



September 21, 2009

Mr. Dennis Gartner
Assistant Deputy Minister, Financial Sector
Regulation and Policy, and
Superintendent of Insurance
Room 402, 9515 – 107th Street
Edmonton, Alberta T5K 2C3

Re: Insurance Amendment Act, 2008; Proposed Regulations

Dear Mr. Gartner:

Thank you for your letter of July 8, 2009 inviting us to contribute to the development of the regulations under the amended act. We are pleased to enclose our submission on behalf of the General Insurance OmbudService.

Like you, we are guided by the pursuit of improved consumer protection, transparency and fairness, balanced with a supportive regulatory climate.

Our comments are derived from our experience dealing with consumers of home, auto and business insurance. For that reason we have limited our comments to proposals 1,3,4 and 14.

We look forward to the outcome of this consultation, and applaud the Alberta government for including stakeholders like GIO in this important discussion.

Yours very truly,

Brian Maltman, Executive Director

Lea Algar, Chair

General Insurance
OmbudService



Service de conciliation en
assurance de dommages

**Response to Alberta's Consultation on
Proposed Regulations for the
Amended Insurance Act.**

September 2009

The Alberta Ministry of Finance and Enterprise has asked for comments on its proposed regulations under the amended *Insurance Act*.

The following comments to the proposed regulations are made on behalf of the General Insurance OmbudService (GIO).

GIO is an independent organization, created in 2002, with the sole purpose of helping Canadian consumers resolve disputes or concerns with their home, auto or business insurers. Our goal is to use our extensive experience and industry-related insight to work towards a fair solution between individuals and their insurance companies.

Any home, auto or business insurance consumer in Canada who has a concern or dispute with one of GIO's member companies can initiate the process by contacting us with the details of his or her complaint. GIO's services are available free of charge, in both English and French. The majority of issues GIO deals with concerns claims, interpretation of policy coverage and policy processing and handling.

In Alberta GIO is also the provider of complaints resolution services for Alberta's *Three-Step Premium Dispute Resolution Process* for Automobile Insurance.

Over our seven year history GIO has developed a high level of expertise in handling consumer complaints. We have developed standards and practices that have been described by an independent reviewer as "first class". We have also developed cooperative and supportive relationships with our member companies, and with regulators at the provincial and federal level.

In this Consultation Response, we have limited our comments to proposals 1, 3, 4, and 14. The remaining proposals either do not involve GIO in the delivery of its mandate or will be more properly addressed by others.

The proposals of the Alberta government are set out first, in *italics* followed by GIO's comments.

Proposal 1. Disclosure of Limitation Periods

Proposed Regulation:

- a) *Insurance companies and their appointed adjusters will be required to notify policyholders in writing of the time period for bringing a legal action against the insurer. Notice of the limitation period must be given on up to three separate occasions: (1) upon notification of a claim; (2) on denial of the claim; and (3) at least 60 days, but no more than 120 days, before the limitation period expires.*
- b) *The first notice must include a copy of the relevant section of the Insurance Act that sets out the limitation period.*
- c) *In the event of non-compliance, the regulation will authorize the court to extend the limitation period or give such other remedy as the court deems necessary.*

Comment of the General Insurance OmbudService

- a) We are in favour of requiring insurers and adjusters to advise policyholders of the limitation period for commencing action. We receive calls on a consistent basis where a consumer is beyond the limitation period or close to it. We recommend that this advice take place twice, (1), on denial, and (2), as the limitation period approaches. The vast majority of claims are resolved without controversy. Earlier notification may cause a consumer concern or confusion and lead to the belief that there may be a problem with the claim when in fact there is none. Notification of limitation periods *when a dispute arises* will increase clarity in understanding of consumers' rights and obligations.
- b) We are in favour of including the relevant sections of the Insurance Act upon notification and would recommend that this include a lay description of what this means. At this point policyholders are focused on their discussion with their insurer and its adjusters, and may conclude that, as long as discussions or negotiations are continuing, they are doing everything necessary to protect their claim rights. This is not an unreasonable assumption most of the time. We also recommend that this notification make the distinction between *commencing legal action* and *filing a Proof of Loss*. In our experience consumers do not always understand the difference between the two.
- c) We do not express an opinion on penalties for non-compliance.

Proposal 3. Require Insurance Companies to participate in Industry OmbudService Organizations

Proposed Regulation:

Require insurance companies to participate in industry consumer-complaint OmbudService programs.

Comment of the General Insurance OmbudService

We are strongly in favour of this proposal. The General Insurance OmbudService has developed a strong track record of assisting consumers over its seven year history. Our involvement with Alberta's Three Step Dispute Resolution Process has enhanced our familiarity with Alberta consumers particularly.

Part of our success is in explaining the insurance product and processes to consumers. This often serves to improve relations between policyholders and their companies. It also serves the broader goal of consumer education, a constant need for products and services that are inherently complex.

For those complaints that require Conciliation, Mediation or Senior Adjudication, the cost-free nature of these services increases access to non-adversarial dispute resolution for consumers.

Federally ordered property / casualty insurance companies are required by legislation to participate in an industry ombudservice. If the Government of Alberta wishes to have provincially licensed companies doing business in Alberta belong to such an organization, our experience suggests that legislative requirement will be the successful solution for this. In addition to clarity, such a requirement will ensure that all Alberta residents have equal access to the cost-free consumer protection measures provided by GIO.

Proposal 4. Facilitation of Electronic Transactions

Proposed Regulation:

Coordinate the process and types of records that can be completed electronically with the Electronic Transactions Act

Comment of the General Insurance OmbudService

We are in favour of this proposal. Our business is increasingly paper-free. Electronic transactions save time and expense and are capable of adequate security measures. Consumers can file their complaint on GIO's secure website.

Proposal 14. Disclosure of Dispute Resolution Process*Proposed Regulation:*

Insurance companies to notify policyholders in writing of the dispute resolution process. The notice must be given;

- (a) within 10 days of the insurer making the determination that there is a disagreement to which the process is applicable, or*
- (b) where the insurer has not made a decision on the claim, no later than 60 days after the proof of loss was received by the insurer.*

Comment of the General Insurance OmbudService

We are in favour of these proposals. The dispute resolution process appears in different places in other jurisdiction in Canada and is still frequently referred to as "Appraisal". It is a feature of many insurance policies that can be invoked at the option of the policyholder. It is another part of the insurance product that does not enjoy broad public awareness. We explain this option to consumers on a regular basis, including two features that distinguish it from services we offer: it provides a binding outcome, and the consumer usually must bear part of the cost of the process.
