

# Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Insurance Department

(2) Agency Number:

Identification Number: 11-262

(3) PA Code Cite:

31 Pa. Code § 37 [Reserved], 31 Pa. Code § 37a

(4) Short Title:

Requirements and Standards

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

Primary Contact:

Kimberly Sheaffer  
Office Manager  
1341 Strawberry Square  
Harrisburg, PA 17120  
(717) 346-1458  
[kimsheaffe@pa.gov](mailto:kimsheaffe@pa.gov)

Secondary Contact:

Jennifer Brown-Sweeney  
Department Counsel  
1341 Strawberry Square  
Harrisburg, PA 17120  
(717) 705-7285  
[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)

(6) 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

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

**RECEIVED**

Independent Regulatory  
Review Commission

April 29, 2024

IRRC Number: 3398

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

This proposed regulation rescinds and reserves 31 Pa. Code Chapter 37 and adopts, in its place, 31 Pa. Code Chapter 37a in order to formally implement the act of December 6, 2002 (P.L. 1183, No. 147) (Act 147-2002), which incorporated provisions from the NAIC Producer Licensing Model Act (#218) and provides for licensing and regulation of insurance producers, managers and exclusive general agents; confers powers and duties on the Insurance Commissioner and Insurance Department; permits the payment of commissions and referral fees; imposes penalties; and makes repeals. Act 147-2002 codified many of the processes in Chapter 37 and updated terminology. This proposed new chapter 37a will clarify and formalize current processes, qualifications, violations, penalties, and expectations in alignment with existing statute. Since Act 147-2002 was enacted, the Department has relied on the specific statutory language of Act 147 to process insurance producer applications for licensure. These regulations modernize and streamline those administrative procedures and provide additional clarity regarding certain aspects of the process to licensees and insurers to address issues that have arisen over the years.

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

This rulemaking is proposed under the Department's general rulemaking authority as set forth in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412), section 246 of the act of September 22, 1978 (P.L. 763, No. 143) regarding terminations of agency contracts (40 P.S. § 246), section 698-A of the act of December 6, 2002 (P.L. 1183, No. 147) regarding insurance producers, managers and general agents licensing, powers and duties of Insurance Commissioner and Insurance Department, referral fees, commissions, and penalties (40 P.S. § 310.98) and the Department's rulemaking authority under the Unfair Insurance Practices Act (40 P.S. §§ 1171.1-1171.15). See *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977) (further explaining the Insurance Commissioner's authority to promulgate regulations under the Unfair Insurance Practices Act).

(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, the regulation is not mandated by any federal or state law or court order, or federal regulation. However, current regulations primarily deal with Article VI of the act of May 17, 1921 (P.L. 789, No. 285) which was repealed under Act 147-2002. No regulations exist for Article VI-A, which substantially replaced the subject matter in Article VI under Act 285-1921 with Act 147-2002 and codified many of the processes in Chapter 37. Act 147-2002 adopted provisions from the Producer Licensing Model Act and brought the state into compliance with the federal "Financial Services Modernization Act of 1999" (known as the Gramm-Leach-Bliley Act) Pub. L. No. 106-102, 113 Stat. 1338, which required states to modernize and provide uniformity in their insurance licensing procedures. These regulations will clarify the statutory process outlined in Act 147-2002 and allow state regulation to properly conform to current state statute and provide uniformity and transparency.

(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 regulation is necessary to formally implement Act 147-2002. As stated above, Act 147-2002 adopted provisions from the Producer Licensing Model Act as Article VI-A and brought the state into compliance with the federal “Financial Services Modernization Act of 1999” (known as the Gramm-Leach-Bliley Act) Pub. L. No. 106-102, 113 Stat. 1338, which required states to modernize and provide uniformity in their insurance licensing procedures. Prior to this, insurance producers were subject to varying rules in each state where they transacted business. With the advent of the internet, the insurance industry was able to dramatically expand its access to consumers, and the need for a more uniform and streamlined process became necessary. Act 147-2002 provided Pennsylvania with the statutory framework to modernize and provide uniformity, thus increase efficiency in these processes. Act 147-2002 substantially replaced Article VI with Article VI-A. Current regulations address Article VI. This regulation will rescind those regulations and adopt new regulations regarding Article VI-A. By rescinding outdated and superseded provisions that still appear in the Pennsylvania Code, the insurance-consuming public, insurers, insurance producers, and regulators will have clarity when attempting to determine whether the statutory or regulatory provision is applicable. Further, where the provisions of Chapter 37 have not been superseded by statute, they are being repromulgated in Chapter 37a and reflect updated terminology and streamlined processes that provide more efficient, modern, and comprehensive guidance of the qualifications and procedures for the licensing of insurance producers as well as the methods to achieve reciprocity with other states. These regulations also promote consumer protection by providing further detail regarding licensing qualifications, appropriate producer behavior, and related penalties.

Currently, there are 336,290 individuals licensed through Pennsylvania as resident and non-resident producers and 22,782 entities licensed through Pennsylvania as resident and non-resident producers that will benefit from the regulation. Additionally, there are 1,724 insurer companies/carriers with the ability to make producer appointments that would be subject to the clarifying language of when a producer is acting as the representative of the insurer or the consumer, and would benefit from the regulation. Pennsylvania currently has the fifth largest insurance market in the U.S. based on premium volume, serving hundreds of thousands of Pennsylvanians, so the impact of this regulation is widespread.

(11) 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, there are not any provisions more stringent than federal standards.

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

This regulation will not adversely affect Pennsylvania’s ability to compete with other states and will have no effect whatsoever on competitiveness since it preserves the status quo since Act 147-2002 was enacted. The extent this question addresses the competitive effect of Act 147-2002 itself, it is noteworthy that one of the purposes of Act 147-2002 was to adopt provisions from the Producer Licensing Model Act in order to provide uniformity across states.. According to the NAIC State Pages Resource on the Producer Licensing Model Act published in the Fall of 2020, Ohio, New Jersey, and Delaware have adopted previous versions of the Act, while New York, Maryland, and Virginia have not adopted the Act. However, there are only nine states in total that have not adopted provisions from the Act. Therefore, this regulation implementing those provisions is similar to most of the country in creating a more uniform and efficient system.

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

No. The impact of Act 147-2002 has already occurred, and so this regulation that clarifies and updates administrative processes will not impact other regulations or other agencies. Further, the Insurance Department is the only agency that regulates insurance within this Commonwealth and that regulates the individuals or entities that sell it.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Pursuant to Executive Order 1996-1, on April 24, 2023 and September 25, 2023, respectively, the Department circulated two exposure drafts of Annex A to representatives of insurance producers, companies and carriers, including the Insurance Agents and Brokers, the Insurance Federation of Pennsylvania, and the Pennsylvania Association of Mutual Insurance Companies. Comments received were carefully considered in developing the proposed rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This regulation affects the Department, insurance consumers, non-resident and resident insurance producers, as well as insurer companies/carriers with the ability to obtain producer appointments. Specifically, the benefit of this regulation is that it will rescind outdated and superseded provisions that still appear in the Pennsylvania Code. This will provide clarity and will alleviate any confusion that may exist when the public or regulated community is attempting to determine whether the statutory or regulatory provision is applicable. To the extent that the provisions of Chapter 37 have not been superseded by statute, they are being repromulgated in Chapter 37a and reflect updated terminology and streamlined processes. Additionally, the Department is proposing further clarifications by providing examples as to determinations of worthiness of applicants and licensees and for determining whether a producer is acting on behalf of an insurer or consumer.

There are 336,290 individuals licensed through Pennsylvania as resident and non-resident producers that will be affected by the regulation. There are 22,782 entities licensed through Pennsylvania as resident and non-resident producers that will be affected by the regulation. Because the Department estimates that most of these entities would be small businesses, the Department is implementing this regulation as if every producer is a small business. All individual and entity producers will benefit by the clarity afforded by rescinding and replacing the regulations regardless of their size. There would be no detrimental effect on any entity in the Commonwealth.

There are currently 1,724 insurer companies/carriers with the ability to make producer appointments that would be subject to the clarifying language of when a producer is acting as the representative of the insurer or the consumer. These companies would be affected by the regulation.

(16) List the persons, groups or entities, including small businesses, which will be required to comply with the regulation. Approximate the number that will be required to comply.

Those that must comply and those affected are the same, and the Department has assumed that most insurance producers are small businesses. As stated above, there are 336,290 individuals licensed through Pennsylvania as resident and non-resident producers that must comply with the regulation. There are 22,782 entities licensed through Pennsylvania as resident and non-resident producers that must comply with the regulation.

There are 1,724 insurer companies/carriers with the ability to have producer appointments in Pennsylvania. Those that actually appoint producers and provide commissions must comply with the regulation, however there are no available statistics on that number. Each of these insurer's would be subject to the regulation's clarifying language of when a producer is acting as a representative of the insurer or the consumer, and the responsibilities that flow from that determination.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

As the regulation formally implements Act 147-2002 and only clarifies the legislatively-described processes the Department has been following since it was enacted, the regulation itself should provide no change to the financial, economic, and social impact of the public, businesses, and stakeholders.

However, the changes that were implemented over twenty years ago and are being formalized here, benefitted the Commonwealth by making the producer licensing process and related issues more uniform across the country. These changes removed barriers and made it easier for non-resident license applicants to obtain and renew licenses as well as provide insurance services to Pennsylvania residents. The legislation and this resulting regulation significantly modernizes the licensing process allowing examinations, education, applications, and renewals to occur electronically further making it easier to obtain both resident and non-resident licenses of different types.

The citizens of the Commonwealth benefitted from, and continue to benefit from, a more informed insurance producer workforce and competition among insurance producers servicing them, while still have an assurance for the level of competence of the producers required by the statute and implementing regulations.

The streamlined approach embodied in the regulation benefits the regulated community and the insurance-consuming public by eliminating unnecessary regulatory provisions and clarifying licensing processes.

This regulation does not change the fees that are currently set forth in statute, which includes a \$55 resident and \$110 nonresident application fee as well as a \$15.00 appointment fee.

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

This proposed regulation will provide the benefits of transparency and clarity, by ensuring that the regulatory chapters are consistent with statute. There are no adverse effects or costs to this regulation. This regulation only clarifies the legislatively described processes the Department has been following for the last twenty years, since Act 147-2002 was enacted. Adopting the regulation provides better transparency to the public, licensees, and other stakeholders as well as provides more clarity to the process itself.

When Act 147-2002 was initially enacted, the Department had to undergo significant changes to implement it. At that time there were data conversions, new software, rate increases, and new applications and background forms required for applicants. However, at this time, the regulation is only formalizing current processes, qualifications, violations, penalties, and expectations while providing better clarification to questions we have received throughout the years. As such, there are no costs or adverse effects.

(19) 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.

This regulation will not result in any costs or savings to the regulated community. The regulation does require licensees to establish record retention procedures and retain all pertinent documents for seven years, unless otherwise required by law or contract to retain these documents longer. However, there is no change to the currently utilized systems or fees in place, therefore there should be no costs or savings associated with this regulation.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local government is not affected by this regulation and will incur no additional costs or realize any savings.

(21) Provide a specific estimate of the costs and/or savings to the **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.

State government will not incur any additional costs or savings as there will be no changes to the currently utilized systems, forms, employees, and fees.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

There will be no new reporting, forms, or reports required for implementation of the regulation, as the regulation is just providing clarity to the process established through legislation that the Department has already been utilizing. However, as discussed in Question 19, the regulated community will have to retain pertinent insurance documents for seven years, or longer, if otherwise required by law or contract.

Consideration was given to minimize any burden imposed by these recordkeeping retention requirements as the regulation allows for these records to be maintained electronically.

(22a) Are forms required for implementation of the regulation?

There are no new forms required for implementation of the regulation, however the statute that the regulations seek to clarify required new forms upon its enactment in 2002. Those forms are attached as Appendix A.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

See Appendix A.

(23) 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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community**</b>	0	0	0	0	0	0
<b>Local Government*</b>	0	0	0	0	0	0
<b>State Government*</b>	0	0	0	0	0	0
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>	0	0	0	0	0	0
<b>Regulated Community**</b>	0	0	0	0	0	0
<b>Local Government*</b>	0	0	0	0	0	0
<b>State Government*</b>	0	0	0	0	0	0
<b>Total Costs</b>	0	0	0	0	0	0
<b>REVENUE LOSSES:</b>	0	0	0	0	0	0
<b>Regulated Community**</b>	0	0	0	0	0	0
<b>Local Government*</b>	0	0	0	0	0	0
<b>State Government*</b>	0	0	0	0	0	0
<b>Total Revenue Losses</b>	0	0	0	0	0	0

\*As explained above, there are no expected costs, savings, or revenue losses that would be incurred by local or state government or the regulated community as a result of the regulation.

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

<b>Program Bureau of Licensing &amp; Enforcement</b>	<b>FY -2020/2021</b>	<b>FY -2021/2022</b>	<b>FY -2022/2023</b>	<b>Budget Current FY</b>
Personnel Services	\$2,059,758	\$2,12,561	\$2,239,646	\$2,757,775
Operational Expenses	\$211,923	\$236,660	\$349,036	\$249,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

***(a) Identification and Estimate of Small Business Subject to the Regulation***

The Department reviewed standards set forth by 13 CFR § 121.201 and the U.S. Small Business Administration Table of Small Business Size Standards Matched to North American Industry Classification System (NAICS) Codes to determine the applicability of this rulemaking to Pennsylvania small businesses. The standards for small business classification vary by type of business written as follows:

**Subsector 524 – Insurance Carriers and Related Activities**

NAICS Codes	NAICS Industry Description	Size Standards in millions of dollars / Size Standards in number of employees
524113	Direct Life Insurance Carriers	\$47.0
524114	Direct Health and Medical Insurance Carriers	\$47.0
524126	Direct Property and Casualty Insurance Carriers	1,500 employees
524127	Direct Title Insurance Carriers	\$47.0



524128	Other Direct Insurance (except Life, Health and Medical) Carriers	\$47.0
524130	Reinsurance Carriers	\$47.0
524210	Insurance Agencies and Brokerages	\$15.0
524291	Claims Adjusting	\$25.0
524292	Third Party Administration of Insurance and Pension Funds	\$45.5
524298	All Other Insurance Related Activities	\$30.5

The Department does not collect information regarding the annual receipts collected by producers. However, because of the high threshold of annual receipts for producers, the Department estimates that most, if not all, Pennsylvania-based insurance producers would fall within the definition of “small business.” Therefore, the Department is implementing this regulation as if every producer is a small business.

***(b) Projected reporting, recordkeeping, and other administrative costs required for compliance***

The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation are not expected to increase as a result of this rulemaking. The proposed rulemaking imposes a recordkeeping requirement on licensees to retain all documents pertinent to the business of insurance for a minimum of seven years, or longer if otherwise required by law or contract. These recordkeeping requirements involve only basic professional skills and are not expected to result in additional costs to licensees.

***(c) Probable effect on impacted small businesses***

Small businesses will not be affected differently than other businesses. This regulation only clarifies the legislatively prescribed processes the Department has been following for the last twenty years. Adopting the regulation provides benefits to small businesses as well as the public in general, all licensees, and other stakeholders by providing more transparency as well as clarity to the process itself.

***(d) Alternative methods***

The Department is unaware of any less intrusive or less costly alternative methods for achieving the purpose of the proposed rulemaking.

(25) List 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, and farmers.

Because the Department is not aware of any alternative methods for achieving the purpose of the regulation, no provisions were developed to meet the particular needs for minorities, the elderly, small businesses, or farmers.

(26) 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 alternative regulatory provisions were considered. There is no less burdensome acceptable alternative to the proposed regulation.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no known adverse impact on small businesses.

- a) Regulatory methods were not considered that would establish a less stringent compliance or reporting requirement for small businesses as these requirements are set by statute and the regulation only clarifies these requirements. As stated above, the Department is implementing this regulation as if every producer is a small business.
- b) Regulatory methods were not considered that would establish a less stringent schedule or deadline for compliance or reporting requirements for small businesses as these requirements are set by statute and the regulation only clarifies these requirements.
- c) Regulatory methods were not considered that would consolidate or simplify compliance or reporting requirements for small businesses as the purpose of the underlying statute that these regulations clarify is to streamline the overall process for all businesses and were written specifically to address insurance producers, which are mostly small businesses. As stated in Question 19, the Department did provide consideration to any possible burdens the recordkeeping requirements may impose and allowed for these records to be maintained electronically for all licensees.
- d) Regulatory methods were not considered that would establish performance standards for small businesses to replace design or operational standards as these are not required in the regulation.
- e) Regulatory methods were not considered that would provide an exemption for small businesses from all or any part of the requirements contained in the regulation as most requirements are set by statute and this regulation only clarifies the requirements. Further, the underlying statute was written specifically to address insurance producers, the majority of which are small businesses, so its impact was considered at the time of the legislative drafting.

(28) 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 is not the basis for this proposed rulemaking.

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

- A. The length of the public comment period: 30 days
- B. The date or dates on which any public meetings or hearings will be held: None
- C. The expected date of delivery of the final-form regulation: Late Fall 2024
- D. The expected effective date of the final-form regulation: Sixty days after publication as final-form in the *Pennsylvania Bulletin*
- E. The expected date by which compliance with the final-form regulation will be required. Sixty days after publication as final-form in the *Pennsylvania Bulletin*
- F. The expected date by which required permits, licenses or other approvals must be obtained: N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

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

## List of Forms

- Add/Remove Designated Licensee or Surplus Lines Affiliation
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/AddRemove-DesignatedLicensee-SurplusLinesAffiliation.pdf>
- Add/Remove Fictitious Name or Doing Business As Name Form
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/FictitiousName-DBAName-Form.pdf>
- Add/Remove Self-Service Storage Location
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/AddRemove-SelfServiceStorageLocation.pdf>
- Application and Renewal Application
  - <https://www.sircon.com/landingPages/states/pennsylvania/content.jsp>
  - <https://nopr.com/licensing-center>
- Change of Address Form (Business)
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/ChangeAddressForm-BusinessEntity.pdf>
- Change of Name (Business)
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/ChangeNameForm-BusinessEntity.pdf>
- Change of Name and Address Form (Individual)
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/ChangeNameAddressForm-Individual.pdf>
- Continuing Education Declaration
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/Title-ContinuingEducation-Declaration.pdf>
- Fictitious or Business Entity Name Approval Form
  - <https://www.insurance.state.pa.us/scripts/busentname2a>
- Fidelity Bond Waiver for Title Agencies
  - [https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Pages/Title-Insurance-\(Business\).aspx](https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Pages/Title-Insurance-(Business).aspx)
- Letter of Clearance or Voluntary Surrender Request Form
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/LetterClearance-VoluntarySurrenderRequestForm.pdf>
- Monthly Appointment Activity Form
  - <https://www.insurance.pa.gov/Licensees/MaintainYourLicense/Documents/MONTHLY%20APPOINTMENT%20ACTIVITY%20REPORT.pdf>
- Self-Service Storage Employee/Authorized Rep. Register
  - [https://www.insurance.pa.gov/Documents/Self-Service\\_Storage\\_Authorized\\_Representative\\_Form\\_Fillable.pdf](https://www.insurance.pa.gov/Documents/Self-Service_Storage_Authorized_Representative_Form_Fillable.pdf)

CDL-1

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

Independent Regulatory  
Review Commission

April 29, 2024

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p><b>Amy M. Elliott</b></p> <p><small>Digitally signed by Amy M. Elliott, cn=Deputy Attorney General, email=ae@legis.state.pa.us, c=US Date: 2024.04.24 14:28:19 -0400</small></p> <p>BY: <u>Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Insurance Department</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>11-262</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u></u></p> <p>TITLE <u>Insurance Commissioner</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u></u></p> <p><b>March 5, 2024</b> DATE OF APPROVAL</p> <p><b>Deputy General Counsel</b> <del>(Chief Counsel, Independent Agency)</del> (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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**NOTICE OF PROPOSED RULEMAKING  
INSURANCE DEPARTMENT**

**31 PA. CODE CH. 37 [RESERVED]**

**31 PA. CODE CH. 37a**

**INSURANCE PRODUCERS**

**PROPOSED RULEMAKING**

**INSURANCE DEPARTMENT**

**31 PA. CODE CH. 37a**

**PART 1. GENERAL PROVISIONS**

**SUBPART C. [AGENTS AND BROKERS] INSURANCE PRODUCERS**

**CHAPTER 37a. REQUIREMENTS AND STANDARDS**

[ \_\_\_\_\_ Pa.B. \_\_\_\_\_ ]  
[Saturday, \_\_\_\_\_, 202\_] ]

**Preamble**

The Insurance Department (“Department”) proposes to rescind and reserve Chapter 37 (related to agent certificates and broker licenses) and adopt, in its place, Chapter 37a (related to producer licenses, managers and general agents, powers and duties of the Insurance Commissioner, referral fees, and penalties) to read as set forth in Annex A. This rulemaking is proposed under the Department’s general rulemaking authority as set forth in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412), section 246 of the act of September 22, 1978 (P.L. 763, No. 143) (40 P.S. § 246), section 698-A of the act of December 6, 2002 (P.L. 1183, No. 147) (40 P.S. § 310.98) and the Department’s rulemaking authority under the Unfair Insurance Practices Act (40 P.S. §§ 1171.1-1171.15). See *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977) (further explaining the Insurance Commissioner’s authority to promulgate regulations under the Unfair Insurance Practices Act).

### ***Background & Purpose***

The proposed rulemaking, as set forth in Annex A, is necessary to formally implement the act of December 6, 2002 (P.L. 1183, No. 147) ("Act 147-2002"), which amended the act of May 17, 1921 (P.L. 789, No. 285).

Act 147-2002 adopted provisions from the Producer Licensing Model Act as Article VI-A and brought the state into compliance with the federal "Financial Services Modernization Act of 1999" (known as the Gramm-Leach-Bliley Act) Pub. L. No. 106-102, 113 Stat. 1338, which required states to modernize and provide uniformity in their insurance licensing procedures. Prior to this, insurance producers were subject to varying rules in each state where they transacted business. With the advent of the internet, the insurance industry was able to dramatically expand its access to consumers, and the need for a more uniform and streamlined process became necessary. Act 147-2002 provided Pennsylvania with the statutory framework to modernize and provide uniformity, thus increase efficiency in these processes. Act 147-2002 provided for licensing and regulation of insurance producers, managers and exclusive general agents; conferred powers and imposed duties on the Insurance Commissioner and Insurance Department; permitted the payment of referral fees and commissions; imposed penalties; and made related repeals.

Act 147-2002 substantially replaced Article VI with Article VI-A. The only matter not repealed in Article VI deals with the termination of agency contracts, which involves the contractual relationship between an agency and insurer. The remaining provisions of Article VI, 40 P.S. §§ 231-236 do not deal with insurance producers and are therefore not implicated by this regulation. Section 698-A, under Article VI-A of Act 147-2002 (40 P.S. § 310.98) provides that regulations promulgated under Article VI which are not clearly inconsistent with Article VI-A will remain in effect until

replaced, revised, or amended. The Department has proposed this rulemaking as a replacement of current regulation Chapter 37.

Act 147-2002 codified many of the processes contained in Chapter 37. Until now, no regulations have been promulgated under Article VI-A. Upon the enactment of Act 147-2002, the Department had to undergo significant changes in order to implement it. At that time there were data conversions, new software, rate increases, and new applications and background forms required for applicants. The Department has relied on the specific statutory language in Act 147-2002 to process insurance producer applications for licensure and enforcement matters, but now wishes to formalize the procedures as well as rescind the superseded regulations. Adopting this regulation will not create any new costs for the Department or regulated community, but will modernize and streamline the administrative procedure and provide transparency to the public, licensees, and other stakeholders. The proposed rulemaking will become effective within sixty days of final-form publication in the *Pennsylvania Bulletin*.

***Explanation of Regulatory Requirements***

This proposed rulemaking rescinds 31 Pa. Code Chapter 37 in its entirety by reserving those sections and adopts, in its place, a new Chapter 37a, and titles it “Requirements and Standards” under a newly-named Subchapter to be titled “Insurance Producers.”

As noted above, the Department is proposing to reserve the entirety of Chapter 37. The rationale for doing so varies by provision, but the reasons for which generally fall into three categories: (1) the substance of the regulatory provision has been codified into Act 147-2002 and has been superseded by statute; (2) the Department has determined that the provision is no longer necessary under the current statutory scheme; or (3) the provision has been updated to reflect the new terminology of Act 147-2002 and/or has been otherwise modernized and proposed to be



enacted in new Chapter 37a. The specific reasons supporting reservation of each of these provisions are set forth below.

Section 37.1 is being reserved to delete the definitions for the following reasons:

(a) The terms “agent,” “appointment,” “certificate of qualification or certificate,” “customer information,” “entity,” “financial institution,” “insurer,” “nonresident agent,” “person,” “rental agreement,” “rental company,” “renter,” and “vehicle” were deleted by Act 147-2002, which repealed the section 601 (relating to definitions) of Act 48-1992.

(b) The terms “active officer,” “active partner,” “qualifying active officer,” “part time agent or broker” and “transition date” are not used in the 2002 law and thereby must also be deleted.

(c) The term “clerical support” is no longer used as it was in the prior law since the concept is now encompassed within the section 603-A of Act 147-2022 (see 40 P.S. § 310.3(b)) and the definitions of “sell,” “solicit,” and “negotiate” in section 601-A (40 P.S. § 310.1).

(d) The terms “CIC,” “CLU,” “Commissioner,” and “Department,” and are defined in section 601-A of Act 147-2002 (40 P.S. § 310.1) and need not be reiterated in the regulation.

(e) The term “license” is included in proposed section 37a.1.

Section 37.2 (relating to purpose) is being reserved because sections 601—639 of the act (40 P. S. § § 231—279) were repealed by Act 147-2002. The only remaining statutory provisions (40 P.S. § § 241-246) govern the termination of agency contracts, which is a subject not addressed in this regulation.

Section 37.5 (relating to conversion applications) is being reserved because this section applied to the transition of licenses from the Act of Jun. 11, 1992, P.L. 284, No. 48 (“Act 48-1992”) to

those issued under to Act 147-2002. As this transition occurred in 2002, this regulatory provision is no longer applicable, as Act 147-2002 developed an entirely new licensing process.

Section 37.6 (relating to single licensing process) is being reserved because an entirely new licensing process was established by Act 147-2002 and the substance of this provision has been superseded by the current requirements pertaining to applications for licensure as set forth in section 305-A of Act 147-2002 (40 P.S. § 310.5).

Section 37.11 (relating to general activities requiring a certificate or license) is being reserved because this provision has been superseded by the requirements for licensure set forth in section 603-A of Act 147-2002 (40 P.S. § 310.3).

Section 37.12 (regarding employe and officer activities requiring a certificate or license) is being reserved because this provision was superseded Act 147-2002, which set forth new requirements for licensure in section 603-A (40 P.S. § 310.3) and the definitions of sell, solicit and negotiate in section 601-A (40 P.S. § 310.1).

Section 37.13 (relating to title agents) is being reserved because this provision is no longer valid since the underlying law (former 40 P.S. § 233) has been repealed.

Section 37.14 (relating to reciprocity) is being reserved because it is superfluous, as the requirements of 40 P.S. § 50 exist independently of the requirements of this regulation.

Section 37.15 (relating to part time agents and brokers) is being reserved because this provision no longer valid after Act 147-2002. Part time agents and brokers no longer exist in new statutory scheme.

Section 37.16 (relating to service in armed forces or employment with Department) is being reserved because the substance of this provision is now codified at 51 Pa. C.S.A. § 7502 with regard to individuals serving in the armed forces and this exception is no longer available to the Department employees under Act 147-2002.

Section 37.17 (relating to collection of premiums requires certificate or license) is being reserved because this provision was superseded by Act 147-2002, which set forth new requirements for licensure in section 603-A (40 P.S. § 310.3) and the definitions of sell, solicit and negotiate in section 601-A (40 P.S. § 310.1).

Section 37.18 (relating to individuals who only receive commissions) is being reserved because it was superseded by Act 147-2002. Specifically, the payment of commissions is now governed by sections 672-A and 673-A of Act 147-2002 (40 P.S. § § 310.72 and 301.73).

Section 37.19 (relating to special approval by the Insurance Commissioner) is being reserved because it was superseded by Act 147-2002. Specifically, the substance of this provision dealing with temporary licensing in certain limited circumstances is now codified at section 609-A of Act 22-2002 (40 P.S. § 310.9).

Sections 37.21 (relating to examination requirements), 37.22 (relating to waiver of examination for resident agents), 37.23 (relating to waive of examination for resident brokers), and 37.24 (relating to examination requirements for nonresident applications) are being reserved because they were superseded by Act 147-2002. Specifically, the substance of these provisions dealing with examinations have been partially codified at section 604-A (40 P.S. § 310.4), which statutorily defines the situations where the exam can be waived at subsection (d). To the extent further clarification is required, additional details on the exam process and modernizations have been set forth in in proposed rulemaking sections 37a.3, 37a.4, and 37a.5.

Section 37.25 (relating to qualifications for examination) is being reserved because it was superseded by Act 147-2002. The only permissible prerequisites for examination have been codified at section 604-A (40 P.S. § 310.4).

Section 37.26 (relating to administration of examination) is being reserved because updates to the substance of the provisions of this section are proposed in section 37a.5.

Section 37.27 (relating to scope of examination) is being reserved because updates to the substance of the provisions of this section are proposed in section 37a.3.

Section 37.31 (general application requirements) is being reserved because updates to the substance of the provisions of this section are proposed in section 37a.6.

Section 37.32 (relating to completion of application and renewal forms) is being reserved because updates to the terminology used within this former provision is proposed to be made as set forth in proposed section 37a.7(a) and (c).

Section 37.33 (relating to agent application procedures) is being reserved because the substance of this provision is proposed to be updated and reenacted at section 37a.7 of the proposed regulation. Specifically, this section is proposed to be updated to delete reference to the prior law and outdated terminology and to allow electronic submissions in accordance with current processes.

Section 37.34 (relating to broker application procedures) is being reserved because the substance of this provision is proposed to be updated and reenacted at section 37a.7 of the proposed regulation. Specifically, this section is proposed to be updated to delete reference to the prior law and outdated terminology and to allow electronic submissions in accordance with current processes.

Section 37.35 (relating to renewal of agent certificates) is being reserved because this provision has been superseded by the statutory requirements of section 678-A of Act 147 (40 P.S. § 310.78). To the extent the requirements have not statutorily prescribed (subsections (d) and (e)), the substance of these provision can now be found at section 37a.8 of the proposed regulation.

Section 37.36 (relating to renewal of broker license) is being reserved because this provision has been superseded by the statutory requirements of section 678-A of Act 147 (40 P.S. § 310.78). To the extent the requirements have not statutorily prescribed (subsections (b) and (c)) and additional clarification is necessary, the substance of these provision can now be found at section 37a.8 of the proposed regulation.

Section 37.37 (relating to corporation or partnership certificate/license) is being reserved because the provisions of this section have been superseded by the statutory provisions of section

605-A of Act 147-2002 (40 P.S. § 310.5(b)). To the extent further clarification is required, the substance of this provision has been re-enacted at section 37a.9. Additionally, the term “qualifying active” is no longer valid and was replaced with the term “designated licensee” as per section 601-A of Act 147-2002 (40 P.S. § 310.1) in proposed section 37a.9.

Section 37.38 (relating to certificate or license determines authority) is being reserved because the substance of this provision is being reenacted in proposed section 37a.10.

Section 37.39 (relating to lines of authority) is being reserved because the substance of this provision is being reenacted, with certain modernization updates, at proposed section 37a.11.

Section 37.40 (relating to disclosure of information) is being reserved because the underlying authority for this section was repealed by Act 147-2002 and not reenacted.

Section 37.41 (relating to name on certificate of license) is being reserved because the requirements for fictitious names have been codified at section 607-A of Act 147-2002 (40 P.S. § 310.7). The remainder of this section has been modernized in accordance with existing procedures and updated at sections 37a.12 and 37a.15 of the proposed regulation.

Section 37.42 (relating to fictitious names) is being reserved because this provision has been superseded by the statutory requirements of section 607-A of Act 147-2002 (40 P.S. § 310.7). To the extent the requirements are not statutorily prescribed, the substance of this provision can now be found at section 37a.8 of the proposed regulation.

Section 37.43 (relating to current agent and broker addresses) is being reserved because this provision has been superseded by the statutory requirements of subsection (19) of section 611-A

of Act 147-2002 (40 P.S. § 310.11(19)), which provides that failure to notify the department of a change of address within 30 days is a prohibited act.

Section 37.44 (relating to changes, sale and dissolution) is being reserved because this provision has been updated to delete the “qualifying active officer” terminology and replace it with “designated licensee” and is proposed to be substantially reenacted in section 37a.14.

Section 37.45 (relating to contractual relationship of brokers and agents) is being reserved because this provision has been superseded by the statutory requirements of section 671-A of Act 47-2002 (40 P.S. § 310.71). To the extent additional clarification is necessary, the Department has included a number of factors to consider when making the determination as to whom the producer is representing within in section 37a.19 of the proposed regulation.

Section 37.46 (relating to standards for denial of certificate/license) is being reserved because this section has been superseded in part by section 611-A of Act 147-2002 (40 P.S. § 310.11). The Department has clarified the worthiness requirements of section 611-A in sections 37a.15 and 37a.16 of the proposed regulation.

Section 37.47 (relating to revocation, suspension, nonrenewal of certificates and licenses) is being reserved because subsection (a) of this section has been superseded by section 611-A of Act 14-2002 (40 P.S. § 310.11) which provides that the prohibited acts section applies to “[a] licensee or applicant for an insurance producer license.” Subsection (b) has been superseded by section 691-A of Act 147-2002 (40 P.S. § 310.91(b)).

Section 37.48 (relating to reporting requirements) is being reserved because it was superseded by the requirements of section 678-A of Act 147-2002 (40 P.S. § 310.78).

Section 37.49 (relating revocation, suspension, nonrenewal of certificates and licenses in nonresident agent or broker's state of domicile) is being reserved because this provision is proposed to be substantially reenacted at section 37a.17 of the proposed regulation.

Section 37.61 (relating to appointments and termination by entity) is being reserved because the substance of this section is proposed to be replaced by section 37a.20 of the proposed regulation, which updates the provision in accordance with current statutory terminology (e.g., "agents" was replaced with "producer") and reflects current procedures and practices (e.g., a social security number is no longer required).

Section 37.62 (relating to certification of appointments by entities) is being reserved because the requirements of this section have been superseded by the requirements of section 671-A of Act 147 of 2002 (40 P.S. § 310.17) except for subsection (a), the substance of which is proposed to be reenacted at section 37a.20(c) of the proposed regulation.

Section 37.71 (relating to examination fees) is being reserved because the substance of this provision has been updated in accordance with existing processes and is proposed to be included in section 37a.4 of the proposed regulation.

Section 37.72 (relating to certificate, license, and appointment fees) is being reserved because this provision has been superseded by section 632-A (with regard to application fees), and subsection (f) of section 608-A (with regard to renewal fees) and section 671-A (with regard to



appointment fees) of Act 147-2002, all of which have been all been subsequently codified at 71 P.S. § 240.12A.

Section 37.81(relating to premium accounts) is being reserved because this provision has been superseded by section 396-A of Act 147-2002 (40 P.S. § 310.96) which statutorily sets forth producers' fiduciary duties.

Section 37.82 (relating to agent and broker indebtedness) is being reserved because there is no policy reason to re-enact this provision in the proposed regulation. The failure to remit to the insurer as a contractual issue between the insurer/producer and the Department does not see a need to clarify this in the proposed regulation.

Section 37.83 (relating to merger of entities) is being reserved because the Department is proposing that the substance of this provision, which has been updated for terminology, be reenacted at section 37a.22.

Section 37.84 (relating to power of attorney) is being reserved because the substance of this provision has been codified at subsection (3) of section 673-A of Act 147-2002 (40 P.S. § 310.7(3)).

Section 37a.1 is proposed to provide definitions for "Act" and "License" because these terms are not defined in Act 147-2002 and the Department believes that additional clarity would be beneficial.

Section 37a.2 clarifies how the terms "Principal Place of Business" and "Principal Place of Residence" should be determined throughout the Act.

Section 37a.3, which provides the purpose of the chapter, was included to inform the public as to why the Department is promulgating the regulations.

Section 37a.4 is proposed to clarify the types of lines of authority for which examinations will be required and generally describes the content of the exam. It is being added to provide further detail regarding the examination process as set forth in 40 P.S. § 310.4 with regard to which lines must have separate examinations and also directs the scope of examination for the vendor.

Section 37a.5 is proposed to set forth the Department's considerations in establishing the examination fees and to clarify the requirements for which the fee shall be set in accordance with the contract.

Section 37a.6 is proposed to set forth the standards that would govern the administration of an examination if the Commissioner delegates testing to a vendor including requirements for frequency, location, remote examinations, and security. This section also requires applicants to register directly for the examination with the testing vendor.

Section 37a.7 is proposed to provide further clarity to applicants regarding the sequence of events statutorily set forth by sections 604-A and 605-A of Act 147 of 2002 (40 P.S. §§ 310.4 and 310.5) for submitting an application, including those pertaining to license prerequisites, test results and eligibility.

Section 37a.8 is proposed to provide an applicant further detail regarding the electronic and paper application process and the Department's process for providing requested information to the Department including the time-period for completion and closure of incomplete applications.

Section 37a.9 is proposed to provide detail regarding the renewal process by specifically indicating that individual insurance producer licenses be renewed biennially based on the last day of the producer's month of birth. This provision also clarifies that the initial cycle may vary from subsequent cycles in order to coincide with the birth month and that business entity licenses are renewed biennially based on the date of license issuance.

Section 37a.10 is proposed to provide direction to a business entity licensee to follow the procedures set forth at section 605-A of the act (40 P.S. § 310.5(b)) and clarifies when a business entity license is required with regard to interest, voting, interest and lines of authority for owners and designated licensees.

Section 37a.11 is proposed to clarify that an insurance producer is only authorized to conduct the business of insurance for the lines of authority stated on the license.

Section 37a.12 is proposed to clarify that a business entity can only sell lines of authority in which the business entity itself is licensed and sets forth the procedure for submitting an application for additional lines of authority, including exemption from the pre-examination education requirements.

Section 37a.13 is proposed to be added to inform producers of the procedure for notifying the Department of the use of a fictitious name (as required by section 607-A of Act 147-2002 (40 P.S. § 310.7)).

Section 37a.14 is being proposed to clarify that notices of a formal hearing for matters related to orders to show cause by the Department are said to constitute formal legal notice when sent to the address on file with the Department of the insurance producer, as producers are required to

keep addresses current in order to comply with the requirements of section 611-A(19) (40 P.S. § 310.11(19)).

Section 37a.15 is proposed to provide clarification to producers as to the procedures for ensuring the Department is notified of addresses changes, sales, dissolutions of business entities and name changes.

Section 37a.16 is proposed to provide examples of factors that the Department may consider when determining whether an applicant or licensee is worthy of licensure under section 611-A(20) of the act. This section also clarifies that the examples enumerated are not exhaustive of relevant conduct and are not *per se* determinations of worthiness, as the Department evaluates overall worthiness on a case-by case basis and considers the facts and circumstances of each situation.

Section 37a.17 is proposed to clarify that the standards for denial and revocation are aligned and provides that hearings are to be held in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

Section 37a.18 is proposed to clarify that a non-resident producer whose Pennsylvania license was based on the producer's home state may be subject to suspension, revocation, or non-renewal in the Commonwealth if the producer's home state license is suspended, revoked, or non-renewed.

Section 37a.19 is proposed to clarify that a written appointment from each sponsoring insurer is required to become an exclusive general agent pursuant to section 631-A of Act 147-2002 and also sets forth the requirements for terminating an exclusive general agent's appointment.

Section 37a.20 has been proposed to set forth the circumstances under which an insurance producer is representing the consumer or insurer and provides that such determination as to whether the insurance producer is representing the insurer is based upon the facts and circumstances of the particular transaction. This section also sets forth the relevant factors to consider and clarify that a producer may not receive a fee from both a consumer and an insurer.

Section 37a.21 is proposed to set forth the detailed guidance with regard to how producers may comply with the requirements of section 671-A of the Act (40 P.S. § 310.71), including procedures for notification and timeframes.

Section 37a.22 is proposed to clarify the requirements to qualify for the “express consent” exception of section 696-A (40 P.S. § 310.96) which would allow a producer to mingle all funds received or collected as an insurance producer. It also sets forth specific requirements for insurance producers who do not have the express consent of their insurance entities to mingle premium moneys with their personal funds.

Section 37a.23 is proposed to clarify the conditions that would enable a producer to meet the requirement for procedure for transferring appointments when insurers merge, consolidate, or reincorporate.

Section 37a.24 is proposed to clarify that the requirement of section 612-A of Act 147-2002 (40 P.S. § 310.12) that a licensee must respond to written inquiry of the Department within 30 days may serve as a basis for denial, suspension, or revocation as well as the monetary penalties set forth in section 612-A(b) of the Act 147-2002 (40 P.S. § 310.12(b))

Section 37a.25 is proposed to set forth the requirements for a licensee to establish, maintain, and follow a record retention procedure for all documents pertaining to the licensee's transaction of the business of insurance so that Department can determine and enforce compliance with the requirements of Act 147-2002.

### ***External Comments***

The Department circulated two versions of an exposure draft, similar to this proposed rulemaking, to several representatives of insurance producers, companies and carriers, including the Insurance Agents and Brokers, the Insurance Federation of Pennsylvania, and the Pennsylvania Association of Mutual Insurance Companies. The latest exposure draft was circulated on September 25, 2023, however the Department has been discussing the topic with industry members over the last year. The Department considered all comments, responded to numerous questions and suggestions, and ultimately incorporated revisions to the proposed rulemaking based upon stakeholder feedback.

### ***Affected Parties***

This regulation affects the Department, insurance consumers, non-resident and resident insurance producers, as well as insurer/carriers with the ability to obtain producer appointments. Specifically, the benefit of this regulation is that it will rescind outdated and superseded provisions that still appear in the Pennsylvania Code. This will provide clarity and will alleviate any confusion that may exist when the public or regulated community is attempting to determine whether the statutory or regulatory provision is applicable. To the extent that the provisions of Chapter 37 have not been superseded by statute, they are being repromulgated in Chapter 37a and reflect updated terminology and streamlined processes. Additionally, the Department is proposing further

clarifications by providing examples as to determinations of worthiness of applicants and licensees and for determining whether a producer is acting on behalf of an insurer or consumer.

There are 336,290 individuals and 22,782 entities licensed through Pennsylvania as resident and non-resident producers that will benefit by the clarity afforded by this proposed regulation. There are currently 1,724 insurer companies/carriers that will be affected as they have the ability to make producer appointments in compliance with this regulation and will be affected by the clarifications of when producers are acting as a representative of the company or of the consumer.

***Fiscal Impact***

Any changes that were necessary to implement Act 147-2002 were made over twenty years ago when it was enacted. As this regulation only clarifies the specific legislative processes established by statute, there is no known fiscal impact to the Commonwealth, regulated community, general public or local governments.

*State Government*

There will not be any fiscal impact to the Department as a result of this proposed rulemaking.

*General Public*

The proposed rulemaking will have no fiscal impact upon the general public.

*Local Government*

The proposed rulemaking will have no fiscal impact upon political subdivisions.

*Regulated Community*

The proposed rulemaking will have no fiscal impact on the regulated community.

### ***Paperwork***

There are no additional legal, accounting, or consulting procedures as a result of this regulation. However, this regulation does require licensees to establish record retention procedures and retain all pertinent insurance documents for seven years, or longer, if otherwise required by law or contract.

### ***Effectiveness/Sunset Date***

The proposed rulemaking will become effective within sixty (60) days upon final-form publication 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***

Questions or comments regarding the proposed rulemaking may be addressed in writing to Kimberly Sheaffer, Insurance Department, 1341 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 [kimsheaffe@pa.gov](mailto:kimsheaffe@pa.gov) or faxed to (717) 772-1969.

### ***Regulatory Review***

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 29, 2024, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the



public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final delivery of the rulemaking, by the Department, the General Assembly and the Governor.

*Michael Humphreys*  
*Insurance Commissioner*

**ANNEX A**

**TITLE 31. INSURANCE**

**PART I. GENERAL PROVISIONS**

**SUBPART C. [AGENTS AND BROKERS] INSURANCE PRODUCERS**

**CHAPTER 37. (RESERVED)**

§§ 37.1 – 37.2. (Reserved)

§§ 37.5 – 37.6. (Reserved)

§§ 37.11 – 37.19. (Reserved)

§§ 37.21 – 37.27. (Reserved)

§§ 37.31 – 37.49. (Reserved)

§§ 37.61 – 37.62. (Reserved)

§§ 37.71 – 37.72. (Reserved)

§§ 37.81 – 37.84. (Reserved)

**CHAPTER 37a. REQUIREMENTS AND STANDARDS**

Sec.

37a.1. Definitions.

37a.2. Purpose.

37a.3. Examination requirement.

37a.4. Examination Fees

37a.5. Administration of examination.

37a.6. General application requirements.

37a.7. Completion of application and renewal forms.

- 37a.8. License renewals.
- 37a.9. Business entity license.
- 37a.10. License determines authority.
- 37a.11. Lines of authority.
- 37a.12. Name on license.
- 37a.13. Notice of action under 1 Pa. Code § 35.14 (relating to orders to show cause).
- 37a.14. Changes, sale, and dissolution.
- 37a.15. Standards for denial of license.
- 37a.16. Revocation, suspension, or non-renewal of licenses.
- 37a.17. Revocation, suspension, or non-renewal of licenses in non-resident insurance producer's state of domicile.
- 37a.18. Exclusive general agents.
- 37a.19. Representation of insurer or consumer.
- 37a.20. Appointments and termination of appointments.
- 37a.21. Premium accounts.
- 37a.22. Merger of insurance entities.
- 37a.23. Enforcement.
- 37a.24. Recordkeeping.

**§ 37a.1. Definitions.**

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

*Act* – The Insurance Department Act of 1921, as amended by the Act of Dec. 6, 2002, P.L. 1183 No. 147 (40 P.S. §§ 310.1-310.99a).

*License* – A permission, in paper or electronic form, issued by the department authorizing the named recipient to sell, solicit, or negotiate contracts of insurance as an insurance producer in this Commonwealth.

### **§ 37a.2. Principal Place of Business and Residence**

For purposes of determining principal place of business and principal place of residence, the department has clarified the following terms as set forth below to be applied throughout the act (40 P.S. §§ 310.1-310.99a).

*Principal Place of Business* – The single location where the applicant or licensee physically spends the majority of their time conducting the business of insurance.

*Principal Place of Residence* – The location where the applicant or licensee occupies a home for at least 183 days of the calendar year.

### **§ 37a.3. Purpose.**

The purpose of this chapter is to implement sections 601-A – 699.1-A of the act (40 P.S. §§ 310.1-310.99a), by setting forth requirements and standards for the operation of a single licensing system for insurance producers in this Commonwealth.

**§ 37a.4. Examination requirement.**

(a) *Examination required.* The department, or a third-party approved by the department, will conduct licensing examinations for Surplus Lines licensees as defined by 40 P.S. § 991.1602 and Title Insurance agents as defined by 40 P.S. § 910-24 and for each of the lines of authority as defined in 40 P.S. § 310.1 other than limited lines.

(b) *Scope and content of examination.* Examinations will be designed to test the adequacy of an applicant's knowledge of general principles of insurance and insurance laws and of particular areas of insurance practice as are pertinent to the lines of authority for which application is intended and will be specific to Pennsylvania law.

**§ 37a.5. Examination fees to be paid to third-parties.**

(a) The department will consider the following factors when establishing and updating the fee charged to producers and paid to third-parties for conducting examinations:

- (1) The cost of developing and maintaining exams.
- (2) The cost of administering exams.
- (3) The frequency of exams offered.
- (4) The number of different types of exams offered.

(5) The volume of exams taken.

(6) The number of testing facilities.

(b) If the Commissioner delegates the authority for administering and scoring the examinations under § 37a.4 (relating to administration of examination), fees shall be set by acceptance of the contract in accordance with the following requirements:

(1) The contract shall provide for the examinee to make payment of the examination fee directly to the testing vendor.

(2) The name and address of the testing vendor awarded the testing contract, the examinations and other services offered, if any, and the fees charged therefore will be published in the examination registration materials provided by the testing vendor.

(3) Examination fees are not refundable except according to the terms of the testing vendor.

**§ 37a.6. Administration of examination.**

(a) The Commissioner may delegate to a testing vendor, by contract, the authority for administering and scoring the examinations. The testing vendor shall ensure that the following standards are met:

(1) Examinations shall be offered at regular intervals throughout the year.

(2) Testing shall be conducted at physical locations throughout this Commonwealth and shall be available remotely.

(3) Test security shall be strictly maintained, and a set of security rules shall be developed by the testing vendor and approved by the Commissioner.

(4) Bias or favoritism towards an applicant may not be permitted by the testing vendor.

(5) A comprehensive brochure describing fees, the nature of examination questions, and giving sample questions shall be prepared by the vendor and be available to applicants before or at the time of registration for examination or upon request at any time.

(b) Individuals seeking a license shall register for examination directly with the testing vendor.

**§ 37a.7. General application requirements.**

(a) Applicants for an insurance producer license shall follow the procedures at sections 604-A and 605-A of the act (40 P.S. §§ 310.4 and 310.5), pertaining to license prerequisites and insurance producer license application procedures.

(b) The applicant will be required to take a written examination unless the requirement is waived under section 604-A(d) of the act.

(c) Individuals who have passed the examination or meet the requirements of an exception under 604-A(d) may apply to the department for an insurance producer license. The certification of the applicant's score report will be directly reported by the testing vendor to the department.

(d) Test scores and results are valid for one year from the passing date of the examination. Applications received with older test results will be rejected.

(e) An insurance producer license will not be granted to a business entity unless the business entity is eligible under section 606-A(b) of the act (40 P.S. § 310.6(b)) and individual licenses are also obtained for each qualifying designated licensee or exclusive general agent in accordance with section 631-A of the act (40 P.S. § 310.31), pertaining to licensing of managers and exclusive general agents.

**§ 37a.8. Completion of application and renewal forms.**

(a) An applicant for an insurance producer license shall complete application and renewal forms truthfully and accurately, using the appropriate application form which may be submitted either in paper or electronically.

(b) Applications and renewal forms submitted to the department, electronically or through the department's licensing system, will be examined and, if not complete, the department will request additional information from the applicant. The applicant is required to provide the requested information to the department within 30 days of the department's request.



(c) If the applicant fails to provide the requested information under subsection (b), the applicant will be notified that the department may close their application if the information is not provided within a specified period of time. The closure of an application may require the applicant to retake the required test or tests if the test scores have expired or to resubmit their fingerprints. A new license application and fee may be required upon the department's request. All application fees are non-refundable per section 605-A(c) of the act (40 P.S. § 310.5(c)).

(d) All individual applicants are responsible for the content and accuracy of their application and renewal forms. Failure to provide accurate or truthful information may result in the application being denied or in an enforcement action against the applicant.

(e) The designated licensee or licensees of a business entity shall be responsible for completing the application of a business entity accurately and completely. Making a false statement in an application may constitute a ground for license denial or revocation.

### **§ 37a.9. License renewals.**

(a) Insurance producer licenses shall be renewed biennially based on the last day of the insurance producer's month of birth. The initial license cycle may vary to coincide with the expiration cycle of the birth month.

(b) Business entity licenses will expire biennially based on the date of license issuance.

**§ 37a.10. Business entity license.**

(a) Business entities shall follow the procedures at section 605-A(b) of the act (40 P.S. § 310.5(b)), pertaining to business entity application.

(b) A license shall be required for each business entity, other than a sole proprietorship, which has a separate federal tax identification number and engages in the business of insurance in this Commonwealth.

(c) A license for a business entity will not be issued unless all members, partners, officers, or directors or owners with more than 10% interest or voting interest are included on the application and all lines of authority of the business entity are also reflected on the licenses of the designated licensee or licensees thereof.

(d) A combination of licenses of the designated licensees must include all the lines of authority held by the business entity. Partners or officers may not engage, either individually or on behalf of the business entity, in an act of an insurance producer requiring a line of authority that they do not individually hold.

(e) If a designated licensee's insurance producer license is terminated, the business entity shall designate a licensed replacement within 15 days for each line of authority affected. If all affected lines of authority are terminated, failure to do so may result in the termination of the business entity's license.

**§ 37a.11. License determines authority.**

An insurance producer shall be authorized to conduct business only for the line or lines of authority stated on the license.

**§ 37a.12. Lines of authority.**

(a) A business entity shall only have the authority to sell, solicit, or negotiate a line of authority that is held by the business entity.

(b) The authority to sell the lines of authority as defined in section 601-A of the act (40 P.S. § 310.1) may be granted by the department and reflected on the license.

(c) If after meeting the appropriate requirements, an insurance producer intending to add another line or lines of authority to an existing license shall submit an application to the department and request that the new line or lines of authority be added to the insurance producer's existing license with the appropriate amended fee set forth by 71 P.S. § 240.12A.

(d) An insurance producer who holds a license in good standing for any line of authority is not required to complete the pre-examination education requirement described under section 604(A)(b) of the act, before taking the examination for any additional line.

**§ 37a.13. Name on license.**

(a) Insurance producers shall notify the department within 30 days of a legal change of name. The notice shall be in the form and manner established by the department.

(b) Any time that a licensee seeks to use a name that does not readily identify the licensee, the licensee shall:

(1) Register the fictitious name with the Department of State.

(2) Notify the department in the form and manner established by the department.

**§ 37a.14. Notice of action under 1 Pa. Code § 35.14 (relating to orders to show cause).**

Notice of a formal hearing sent to the address on file of the insurance producer shall constitute formal legal notice to the insurance producer.

**§ 37a.15. Changes, sale, and dissolution.**

(a) Whenever there is a change in the name of a business entity, or a change of the personnel affecting the designated licensee(s), the business entity shall notify the department within 30 business days so that the correct information is on file with the department. The notice shall be in the form and manner established by the department.

(b) In case of a sale or dissolution of a business entity, the business entity shall notify the department if there is a change in the designated licensee, contact information, or Employer Identification Number (EIN). If the EIN number is changing, a new application is required.

**§ 37a.16. Standards for denial of license.**

(a) The Commissioner may deny an application for an insurance producer license

upon finding any of the following:

(1) The applicant has not met the license prerequisites of section 604-A of the act (40 P.S. § 310.4).

(2) The application does not meet the requirements of section 605-A of the act (40 P.S. § 310.5).

(3) The applicant has committed an act prohibited by section 611-A of the act (40 P.S. § 310.11) including considerations of whether the applicant is worthy of licensure as set forth in the examples as set forth in subsection (b).

(b) For purposes of determining whether an applicant or licensee is worthy of licensure under section 611-A(20) of the act, the Commissioner may consider any of the following actions, including:

(1) Dishonest or fraudulent conduct.

(2) The making of knowingly false statements.

(3) Conduct demonstrating that the individual does not possess the competence necessary to accurately and successfully ensure that an insurance transaction is properly executed.

(4) Whether the applicant or licensee has abused a relationship of trust in an insurance, financial, or other context.

(5) Whether the applicant or licensee has engaged in violent conduct that could potentially jeopardize the safety of a consumer or co-worker.

(6) Criminal convictions other than those enumerated by section 611-A(14) or (15) of the act where the crime involves any of the actions in paragraphs (1)-(5) or the facts and circumstances surrounding the underlying criminal activity indicate a lack of general fitness, honesty, trustworthiness, competence or reliability.

(7) Administrative actions taken by a self-regulating non-governmental organization such as the Financial Industry Regulatory Authority or other licensing authority, board or governmental agency.

(8) Failure to comply with the requirements of sections 1601 – 1626 of the Insurance Company Law of 1921 (40 P.S. §§ 991.1601- 991.1626), pertaining to surplus lines.

(9) Whether the applicant or licensee has violated probation or parole.

(10) Whether the applicant or licensee has not yet successfully completed their sentence or the entire term of their probation or parole for an underlying conviction that can be considered subject to paragraph (6) or section 611-A(14) or (15) of the act.

(c) The examples enumerated in subsection (b) are not exhaustive of the types of conduct relevant to a determination of whether an applicant is worthy of licensure and are not *per se* determinative of worthiness. The department will continue to evaluate worthiness on a case-by-case basis and will consider the facts and circumstances of each situation.

**§ 37a.17. Revocation, suspension, or non-renewal of licenses.**

(a) The department may revoke, suspend, or refuse to renew a license upon finding that an insurance producer has engaged in conduct which would disqualify him from initial issuance of a license. This conduct includes the indicated bases for initial denial of a license provided in § 37a.15 (relating to standards for denial of license).

(b) Hearings related to the revocation, suspension or nonrenewal of a license will be held in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

**§ 37a.18. Revocation, suspension or nonrenewal of licenses in non-resident insurance producer's state of domicile.**

A nonresident insurance producer whose Pennsylvania license was issued by the department based on a valid certificate or license from the producer's home state may be subject to suspension, revocation, or non-renewal in this Commonwealth if the producer's license is suspended, revoked or nonrenewed in the producer's home state.

**§ 37a.19. Exclusive general agents.**

(a) A license does not permit an insurance producer to act as an exclusive general agent. To complete the licensure process to act as an exclusive general agent, an insurance producer shall secure a written appointment from each sponsoring insurer. An insurer shall make appointments of exclusive general agents in writing to the insurance producer.

(b) An insurer may terminate an exclusive general agent's appointment in accordance with the following requirements:

(1) Terminations shall be in writing and sent to the exclusive general agent prior to notification of termination to the department. If an exclusive general agent requests termination, the insurer shall process such termination within 30 days.

(2) If an insurer has entered into a contract with the exclusive general agent, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the exclusive general agent shall contain at least the following:

(i) The name of the insurer for which the agent is being terminated.

(ii) The effective date of termination.

(iii) The lines of authority terminated.



(iv) The name and address of terminated appointee, including fictitious names used by appointee.

(v) The national producer number or Pennsylvania license number of the terminated appointee.

(vi) The names of the designated licensee or licensees if the terminated appointee is a business entity.

**§ 37a.20. Representation of insurer or consumer.**

(a) When an insurance producer acting as the representative of the consumer is authorized by the client to secure insurance, the producer shall be considered the legal agent of the client.

(b) When an entity gives a policy, either new or renewal, to a producer acting as the representative of the consumer for delivery to the insured, the producer shall be considered an agent of the entity for delivery of that one policy and, since collection of the premium is implied, payment to the producer shall be payment to the entity.

(c) For purposes of 40 P.S. § 310.71 and where a determination is otherwise required by the Act, whether an insurance producer is acting on behalf of or representing an insurer is based upon the facts and circumstances of the particular transaction. Factors to be considered include:

(1) Whether the insurance producer receives a commission from the insurer.

(2) The nature and existence of any agreement between the insurance producer and the insurer including any reference to:

(i) An appointment of the producer.

(ii) The provision of binding authority.

(iii) Selling, soliciting or conducting insurance business *for* or *on behalf of* the insurer.

(iv) Representation of the insurer.

(3) Whether the insurance producer has researched or obtained quotes for the policy from multiple insurers and whether the insurance producer is appointed with each of these carriers

(4) Whether the insurance producer is given authority to do more than the mere authorization to submit proposals or applications for consideration by the insurer.

(d) Except as provided by 40 P.S. § 310.74(a) or otherwise provided by law, an insurance producer may not receive both a commission from an insurer and a fee from a consumer in a particular transaction.

**§ 37a.21. Appointments and termination of appointments.**

(a) To act as a representative of the insurer, an insurance producer shall secure a written

appointment from each insurer it represents.

(1) An insurer shall make appointments in writing to the insurance producer.

(2) If an insurer enters into a contract with the insurance producer to act as a representative of the insurer, the effective date of the appointment shall be the same as the effective date of the contract.

(3) An insurer's appointment form shall be submitted by the insurer in a form and format approved by the department and must contain at least the following:

(i) The effective date of the appointment.

(ii) The name and address of the appointee.

(iii) The appointee's license number.

(iv) The appointee's National Producer Number.

(v) The insurer's NAIC number.

(b) An insurer may terminate the appointment of an insurance producer to act as the representative of the insurer in accordance with the following requirements:

(1) Terminations shall be in writing and sent to the insurance producer prior to or contemporaneously with notification of termination to the department. If an insurance producer requests termination, the insurance entity shall process such terminations within 30 days.

(2) If an insurer has entered into a contract with the insurance producer to act as its representative, the termination date of the appointment shall be the same as the termination date of the contract.

(3) The termination notice to the insurance producer must contain at least the following:

(i) The name of the insurer for which the insurance producer is being terminated.

(ii) The effective date of termination.

(iii) The name and address of the terminated appointee.

(iv) The national producer number or Pennsylvania license number of the terminated appointee.

(v) The names of the designated licensee or licensees if the terminated appointee is a business entity.

(4) Termination initiated by an appointee shall be acted upon by insurer within 30 days and

confirmed by an insurer in its termination form and reported to the department as required by this subsection.

(5) An insurer shall maintain termination records for five years after termination is effective.

(6) When a termination of an appointee is for cause, the insurer shall document its reasons for termination and send the paperwork electronically to the attention of the department's Chief of Enforcement.

(7) If an appointment has been terminated on the records of the department, it may not be revived. The insurer shall issue a new appointment with a new effective date in the standard appointment format.

(8) An insurer shall file a termination of an appointment when the appointee ceases to act as the representative of the insurer.

(c) Appointment and termination activity by an insurer shall be reported to the department electronically within 30 days of the appointment or termination effective date. On a case-by-case basis, the department will continue to accept paper monthly appointment activity reports for insurance companies who have 50 or less transactions per calendar year. The report shall be in a format approved by the department. The report shall be filed within 30 days of the end of the period being reported.

(d) Appointment and termination records required under this section may be maintained in the form of electronic paperless filing systems in accordance with guidelines for record retention developed and distributed by the department.

(e) Nothing in this section shall affect the insurance producer's rights under Act 143 of 1978 (P.L. 764, No. 143) regarding the termination of agency contracts.

**§ 37a.22. Producer accounts.**

(a) Insurance producers who have the express written consent of their insurance entities to mingle all funds received or collected as an insurance producer with their own funds in accordance with 40 P.S. § 310.96 (relating to fiduciary capacity of an insurance producer) may do so if the following exist:

(1) Moneys held in a fiduciary capacity are reasonably ascertainable from the books of accounts and records of the insurance producers.

(2) Amounts due entities are equal to or less than the combined accounts receivable and current bank balances.

(b) Insurance producers who do not have the express consent of their insurance entities to mingle all funds received or collected as an insurance producer with their personal funds shall hold the funds separate from other funds in accordance with the following:

(1) Insurance producers who do not make prompt remittance to their insurance entities may not deposit funds received or collected as an insurance producer in office operating accounts but shall keep the moneys in a separate bank account from which disbursement may not be made other than for the payment of premiums to the insurance entities, the return of premiums to the insured, the transfer of commissions or the withdrawal of voluntary deposits.

(2) Voluntary deposits in the account for funds received or collected as an insurance producer in excess of premiums collected and unpaid to insurance entities may be made for the purpose of maintaining a minimum balance, to guarantee the adequacy of the account or for the purpose of the payment of premiums to the insurance entities in advance of their collection. These deposits may not be withdrawn except to the extent that the remaining balance is equal to the total of net premiums collected and unpaid to insurance entities.

(3) The deposit of all funds received or collected as an insurance producer in a separate bank account may not be construed as a mingling by the producer of the net premium and of the commission portion of the premium. The commission portion of the premiums may be withdrawn from the separate bank account at the discretion of the insurance producer.

(4) The maintenance in a separate bank account of at least the net balance of premiums collected and unpaid to the entities by insurance producers shall be construed as compliant with this section and section 696-A of the act (40 P. S. § 310.96), if the funds so held are readily ascertainable from the books of account and records of producers.

(5) Insurance producers who make prompt remittance of collections to their insurance entities need not maintain separate bank accounts for these collections. To constitute prompt remittance, payment to entities shall be remitted not later than the close of the fifth business day following receipt of the funds.

(6) When both an operating and an account for all funds received or collected are maintained by insurance producers under this section for purposes of segregating premiums collected, the funds account balance shall include moneys sufficient to pay premiums collected and any amount delinquent or in dispute with the insurer represented. Upon reconciliation of delinquent or disputed accounts, excess moneys remaining in the funds account may be withdrawn as if they had been voluntary deposits.

(7) Insurance producers may deposit all funds received or collected as an insurance producer in an interest-bearing account when not required to make prompt remittance to the insurer of premium moneys, if the following are met:

(i) The moneys are not placed in an account upon which a penalty may be levied against the principal for early withdrawal.

(ii) The moneys are placed in an account insured by the United States Government or instruments secured by the United States government.



**§ 37a.23. Merger of insurance entities.**

(a) When insurers merge, consolidate or reincorporate, the insurers have the option to transfer all or none of their insurance producer appointments to the new surviving insurer. The transfer takes place immediately after the merger transaction is effective. Additional lines of authority will not be granted to these insurance producers by means of the transaction.

(b) If the surviving insurer decides to transfer all insurance producer appointments, it shall notify the department within 30 days of such transfer. The notice shall be in the form and manner established by the department.

**§ 37a.24. Enforcement.**

(a) An insurance producer must, within 30 days of receiving a written inquiry by the department or a request for documentation related to an application or renewal of a license or an investigation, provide a written response or produce the requested documents.

(b) An insurance producer shall cooperate with the department in any investigation related to a violation of the act or this chapter. Cooperation includes, but is not limited to, being interviewed by the department, providing a written statement to the department, providing pertinent documentation, testifying at a proceeding, and completing an authorization for release of information, as necessary, in a form specified by the department.

(c) If a licensee fails to respond to an inquiry as set forth in subsection (a), the department may file an order to show cause against the licensee on that basis seeking the penalties set

forth in section 612-A(b) of the act (40 P.S. § 310.12(b)) of a fine of no more than \$100 per day in addition to the denial, suspension, or revocation of a license.

**§ 37a.25. Recordkeeping.**

(a) Licenses shall establish, maintain, and follow record retention procedures to retain all documents pertaining to the licensee's transaction of the business of insurance for seven years from the final execution or creation of the record, whichever is longer.

(b) The requirements of this provision establish only the minimum retention period and shall not affect any record retention requirements that may be in excess of this time period, including requirements imposed by any of the following:

(i) Any contractual agreement.

(ii) The Internal Revenue Service.

(iii) Any applicable statute of limitations.

(iv) Any law, regulation or policy of the department or any other state or federal regulatory agency.

(c) Nothing in this section prohibits a licensee from retaining a record in an electronic format, provided that all records shall be retained in a manner that preserves their authenticity and will

allow for their prompt production upon request by the department or any other state or federal regulatory agency.

(d) For purposes of this section, an employee, agent, representative or designee of an insurance producer that is a business entity is exempt from the requirement to individually retain records to the extent that these records are already maintained by the licensed business entity.



GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 29, 2024

Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

RE: Insurance Department Proposed-form Regulation No. 11-262  
Rescinding and Reserving 31 Pa. Code § 37; Adopting 31 Pa. Code 37a.

Dear Independent Regulatory Review Commission:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is proposed regulation 11-262, which proposes to rescind and reserve Chapter 37 (related to agent certificates and broker licenses) and adopt, in its place, Chapter 37a (related to producer licenses, managers and general agents, powers and duties of the Insurance Commissioner, referral fees, and penalties).

If you have any questions regarding this matter, please contact me at (717) 705-7285.

Sincerely yours,

A handwritten signature in blue ink that reads "Jennifer Brown-Sweeney".

Jennifer Brown-Sweeney  
Department Counsel

RECEIVED

**From:** [Bulletin](#)  
**To:** [Brown-Sweeney, Jennifer](#)  
**Cc:** [Sheaffer, Kimberly](#); [Adeline E. Gaydosh](#)  
**Subject:** [External] Re: Delivery of Proposed Regulation #11-262  
**Date:** Monday, April 29, 2024 2:42:46 PM

Independent Regulatory  
Review Commission

April 29, 2024

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Good afternoon, Jennifer,

Thank you for sending this proposed rulemaking. It is scheduled for publication in the 5/11 issue of the *Pennsylvania Bulletin*.

Have a wonderful afternoon,  
Adeline

**Adeline Gaydosh | Legal Assistant**  
[agaydosh@palrb.us](mailto:agaydosh@palrb.us) | 717.783.3984  
Legislative Reference Bureau  
*Pennsylvania Code & Bulletin Office*  
647 Main Capitol Building  
Harrisburg, PA 17120

---

**From:** Brown-Sweeney, Jennifer <[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)>  
**Sent:** Monday, April 29, 2024 12:03 PM  
**To:** Bulletin <[bulletin@palrb.us](mailto:bulletin@palrb.us)>  
**Cc:** Sheaffer, Kimberly <[kimsheaffe@pa.gov](mailto:kimsheaffe@pa.gov)>  
**Subject:** Delivery of Proposed Regulation #11-262

Thank you for agreeing to accept electronic delivery of the proposed regulation 11-262 package. Included please find the pdf of the regulation package as well as a Word version of the Annex and Preamble. The Department would like to have the proposed package published in the May 11, 2024 issue of the Bulletin.

Please provide a written email confirmation that this rulemaking has been received, at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me directly.

Thanks,

**Jennifer Brown-Sweeney** | Department Counsel  
Insurance Department  
Governor's Office of General Counsel

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**From:** [Cohn, Alan J.](#)  
**To:** [Brown-Sweeney, Jennifer](#)  
**Cc:** [Keller, Joseph](#); [Mollah, Aliya](#)  
**Subject:** RE: Delivery of Proposed Regulation #11-262  
**Date:** Monday, April 29, 2024 1:05:44 PM

Independent Regulatory  
Review Commission

April 29, 2024

---

Jennifer, on 4-29-24 we have received the regulation 11-262.

Thank you,

Alan J. Cohn  
Senior Executive Director  
House Insurance Committee (D)  
House of Representatives  
[acohn@pahouse.net](mailto:acohn@pahouse.net)  
717-787-4437

---

**From:** Brown-Sweeney, Jennifer <[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)>  
**Sent:** Monday, April 29, 2024 11:49 AM  
**To:** Cohn, Alan J. <[ACohn@pahouse.net](mailto:ACohn@pahouse.net)>  
**Subject:** Delivery of Proposed Regulation #11-262

Mr. Cohn,  
Thank you for agreeing to accept delivery of the proposed regulation 11-262 package. Please provide a written email confirmation that this rulemaking has been received, at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me directly.

Thanks,

**Jennifer Brown-Sweeney** | Department Counsel  
Insurance Department  
Governor's Office of General Counsel  
1341 Strawberry Square | Harrisburg PA 17120  
[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov) | [www.insurance.pa.gov](http://www.insurance.pa.gov) | [www.ogc.pa.gov](http://www.ogc.pa.gov)

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Independent Regulatory  
Review Commission  
April 29, 2024

Jennifer,

Thank you for sending this over to our office. I will review the proposed regulation and let you know whether the Chairman has any questions about the proposal.

Thank you again.

Regards,

**Jordan Grant**  
**Executive Director of Banking and Insurance**  
**Senator DiSanto**  
**168 Main Capitol Building**  
**Harrisburg, PA 17120-3029**  
**Phone: 717-787-6801**

---

**From:** Brown-Sweeney, Jennifer <[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)>  
**Sent:** Monday, April 29, 2024 11:46 AM  
**To:** Grant, Jordan <[jgrant@pasen.gov](mailto:jgrant@pasen.gov)>  
**Subject:** Delivery of Proposed Regulation #11-262  
**Importance:** High

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Mr. Grant,

Thank you for agreeing to accept delivery of the proposed regulation 11-262 package. Please provide a written email confirmation that this rulemaking has been received, at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me directly.

Thanks,

**Jennifer Brown-Sweeney** | Department Counsel  
Insurance Department  
Governor's Office of General Counsel  
1341 Strawberry Square | Harrisburg PA 17120  
[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov) | [www.insurance.pa.gov](http://www.insurance.pa.gov) | [www.ogc.pa.gov](http://www.ogc.pa.gov)

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Independent Regulatory  
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April 29, 2024

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**From:** Brown-Sweeney, Jennifer <[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)>  
**Sent:** Monday, April 29, 2024 11:52 AM  
**To:** David Greineder <[Dgreineder@pahousegop.com](mailto:Dgreineder@pahousegop.com)>  
**Subject:** [EXTERNAL]: Delivery of Proposed Regulation #11-262  
**Importance:** High

Mr. Greineder,

Thank you for agreeing to accept delivery of the proposed regulation 11-262 package. Please provide a written email confirmation that this rulemaking has been received, at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me directly.

Thanks,

**Jennifer Brown-Sweeney** | Department Counsel  
Insurance Department  
Governor's Office of General Counsel  
1341 Strawberry Square | Harrisburg PA 17120  
[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov) | [www.insurance.pa.gov](http://www.insurance.pa.gov) | [www.ogc.pa.gov](http://www.ogc.pa.gov)

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**From:** [Morris, Dustin](#)  
**To:** [Brown-Sweeney, Jennifer](#)  
**Subject:** RE: Delivery of Proposed Regulation #11-262  
**Date:** Monday, April 29, 2024 12:22:42 PM

Independent Regulatory  
Review Commission

Received.

April 29, 2024

Thanks,  
Dustin

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**From:** Brown-Sweeney, Jennifer <[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov)>  
**Sent:** Monday, April 29, 2024 11:43 AM  
**To:** Morris, Dustin <[dustin.morris@pasenate.com](mailto:dustin.morris@pasenate.com)>  
**Subject:** Delivery of Proposed Regulation #11-262  
**Importance:** High

■ EXTERNAL EMAIL ■

Mr. Morris,

Thank you for agreeing to accept delivery of the proposed regulation 11-262 package. Please provide a written email confirmation that this rulemaking has been received, at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me directly.

Thanks,

**Jennifer Brown-Sweeney** | Department Counsel

Insurance Department

Governor's Office of General Counsel

1341 Strawberry Square | Harrisburg PA 17120

[jbrownswee@pa.gov](mailto:jbrownswee@pa.gov) | [www.insurance.pa.gov](http://www.insurance.pa.gov) | [www.ogc.pa.gov](http://www.ogc.pa.gov)

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