§ 3.4(a) and 3.6 (relating to records required; and other applicable instructions) refer to requirements in Chapter 9 that have been deleted effective August 8, 1998. Therefore, the regulations are outdated and are no longer needed.

Affected Parties

The deletion of the regulations affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

Fiscal Impact

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

Paperwork

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

Effectiveness/Sunset Date

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

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvato@ins.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)), on September 21, 2000, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting this proposed rulemaking, the Department 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 this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory

¹ In 1998, the NAIC revised its model regulation to make it consistent with the NAIC's codified manual that will be effective January 1, 2001. Insurers subject to these regulations have been advised by Insurance Department Notices Nos. 1998-04 and 2000-02 that they will be required to adhere to the manual in preparing financial statements to be filed with the Department.

Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-201. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART I. GENERAL PROVISIONS

Subpart A. UNIFORM CLASSIFICATION OF EXPENSES

CHAPTER 3. ALLOCATION OF JOINT EXPENSES

§ 3.1. [Definitions] (Reserved).

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

Overhead on salaries—When used as a basis of allocation, the term indicates that the allocation of expenses shall follow the percentages of the applicable salaries allocation.

Premiums—When used as a basis of allocation, the term indicates that the allocation of expenses shall follow the percentages of applicable premiums.

Special studies—When used as a basis of allocation, the term indicates that expenses shall be analyzed and bases of allocation applied as dictated by that analysis.]

§ 3.2. [Basis of allocation] (Reserved).

[Joint expenses, as described in § 1.1 (Reserved), shall be allocated to companies as follows:

<i>Expenses To Be Allocated To Companies</i>	<i>Bases Of Allocation To Companies</i>
Advertising	Premiums
Boards, bureaus, and associations	Special studies
Surveys and underwriting reports	Special studies
Audit of assureds' records	Special studies
Salaries	See §§ 9.1 and 9.2 (Reserved)
Employe relations and welfare	Overhead on salaries
Pensions	Overhead on salaries
Traveling and entertaining	Special studies
Rent and rent items	Overhead on salaries
Equipment	Overhead on salaries
Printing and stationery	Overhead on salaries
Postage, telephone and telegraph, exchange and express	Overhead on salaries
Legal and auditing	Special studies
Payroll taxes	Overhead on salaries
Miscellaneous	Special studies]

§ 3.3. [Other bases permitted or prescribed] (Reserved).

[For those operating expense classifications permitting the basis overhead on salaries or premiums,

any other basis of allocation may be adopted which yields more accurate results. The bases overhead on salaries and premiums shall not be used if clearly inappropriate.]

§ 3.4. [Records required] (Reserved).

[(a) The methods followed in allocating joint expenses shall be described, kept, and supported as prescribed in § 9.48 (relating to detail of allocation bases form).

(b) The effects of the application to each operating expenses classification of all bases of allocation shall be shown on records kept in clear and legible form. The records shall be readily available for examination.]

§ 3.5. [Interim allocations of joint expenses] (Reserved).

[It shall be permissible to apportion expenses between companies during the year on the basis of methods and procedures other than those prescribed in this chapter if allocations of corrected amounts, calculated in accordance with this subpart, are made in time for entry in the annual statement.]

§ 3.6. [Other applicable instructions] (Reserved).

[In making any allocations of joint expenses, companies shall observe the provisions of §§ 9.11—9.20 (relating to general instructions regarding allocation bases).]

[Pa.B. Doc. No. 00-1664. Filed for public inspection September 29, 2000, 9:00 a.m.]

**[31 PA. CODE CH. 11]
Miscellaneous Provisions**

The Insurance Department (Department) proposes to amend Chapter 11 (relating to miscellaneous provisions) to read as set forth in Annex A. 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); the act of May 9, 1949 (P. L. 1025, No. 298) (act) (40 P. S. §§ 1261—1264); and section 320 of The Insurance Company Law of 1921 (40 P. S. § 443). Except as otherwise provided, Chapter 11 applies to property and casualty insurance companies, associations, exchanges; and employes mutual liability associations and organizations, including the State Workmen's Insurance Fund and excluding title insurance. The regulations clarify charges made by the Department in filing or certifying records; and prescribe accounting rules for reporting electronic data processing equipment, allocating commission on sliding scale or guaranteed profit reinsurance contracts, and classifying and allocating salvage and subrogation recovery expenses.

Purpose

The purpose of this rulemaking is to update Chapter 11 by eliminating obsolete and unnecessary provisions and by clarifying existing regulations. Section 11.1 (relating to applicability) states that, except as otherwise provided, the chapter applies to stock or mutual insurance companies, associations, exchanges, employes mutual liability associations and organizations writing property or casu-

alty insurance coverages, including The State Workmen's Insurance Fund and excluding title insurance. Sections 11.2 and 11.4 (relating to charges made in filing or certifying records; and reporting of computer or data processing equipment) were last amended December 1, 1990, and apply to all types of insurers subject to fees and charges by the Department or required to file financial statements with the Department. See 48 Pa.B. 5920 (December 1, 1990). Sections 11.5—11.7 (relating to "sliding scale" or "guaranteed profit contracts"; example of "sliding scale" and "guaranteed profit" contract; and salvage and subrogation recovery expenses) prescribe uniform accounting rules applicable to property and casualty insurance business. This rulemaking will update and clarify the scope of the accounting rules in the regulations.

Explanation of Regulatory Requirements

Sections 1 and 2 of the act (40 P. S. §§ 1261 and 1262) require property and casualty insurers, the State Workmen's Insurance Fund and title insurers to maintain uniform classifications of accounts and records as may be prescribed by the Insurance Commissioner (Commissioner) and, in addition, to file reports in a form determined by the Commissioner. Further, section 320(a) of The Insurance Company Law of 1921, as amended by the act of December 18, 1992 (P. L. 792, No. 176) states, in pertinent part:

(a) (1) Every stock and mutual insurance company, association, and exchange, doing business in this Commonwealth, shall annually, on or before the first day of March, file in the office of the Insurance Commissioner and with the National Association of Insurance Commissioners a statement which shall exhibit its financial condition on the thirty-first day of December of the previous year . . . The Insurance Commissioner shall require each insurance company, association and exchange to report its financial condition on the statement convention blanks, in such form as adopted by the National Association of Insurance Commissioners . . . and may make such changes, from time to time, in the form of the same as shall seem best adapted to elicit from them a true exhibit of their financial condition.

(2) Unless otherwise provided by law, regulation or order of the Insurance Commissioner, each insurance company, association and exchange shall adhere to the annual or quarterly statement instructions and the accounting practices and procedures manuals prescribed by the National Association of Insurance Commissioners. . .

Under the authority of the act and section 320 of The Insurance Company Law of 1921, the Commissioner has determined that the annual statement instructions and the accounting practices and procedures manual (manual), prescribed by the National Association of Insurance Commissioners (NAIC)¹, sufficiently address the reporting of electronic data processing equipment and software and commission on reinsurance contracts for all insurers subject to the act and section 320 of The Insurance Company Law of 1921. Specifically, Statements of Statutory Accounting Principles Nos. 16, 61 and 62 in the NAIC manual establish statutory accounting principles for electronic data processing equipment and software and commission on reinsurance contracts. Sections

11.4—11.6 in no manner enhance the NAIC instructions and manual. Therefore, §§ 11.4—11.6 are outdated and are no longer needed.

The Commissioner has further determined that the accounting rules in § 11.7 continue to be needed to supplement the NAIC instructions and manual. Section 11.7 provides specific guidance on the types of expenses that shall be treated as salvage expense and on proper billing procedures when insurers use outside agencies to perform salvage activities. The NAIC instructions and manual do not include the accounting rules in § 11.7, and the Commissioner believes these rules are needed to provide adequate instructions for reporting salvage and subrogation recovery expenses. Therefore, § 11.7 is being retained in the regulations.

Finally, because §§ 11.4—11.6 are being deleted and the accounting rules in § 11.7 apply only to property and casualty insurance, § 11.1 is being deleted and provisions relating to the authority and scope of § 11.7 are being included as new subsections (a) and (b) in § 11.7. This proposed amendment will clarify the scope of the subsections in Chapter 11.

External Comments

The Department requested comments from The Insurance Federation of Pennsylvania, Inc., and the Pennsylvania Association of Mutual Insurance Companies in the development of this rulemaking. Insurers subject to these regulations were advised by Insurance Department Notice No. 1998-04 that they will be required to adhere to the manual in preparing financial statements to be filed with the Department. The Department received no objections to the amendments in this rulemaking.

Fiscal Impact

The proposed rulemaking has no fiscal impact.

Paperwork

The proposed rulemaking would impose no additional paperwork requirements on the Department or affected insurers.

Persons Regulated

The proposed rulemaking affects stock and mutual insurance companies, associations, and exchanges required to file financial statements with the Commissioner.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, Pennsylvania 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvato@ins.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)), on September 21, 2000, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting this proposed rulemaking, the Department 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 this material is available to the public upon request.

¹ In 1998, the NAIC revised its model regulation to make it consistent with the NAIC's codified manual that will be effective January 1, 2001. Insurers subject to these regulations have been advised by Insurance Department Notices Nos. 1998-04 and 2000-02 that they will be required to adhere to the manual in preparing financial statements to be filed with the Department.

Under section 5(g) of the Regulatory Review Act, if IIRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department, the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-202. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 31. INSURANCE
PART I. GENERAL PROVISIONS
Subpart A. UNIFORM CLASSIFICATION OF EXPENSES
CHAPTER 11. MISCELLANEOUS PROVISIONS

§ 11.1. [*Applicability*] (Reserved).

[(a) Except as otherwise provided, this chapter shall apply to all stock or mutual insurance companies, associations, exchanges, employes mutual liability associations and organizations, including The State Workmen's Insurance Fund, which are subject to the Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199) or The Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. §§ 1221—1238) or section 654, article VI(d) (Workmen's Compensation Insurance) of The Insurance Company Law of 1921 (40 P. S. § 814).

(b) This chapter does not apply to insurers authorized to write title insurance.]

§ 11.4. [*Reporting of computer or data processing equipment*] (Reserved).

[Electronic computer or data processing machines or systems acquired at a cost of \$10,000 or more for use in connection with the business of the insurers may be reported as an admitted asset if its cost will be depreciated over a period not exceeding 10 years.]

§ 11.5. [*"Sliding scale" or "guaranteed profit" contracts*] (Reserved).

[If a commission on reinsurance is on a "sliding scale" or "guaranteed profit" basis the reinsurance commission shall be allocated to "Commission and Brokerage—Reinsurance Assumed" or "Commission and Brokerage—Reinsurance Ceded."]

§ 11.6. [*Example of "sliding scale" and "guaranteed profit" contract*] (Reserved).

[(a) *"Sliding scale" contract.*

(1) Most "sliding scale" contracts provide for a flat commission ranging from about 30% to 37.5% paid on a written basis. Additional profit commissions are paid at a later date on an earned basis as specified by a formula embodied in the contract. These profit commissions are paid as the result of savings in the loss ratio. A common provision is that a 0.5% profit commission shall be paid for each

1.0% saving in the loss ratio. Sometimes a portion of the scale may provide for a full 1.0% profit commission for each 1.0% saving in the loss ratio.

(2) For example, a contract may provide for a flat commission of 35%, with a one-half for one profit commission to be paid the ceding company for any saving in the loss ratio under 55%, until the profit commission reaches 10%, or a total commission of 45%.

(3) Some contracts provide for a possible "return commission." In the example in paragraph (2), if the loss ratio exceeds the breaking point of 55%, the ceding company may have to pay a return commission to the reinsurer on a one-half to one basis until return commissions, such as 5.0%, have been returned, thus reducing the ultimate net commission from 35% to 30%. If the loss ratio runs under 35% or exceeds 65%, such saving or loss shall ordinarily be carried forward to the computation for the following year.

(b) *"Guaranteed profit" contract.*

(1) The most common form of surplus aid is the "guaranteed profit" contract. The principal characteristic of such a contract is that it transfers unearned premium reserve from the ceding company to the reinsurer and results in an immediate increase in the surplus of the ceding company by the amount of the tentative commissions received, but because all such tentative commissions are subject to return to the reinsurer does not actually relieve the ceding company of risk. The ceding company still remains exposed to the same risk as before. It is in the position of paying 2.0% to 5.0% of the ceded premiums to induce a reinsurer to sign a contract which has no ultimate effect, other than to reduce its surplus by 2.0% to 5.0% of these premiums.

(2) "Guaranteed profit" contracts are often written in a form similar to a quota share or portfolio reinsurance contract, or a combination of both. The tentative commission is ordinarily 45% or 50%. The fee of the reinsurer is generally 2.0%, 3.0% or 5.0% of the amount ceded. Most quota-share type contracts are subject to monthly reporting and settlements. The contract usually provides for each 1.0% decrease in the loss ratio, and return commissions on the basis of 1.0% for each 1.0% increase in the loss ratio. Illustration is provided by the following example:

Commission	45%
Fee for reinsurer	3%
Loss ratio "breaking point"	52%
Total original premium	100%

(3) In a situation similar to the example in paragraph (2), the ceding company pays to the reinsurer the gross reinsurance premiums less 45% commissions, or a net of 55%. As losses are determined they are paid by the reinsurer until the ceding company has received back from the reinsurer losses recovered in an aggregate amount equal to 52% of the original premiums ceded (55% less 3.0%). Any additional losses are immediately charged back to the ceding company as return commissions on a one for one basis. On the other hand, any saving under 52% is returned to the ceding company in the form of additional commissions. The ultimate effect on the ceding company is the loss of 3.0% of its ceded

premiums. The ceding company actually carries its own full risk throughout the entire period with respect to its gross business.]

§ 11.7. Salvage and subrogation recovery expenses.

(a) This section prescribes accounting practices for the classification and allocation of salvage and subrogation recovery expenses in financial statements filed with the Insurance Commissioner under sections 1 and 2 of the act of May 9, 1949 (P. L. 1025, No. 298)(40 P. S. §§ 1261—1264) and section 320 of The Insurance Company Law of 1921 (40 P. S. § 443).

(b) This section applies to all stock or mutual insurance companies, associations, exchanges, employes mutual liability associations and organizations, including The State Workmen's Insurance Fund, which are subject to the Casualty and Surety Rate Regulatory Act (40 P. S. §§ 1181—1199); The Fire, Marine and Inland Marine Rate Regulatory Act (40 P. S. §§ 1221—1238); or section 654 (Workmen's Compensation Insurance) of The Insurance Company Law of 1921 (40 P. S. § 814). This section does not apply to insurers authorized to write title insurance.

- [(a) (c) * * *
- [(b) (d) * * *
- [(c) (e) * * *
- [(d) (f) * * *
- [(e) (g) * * *

[Pa.B. Doc. No. 00-1665. Filed for public inspection September 29, 2000, 9:00 a.m.]

[31 PA. CODE CH. 147]

Annual Audited Insurers' Financial Report Required

The Insurance Department (Department) proposes to amend Chapter 147 (relating to annual audited insurers' financial report required) to read as set forth in Annex A. 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; section 320 of The Insurance Company Law of 1921 (40 P. S. § 443) relating to the authority of the Commissioner to require insurers to file statements concerning their affairs and financial condition; and section 1605(a)(3)(ii) of The Insurance Company Law of 1921 (40 P. S. § 991.1605(a)(3)(ii)); sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.205 and 1600.206); 40 Pa.C.S. §§ 6125, 6331 and 6701; sections 11 and 14 of the Health Maintenance Organization Act (40 P. S. §§ 1561 and 1564); section 630 of the act of May 17, 1921 (P. L. 682, No. 284) (40 P. S. § 764a); sections 7 and 25 of the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3207 and 3225); and section 602 of the Fraternal Benefit Societies Code (40 P. S. § 1142.602) which, respectively, relate to the specific regulatory and rulemaking authority of the Department regarding financial reporting by surplus lines insurers, the Pennsylvania Fair Plan, hospital plan corporations, health services plan corporations, health maintenance organizations, preferred

provider organizations; continuing care providers and fraternal benefit societies. The regulations require insurers to have annual audits of their year-end financial statements conducted by independent certified public accountants.

Purpose

The purpose of this rulemaking is to update Chapter 147, commonly referred to as the CPA Audit Rule, to reflect current statutory accounting practices and procedures adopted by the National Association of Insurance Commissioners (NAIC). The regulations prescribe requirements for annual audits of financial statements filed by insurers with the Department. The regulations were adopted in 1979 and last amended November 11, 1995. The regulations are based on a model regulation adopted by the NAIC and are included in the NAIC's state accreditation standards for regulation of the financial solvency of the insurance industry. The Commonwealth is currently accredited by the NAIC for compliance with the financial regulation standards. In 1998, the NAIC revised the model regulation to make it consistent with the NAIC's codified *Accounting Practices and Procedures Manual* (manual) that will be effective January 1, 2001. Insurers subject to these regulations have been advised by Insurance Department Notice Nos. 1998-04 and 2000-02 that they will be required to adhere to the manual in preparing financial statements to be filed with the Department. This rulemaking will update the regulations to be consistent with the manual and the 1998 revisions to the NAIC model regulation.

Explanation of Regulatory Requirements

This rulemaking proposes to amend § 147.4 (relating to contents of annual audited financial report) to address technical issues involving disclosures required in audit reports to be filed under the requirements of the manual.

Section 147.4(2) currently requires the notes to financial statements in annual audited financial reports to include notes required by generally accepted accounting principles (GAAP). Because the Statements of Statutory Accounting Principles (SSAPs) contained in the manual now address all types of required disclosures, the reference to GAAP is no longer needed and has been replaced with a reference to the manual. Section 147.4(2)(i) has been further amended to clarify that the notes shall include a reconciliation of any differences between the audited financial statement and the annual financial statement that the insurer has filed with the Department. In addition, the reference to section 320 of The Insurance Company Law of 1921 has been expanded to refer to other laws and regulations that may apply to financial statements filed by the various types of insurers under the scope of the regulations. Finally, § 147.4(2)(ii) has been deleted because a summary of the ownership and relationships of the insurer and all affiliated companies is required under SSAP No. 1 (relating to disclosure of accounting policies, risks and uncertainties, and other disclosures) in the manual. These amendments will eliminate potentially confusing inconsistencies between the regulations and the manual.

External Comments

The Department received comments from a group of "Insurance Trade Associations in Support of NAIC Codification" encouraging the Department to adopt the 1998 technical changes to the NAIC model regulation. The group includes the Alliance of American Insurers, American Association of Health Plans, American Council of Life Insurance, American Insurance Association, Blue Cross/

Blue Shield Association, Health Insurance Association of America, National Association of Independent Insurers, National Association of Mutual Insurance Companies and Reinsurance Association of America. The Department also requested comments from The Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies, and the Pennsylvania Fraternal Congress in the development of this rulemaking. The Department received no objections to the amendments in this rulemaking.

Fiscal Impact

The proposed rulemaking has no fiscal impact.

Paperwork

The proposed rulemaking would impose no additional paperwork requirements on the Department or affected insurers.

Persons Regulated

This proposed rulemaking applies to insurance companies, other insurer entities and continuing care providers licensed to transact business in this Commonwealth and the independent certified public accountants retained by those insurers to conduct annual audits.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Pennsylvania Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvato@ins.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)), on September 21, 2000, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting this proposed rulemaking, the Department 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 this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations by the Department,

the General Assembly and the Governor of objections raised.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-203. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 147. ANNUAL AUDITED INSURERS' FINANCIAL REPORT REQUIRED

§ 147.4. Contents of annual audited financial report.

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(b) The annual audited financial report shall, at a minimum, include the following:

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(2) Notes to financial statements. These notes shall be those required by the appropriate National Association of Insurance Commissioners Annual Statement Instructions and **[other notes required by generally accepted accounting principles and shall also include the following:**

(i) A] Accounting Practices and Procedures Manual. The notes shall include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statements filed with the Department under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443) and other applicable laws and regulations, with a written description of the nature of these differences, particularly with respect to surplus or stockholder equity and the results of operations. The insurer shall file an amendment to its annual statement with the Department, the National Association of Insurance Commissioners and other states in which the insurer is licensed, to reflect differences between the audited statutory financial statement and the annual statement filed with the Department within 60 days of the filing date of the audited financial report. The Commissioner may require amendments to financial statements to be filed with the Department and the National Association of Insurance Commissioners on diskettes or other electronic information storage devices acceptable to the Commissioner.

[(ii) A summary of ownership and relationships of the insurer and affiliated companies.]

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[Pa.B. Doc. No. 00-1666. Filed for public inspection September 29, 2000, 9:00 a.m.]