



IBAA
INSURANCE BROKERS
ASSOCIATION OF ALBERTA

*Dedicated to preserving and
strengthening the Insurance Broker*

September 25, 2009

Mr. Dennis Gartner
Assistant Deputy Minister and Superintendent of Insurance
Alberta Finance and Enterprise
Room 402
9515 – 107 Street
Edmonton, Alberta
T5K 2C3

Dear Mr. Gartner:

The Insurance Brokers Association of Alberta (IBAA) is pleased to submit our comments on the "Consultation on Proposed Regulations for the Amended Insurance Act."

If you have any questions or concerns please feel free to contact me directly.

Thank you.

Yours truly,

Ginny Bannerman
Chief Executive Officer

Encl.

INSURANCE BROKERS ASSOCIATION OF ALBERTA

Submission for the

CONSULTATION ON PROPOSED REGULATIONS FOR THE AMENDED INSURANCE ACT

WHO WE ARE

The Insurance Brokers Association of Alberta (IBAA) is a not-for-profit voluntary business association that acts as the industry voice for insurance brokerages and brokers in Alberta. The IBAA has represented the interests of brokerages and consumers for more than 87 years. The IBAA has 370 corporate brokerage members, with 595 offices located in 167 communities across Alberta. IBAA members represent 90 percent of the eligible brokerage businesses in Alberta and they proudly employ over 5300 professionals in the industry.

WHAT WE DO

The IBAA is the united voice of brokerages to provincial and federal governments on marketplace issues and industry regulation. The IBAA is an accredited education provider in Alberta. We offer professional designation programs for experienced brokers as well as licensing and general interest courses to build and enhance brokers' expertise and the value they bring to their clients. We keep our members apprised of industry news and we provide industry-wide networking opportunities through an annual convention and regional meetings.

CONSULTATION DOCUMENT

ISSUES APPLICABLE TO ALL INSURANCE COMPANIES

1. DISCLOSURE OF LIMITATION PERIODS

We support the recommendation to have insurers and their adjusters notify policyholders in writing of the time period for bringing a legal action against the insurer. This is an important consumer protection initiative that protects the legal rights of the policyholder. We were pleased to see that the regulations will allow the courts the right to extend the notification period for non-compliance by insurers or their adjusters. We agree that this same requirement for third party claimants is not required.

2. TRANSITIONAL PROVISIONS

We would like to see at least a six (6) month window from the time the regulations are approved to enactment. This is very important as the IBAA will need to update texts and educational materials and create and deliver educational programs that will help brokerages and brokers ensure there is understanding of the regulations for the protection of consumers.

We will be looking to the Superintendent's Office for support and advice as we develop the training programs. We welcome participation by the Superintendent's office in the delivery of the training to ensure accuracy and consistency of content. The IBAA would also be willing to work with other organizations in the development and delivery of the training programs to ensure that insurers and distributors of their products are working with the same understanding and awareness of the new regulations.

It is important in preparing for the enactment of the regulations that consideration be given to timing for the education programs. Late spring and summer is not ideal. The fall and winter seasons are preferable, allowing us to reach a broader audience and therefore having a greater impact.

3. REQUIRE INSURANCE COMPANIES TO PARTICIPATE IN INDUSTRY OMBUDSERVICE ORGANIZATIONS

In principle we would agree with this recommendation. Consumers must have an accessible, affordable and easy to navigate the complaint resolution system rather than having to resort to litigation.

We agree notification of the dispute resolution process must be provided directly to policyholders by their insurers, including the appropriate information contained in legislation. The appointed OmbudService organization needs to be responsible for producing interpretive guidelines and educational information for consumers, insurers and arbitrators/umpires. However, equally important - if not more so - is that government must have an approval process established for interpretive guidelines and educational information prior to their production and distribution to ensure accuracy and impartiality. This information could be provided to insurance consumers by brokers and agents. Information can be made available on government, industry association and insurer websites.

No doubt there will be concerns about impartiality of such a process. When establishing or appointing an industry-based and funded complaint resolution process it must not only be perceived to be impartial, it must be impartial in every way. Government must provide the oversight of the complaint resolution process to insure that impartiality exists for consumers and the insurance companies.

4. FACILITATION OF ELECTRONIC TRANSACTIONS

The move to electronic commerce is inevitable for brokers, agents and insurers. The IBAA has some concerns with electronic contact between brokerages' customers and insurers. Outside of the legislated required notification provisions as set out in the Insurance Act (which cannot be in electronic form) there is no need for an insurer to have direct electronic access to the brokerage's customer.

The IBAA believes the legislation needs to hold the brokerage-customer relationship sacrosanct, with the understanding that the insured is the customer of the brokerage not the insurer. With electronic communication being permissible, insurers cannot be allowed to solicit or market directly to the brokerage's customer.

As the insured is the customer of the brokerage, the brokerage needs to be included in the “notification” provisions. The brokerage can use the notification information to help or guide the insured.

5. CLASSES OF INSURANCE

We have no concerns with the classes of insurance being harmonized with federal legislation.

ISSUES APPLICABLE TO LIFE AND ACCIDENT & SICKNESS INSURANCE COMPANIES

The IBAA will not comment on Sections 6 to 10 of the consultation paper as they do not pertain to Property and Casualty insurance.

ISSUES APPLICABLE TO PROPERTY AND CASUALTY INSURANCE COMPANIES

11. INNOCENT CO-INSURED

We defer to the expertise of the insurers on the exemptions, but clearly there can be no intent to take away innocent co-insured rights from a natural person.

12. INNOCENT CO-INSURED

We would support the recommendations for innocent co-insureds who want to rely on this section of the Insurance Act, as they contain nothing that an innocent party should be unwilling to provide to the insurer.

13. FIRE INSURANCE

Fire Following an Earthquake - We support the recommendation to not exclude fire damage following an earthquake. To do so, and then make this coverage available through endorsement or on a stand-alone basis presents problems with the sizeable difference in deductibles between standard property policies (\$500) and earthquake extensions (5% of the value of the structure).

Fire Following a Terrorist Act - We are concerned with the recommendation to bring fire following a terrorist act under the basic policy coverages. We question if reinsurance is available to insurers to comply with this requirement? If reinsurance is not available, can insurers provide this coverage without impacting their financial capacity? Regardless, with no ability to exclude coverage, we foresee insurers having to adjust rates to provide the coverage - and we imagine that the rate increases could be substantial.

We believe that fire following a terrorist act should fall into the same “uninsurable” category as war risks.

14. DISCLOSURE OF DISPUTE RESOLUTION PROCESS

We hold the same position on this section as we did for Section three (3) of the consultation paper. It is imperative however that giving notice falls on the insurer not a broker or agent.

15. EXCLUSIONS FROM THE APPLICATION OF THE STATUTORY CONDITIONS

We would agree with the recommendations in the Consultation Paper.