

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, Rhode Island 02903

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 107 – Standards for Safeguarding Consumer Information

The Department of Business Regulation (“Department”) hereby adopts Insurance Regulation 107 – Standards for Safeguarding Consumer Information effective September 1, 2006 and makes this statement in accordance with R.I.G.L. § 42-35-2.3. The Department adopts this regulation in order to require licensees to take steps to safeguard consumer information. There are four differences between the text of the proposed rule as published in accordance with R.I.G.L. § 42-35-3 and the rule as adopted. Those changes are:

1. The Regulation as noticed used a number that had previously been used by the Department for an emergency regulation. To eliminate any confusion the regulation has been renumbered “Insurance Regulation 107”.
2. A line has been added to the authority section to clarify that the regulation does not apply to licensees of the Office of Health Insurance Commissioner that were formerly licensees of the Department.
3. Section 11 has been replaced with a reference to R.I.G.L. § 11-49.5-1 *et seq.* and a requirement that the Department be notified along with consumers. Numerous comments were received that the Department’s attempts to clarify R.I.G.L. § 11-49.5-1 *et seq.* with regard to licensees actually created more confusion and, therefore, the Department has decided to adopt this more simplistic approach.
4. The effective date has been amended to provide licensees sufficient time after the effective date of R.I.G.L. § 11-49.5-1 *et seq.* to comply to allow sufficient time for operations and systems to be changed.

The following comments were made as part of the adoption process, however, the Department did not make any changes to the proposed regulation as a result. Those comments, and the reason that the Department did not make a change are as follows:

1. One commenter requested that the Department clarify that the regulation does not apply to workers compensation carriers. The Department does not accept that workers compensation carriers are exempt and, therefore, declines to make the change.
2. One commenter requested that the Department make the regulation applicable only to financial information in an electronic form. The change was requested because of the vagueness created by the Department’s attempts to

explain R.I.G.L. § 11-49.5-1 *et seq.* Since Section 11 was changed, the Department does not believe that a change to the definition of customer information is warranted.

3. One commenter requested that the security programs be submitted to the Department to verify compliance. The Department conducts examinations of licensees pursuant to R.I.G.L. § 27-13.1-1 *et seq.* and will use that function to determine compliance rather than requiring the thousands of insurers who are licensed in Rhode Island to make a filing. Additionally, since the regulation is based upon a NAIC Model Act, the Department will also assure compliance through market conduct examinations of the domestic regulators of the insurers.

4. One commenter asked that the NAIC model language entitled “Determined Violation” be added along with a reference to enforcement. This section was not included in the proposal since, pursuant to R.I.G.L. § 42-14-16, the Department may take enforcement action against licensees for violation of any portion of Title 27 or a regulation promulgated thereunder. It is, therefore, unnecessary to provide for enforcement within the regulation itself.