

Fair Practices Regulation Consultation Paper

Introduction

Treasury Board and Finance (the department) is reviewing the [Fair Practices Regulation](#) (Regulation) of the [Insurance Act](#) (Act).

Purpose

The purpose of this consultation paper is to seek comments and feedback from stakeholders, and to provide an opportunity to identify other issues for consideration.

Summary of the Regulation

The Regulation establishes a number of consumer protection measures dealing with a variety of insurance topics. The Regulation includes items such as:

- Insurers must give notice to insureds of their liability (informing them they have been found at fault) in the event of an automobile collision claim;
 - The prohibition of tied selling of insurance products (tied selling is when an insurer or insurance agent requires an applicant to purchase a product or service from them, including another insurance policy, as a precondition to obtaining insurance); and
- Insurers must give written notice of the dispute resolution process set out in the Act to an insured.

Items for consideration

The department has identified a number of items for consideration, listed below. These items have been identified with consumer protection in mind. Applicable excerpts from regulations are provided in the Appendix. Please inform the department of any comments you have on these items.

1. Requiring an insurer give written notice of liability to an insured in the event of an automobile collision claim.
 - Section 2(a) of the regulation does not specify that notice of liability must be in writing.
 - This would prevent situations in which an insurer has determined an insured is liable for an automobile collision, and the insured is unaware of his or her liability. Written notice clearly communicates the determination of liability an insurer has made that affects an insured.
2. Expansion of the provision that requires the disclosure of a consumer's right to choose his or her own service provider to include medical services.
 - Section 3 of the regulation currently only addresses the right to choose one's own service providers for property damage. However, the right to choose a service provider is available for other types of insurance.

- If this change is adopted, an insurer would be responsible for advising an insured of his or her right to choose a medical service provider in writing, so that the insured may make an informed and independent decision regarding medical services to be obtained.
3. Clarifying existing prohibited tied selling practices.
- Section 4 of the regulation prevents insurers and insurance agents from tied selling. However, Section 4 does not prevent insurers or insurance agents from requiring an applicant to purchase a product or service from a third party as a precondition to obtaining insurance.
 - This proposed change would broaden the provision and clarify that requiring an applicant to purchase another product or service from an insurer, insurance agent, or third party as a precondition to obtaining insurance is prohibited.
 - o This proposed change is not meant to limit an insurer or insurance agent from refusing to provide an insurance product until an applicant purchases a product or service that is relevant to underwriting the risk; rather, it is meant to prohibit the requirement of purchasing a product or service from a particular provider/seller/company as a precondition to obtaining insurance.
4. Ensuring the dispute resolution process for home warranties is provided to the insured in writing.
- Section 5.2(2)(a) of the Regulation states that an insurer must provide written notice to the insured within 10 days after the insurer determines a dispute has arisen between the insurer and the insured. Currently, this does not include disputes under home warranties.
 - o Section 5(6) of the Home Warranty Insurance Regulation includes the process for disputes over defects, repairs or replacements covered by home warranties. This regulation came into force in February 2014.
 - This proposed change would require insurers to provide written notice of the dispute resolution process when a dispute arises concerning defects, repairs or replacements covered under home warranties.
5. Adding a section that states insurers must provide the applicable statutory conditions verbatim to an insured when an automobile or property policy is undertaken.
- Sections 540 and 556 of the Act provide the text that is to be printed in a policy under the heading of Statutory Conditions.
 - This proposed addition is meant to clarify that insurers are to provide the *full text* of relevant Statutory Conditions to an insured when a policy is undertaken.
 - This proposed new section would accompany a proposed addition to the Schedule of the Enforcement and Administration Regulation, making non-inclusion of the statutory conditions subject to an administrative penalty.

Stakeholder comments and feedback

Those interested are invited to submit comments and feedback on this consultation paper. Stakeholders are encouraged to identify any other issues the department should consider while reviewing the Regulation.

If you are identifying a new issue, please consider the following:

- Rationale for the identified issue;
- Evidence to support the identified issue, including what other jurisdictions are doing (if applicable); and
- Solution to the identified issue, including what implementation could look like.

Please note that all submissions will be subject to the [Freedom of Information and Protection of Privacy Act](#) (FOIP). All information received, including the names of stakeholders consulted in this process and any comments received about the regulation, may be used or disclosed in the future in accordance with FOIP. Comments will not be publicly attributed to the stakeholder without consent.

Interested stakeholders are invited to submit their comments and feedback to Debbie Manning (debbie.manning@gov.ab.ca or 780-638-4590) by February 2, 2018.

Thank you for your time and comments!

Appendix

Excerpts from the Fair Practices Regulation

Claims disclosure

- 2** Where there is a claim against the insured under a contract of automobile insurance and in the insurer's opinion the insured is liable, the insurer who settles the claim must

(a) notify the insured of the insured's liability within 30 days of forming the opinion that the insured is liable, and

(a.1) repealed AR 145/2011 s2,

(b) on the request of the insured, disclose to the insured

- (i) the dollar amount of any claim paid to a third party
- (ii) the date of the settlement,
- (iii) the name of the third party, and
- (iv) the nature or purpose of the settlement.

AR 128/2001 s2;96/2006;145/2011

Disclosure of insured's right to choose service provider

- 3** Where an insurer, insurance agent or adjuster is notified by an insured of a loss respecting damage to property and the insurer, insurance agent or adjuster recommends a particular service provider to the insured, the insurer, insurance agent or adjuster must advise the insured in writing, at the time of the recommendation, that the insured may have the repairs estimated and completed by a service provider of the insured's choice, except where the insurer exercises its right to undertake the repairs.

AR 128/2001 s3;96/2006

Prohibited tied selling practices

- 4** For the purpose of section 509(1)(b) of the Act, the following tied selling practices are prohibited:

(a) where an insurer or insurance agent other than the holder of a restricted certificate is asked to sell insurance to a person, informing the person that the person must purchase another product or service, including an insurance policy, from the insurer or insurance agent, as the case may be, before the insurance requested will be undertaken;

(b) where an insurer is asked to make a loan to a person, informing the person that the person must purchase a product or service, including an insurance policy, from the insurer before the loan will be made.

Notice of dispute resolution process

- 5.2(1)** In this section, "dispute resolution process" means the dispute resolution process described in section 519 of the Act.

- (2) An insurer must give written notice to the insured of the dispute resolution process
 - (a) within 10 days after the insurer determines that a dispute has arisen between the insurer and the insured about a matter under Statutory Condition 11 set out in section 540, or Statutory Condition 4(9) set out in section 556, of the Act, or
 - (b) within 70 days after the insured has submitted a proof of loss, if the insurer has not yet made a decision as to the validity or the amount payable in respect of the claim.
- (3) A written notice referred to in subsection (2) must include a copy of section 519 of the Act.

AR 145/2011 s4;183/2011

Excerpt from the Home Warranty Insurance Regulation

Policy Conditions

In Case of Disagreement

- 5(6)(1) In the event of disagreement as to whether a defect exists, the nature and extent of the repairs or replacements required, the adequacy of repairs or replacements made or the amount of loss or damage, those questions must be determined using the applicable dispute resolution process set out in section 519 of the *Insurance Act* whether or not the insured's right to recover under the home warranty insurance contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
 - (a) a specific demand is made for it in writing, and
 - (b) the proof of loss has been delivered to the insurer.