



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
DANIEL F. CLARK, ESQ.
ARTHUR COCCODRILLI
MURRAY UFFBERG, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
14TH FLOOR
HARRISBURG, PA 17101**

[irrc@irrc.state.pa.us](http://www.irrc.state.pa.us)
<http://www.irrc.state.pa.us>
(717) 783-5417
Fax (717) 783-2664

December 3, 2003

Honorable M. Diane Koken, Commissioner
Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

Re: Regulation #11-215 (IRRC #2364)
Insurance Department
Standards for Safeguarding Customer Information

Dear Commissioner Koken:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director
evp
Enclosure

cc: Honorable Nicholas A. Micozzie, Majority Chairman, House Insurance Committee
Honorable Tony DeLuca, Democratic Chairman, House Insurance Committee
Honorable Gibson E. Armstrong, Chairman, Senate Banking and Insurance Committee
Honorable Jack Wagner, Minority Chairman, Senate Banking and Insurance Committee

Comments of the Independent Regulatory Review Commission

on

Insurance Department Regulation No. 11-215

Standards for Safeguarding Customer Information

December 3, 2003

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Insurance Department must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on November 3, 2003. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 146c.2. Definitions. - Need; Economic impact; Reasonableness.

Customer

The Preamble states this rulemaking is based on the National Association of Insurance Commissioners Standards for Safeguarding Customer Information Model Regulation (NAIC Model Rule). The NAIC Model Rule's Preamble (Section 1.D.) and definitions (Section 2.A.) clearly state the intent of the rule is to protect both financial and health information of customers. These provisions are reflected in the proposed regulation.

Commentators believe the proposed definition of "customer" in Chapter 146c inappropriately expands the scope of the proposed regulation by including "consumers." They state this goes beyond the NAIC Model Rule, will impose costs and will take longer to implement because it will cover individuals with whom insurers have no continuing business relationship.

The proposed definition of "customer" includes "either a 'consumer' or 'customer' as defined in Section 146a.2...." Why did the Department expand the definition of customer to include consumer information as defined in Section 2 of Chapter 146a? The Department should explain the need to protect consumer information, provide an estimate of the costs imposed on insurers to protect this information and explain how this can reasonably be implemented by the deadline imposed by Section 146c.11.