



April 25, 2007

Andrew Robinson, Assistant Deputy Minister  
Financial and Corporate Sector Policy Branch  
Ministry of Finance  
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Victoria BC V8W 9V1

Sent by email: [fscp@gov.bc.ca](mailto:fscp@gov.bc.ca)

Dear Mr. Robinson:

**Subject: British Columbia Insurance Act Discussion Paper**

Independent Financial Brokers of Canada (IFB) is pleased to provide our comments on the *Insurance Act Review Discussion Paper*, dated March 2007.

IFB is a professional association representing approximately 4,000 independent financial advisors across Canada. Most of our members are licensed to sell life and health insurance products and many are also registered mutual fund or securities advisors. A smaller number of members provide property and casualty insurance. Therefore, the majority of our comments will be directed at the potential effects of these proposals as they relate to the life/health insurance sector.

At the outset we would like to state that IFB supports the Ministry's overall objectives to enhance consumer protection under the *Insurance Act* and to clarify the legislation. Insurance is a unique product in that while consumers may have purchased coverage some time ago, they access it only in time of need, which may well be catastrophic in nature. It is, therefore, essential that consumers have easily accessible information related to their policy coverage and understand the coverage, and limitations, of that policy.

Insurance contracts, coverage and exclusions can be complex. Our Association believes that it is fundamental for clients to receive personalized attention by properly trained and licensed brokers to ensure their insurance requirements are appropriately met and to sort through the myriad of insurance products that exist in today's marketplace. In support of this view, IFB is a major provider of continuing education aimed at ensuring insurance advisors are kept abreast of the latest regulatory and product related developments in this field.

#### Harmonization

We are pleased that B.C. is seeking opportunities to harmonize changes to its legislation with similar provisions under the Alberta *Insurance Act* (where a similar review is also underway) and the insurance acts of other provinces, where possible. As many of our members are licensed in multiple provincial/territorial jurisdictions, harmonization is an important contributor to improving their ability to service clients and reducing the regulatory burden and cost of conducting business across provincial boundaries.

#### Limitation Periods

IFB supports harmonizing limitation periods within the Act and with other provincial insurance acts where possible to reduce confusion and ensure all parties under the Act are treated similarly.

#### Group Insurance

The Discussion paper proposes that “consumers be given a statutory right to obtain, upon request, a copy of a group insurance policy, while insurers be permitted to withhold personal and commercially sensitive information”. IFB generally does not object to this proposal provided there is a clear definition or understanding of what constitutes “personal and commercially sensitive information” so that any policy information specific to the plan sponsor and the insurer, as referred to in the preceding paragraph, is covered under this exclusion. In addition, we would suggest that replacing the word “consumers” with “plan participants” and “insurers” with “plan sponsors” would provide added clarification and reflect more accurately the relationship between the “consumer” and the plan sponsor. Generally, the nature of a group insurance plan is such that the plan participants deal with the plan sponsor, not the insurance company.

As an example, IFB sponsors an errors and omissions insurance plan for our members. It is a significant benefit to members that IFB can negotiate with an insurer to attain superior coverage and premium rates - on their behalf – and which conforms to provincially-mandated requirements.

On enrolment, IFB provides members with a certificate of insurance which outlines the terms and coverage of the policy. While this provides our members with full information regarding their coverage, we do not provide an actual copy of the policy as it contains information specific to the terms agreed upon by the insurer and IFB as the plan sponsor. We believe this current level of disclosure is sufficient and meets the needs of individual participants in understanding their coverage under our Plan.

We have no objection to consumers of P&C group insurance plans being given the same rights as consumers of group life and A&S insurance plans; however, we generally do not support members of group plans being given the right to sue on the contract because they are not the contracting party. In our case, as illustrated above, IFB negotiates the terms for the errors and omissions liability insurance with the insurer on behalf of the plan members.

We do not see the need for further regulation or restriction of group insurance products at this time. Unless there are clear and valid reasons for proposing such restrictions, we suggest that the market determine which products are no longer useful or have limited value as group plans.

### Dispute Resolution

We agree that consumers should have available to them low cost, accessible means to resolve disputes related to their insurance. Some of these disputes will involve smaller claims or may arise out of a misunderstanding related to the policy terms or coverage which could best be resolved outside of engaging potentially expensive legal assistance.

As you note, federally regulated insurance companies already have procedures in place to deal with such disputes and the Canadian Life and Health Association offers an ‘ombudsman’ service. These resources are available to policyholders at no cost. We expect that mirroring these dispute resolution channels for provincially regulated insurance companies should be sufficient to resolve most disputes without the expense of retaining a lawyer.

Additional information on these resources is often available to consumers through their broker. For example, consumers who employ the services of an IFB member receive information on the industry resources available to them in the event of a dispute as part of their conflict of interest disclosure document. Furthermore, our members – because they are independent brokers – provide an important service to clients by advocating on their behalf with the insurance company.

Taking all of these factors into account, we expect that most disputes related to life and health insurance will find resolution.

### Statutory Declarations

We agree that the current statutory requirement for an insured to verify their proof of loss with a sworn statement could be replaced with a signed statement. This will reduce the expense associated with the requirement that such declarations must be sworn before a lawyer or commissioner of oaths.

To address the concern that a signed statement may be viewed by the insured as less binding and as such may lead to an increase in false statements, we suggest that the wording be sufficiently clear and strong so that the insured, when signing it, understands the implications of a false statement. You may wish to consider establishing a threshold claim over which the insured would be required to obtain a sworn statement. This would

allow the majority of smaller claims to be dealt with expediently and without incurring undue expense and inconvenience, while offering some protection to insurance companies against larger claims.

Other Issues

- i. Life insurance and A&S  
IFB supports a harmonized approach to incorporating certain technical updates with those of other provincial insurance acts, and we look forward to commenting on these further when the changes become available.
- ii. Marine and home warranty insurance  
No comment.
- iii. Classes of insurance  
Per our comments elsewhere in this response, IFB supports such harmonization.
- iv. Modern distribution methods  
IFB supports updating the Act to provide for electronic means of policy delivery and notices of termination.
- v. Livestock insurance  
No comment.

Issues for which amendments are not proposed

Viatical Settlements

We encourage B.C. to continue the ban on viatical settlements. In our opinion, the early payout provisions which already exist in the event of a shortened life expectancy provide policyholders with the option to address an immediate financial need, without the risks associated with viatical arrangements.

IFB appreciates the opportunity to provide these comments and we look forward to receiving future drafts as they become available.

Yours truly,



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