

## **Liability insurance — restricted insurance agent licence**

**16.1(1)** For the purposes of subsection 371(1.1) of the Act, an applicant for a restricted insurance agent licence under section 380.1 of the Act must have, and an agent who holds such a licence must maintain, liability insurance of at least \$1,000,000 in respect of any one occurrence, with an overall policy aggregate of at least \$2,000,000.

**16.1(2)** The liability insurance required by subsection (1)

(a) must, at a minimum,

(i) include extended reporting for a period of 12 months,

(ii) include extended coverage for fraudulent acts and dishonest acts,

(iii) provide coverage amounts that are exclusive of defence and investigative expenses,

(iv) include coverage that covers all of the insurance products that the insured is or will be licensed to sell,

(v) include coverage for

(A) the insured's supervisory activities, if applicable, and

(B) any unlicensed employee for whose acts the insured is responsible; and

(b) must not be restricted to particular insurers' products.

**16.1(3)** The underwriting insurer of a liability insurance policy issued, or a group liability insurance policy providing coverage, to satisfy the requirements of subsection 371(1.1) of the Act must not, without providing the superintendent and the Insurance Council of Manitoba with at least 15 days' prior notice by registered mail,

(a) cancel, terminate or refuse to renew the policy or group policy; or

(b) delete an insured from the group policy.

## **Limited exemption for lawyers — title insurance**

**21** A lawyer is — in respect of the lawyer's services in obtaining for a client, or assisting a client in obtaining, title insurance in order to complete a purchase or sale of real estate — exempt from the requirement to hold a licence under subsection 369(1) of the Act if the lawyer

(a) is entitled to practice law in Manitoba and provides the services in the usual course of his or her profession; and

(b) is not, whether directly or indirectly, paid or offered a commission or other compensation or anything of value by any person for providing the services.

## PART 2

### RESTRICTED INSURANCE AGENT LICENCES

#### Application of Part 2

**22** For the purpose of section 380.1 of the Act, this Part applies in respect of restricted insurance agent licences within the meaning of that section.

#### Definitions

**23** The following definitions apply in this Part.

**"cargo insurance"** means insurance that is within the class of property insurance and provides coverage only against damage to or the loss of goods in transit.

**"creditor's disability insurance"** means insurance

(a) that is within the class of accident and sickness insurance and is creditor's group insurance as defined in section 203 of the Act; and

(b) under which the insurer undertakes to pay all or part of the amount of a debtor's debt to the creditor named in the policy in the event of bodily injury to, or the illness or disability of,

(i) the debtor, when the debtor is an individual, or the spouse of such a debtor,

(ii) an individual who is a guarantor of all or part of the debt,

(iii) a director or officer of the debtor, when the debtor is a corporation, or

(iv) an individual who is essential to the ability of the debtor to meet the debtor's financial obligations, when the debtor is an entity other than an individual or a corporation.

**"creditor's life insurance"** means insurance

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(a) that is within the class of life insurance and is creditor's group insurance as defined in section 148 of the Act; and

(b) under which the insurer undertakes to pay all or part of the amount of the amount of a debtor's debt to the creditor named in the policy or, if the debt is a line of credit for a small business or a farm, fishery or ranch, all or part of the amount of the credit limit of the line of credit owing to the creditor, in the event of the death of

(i) the debtor, when the debtor is an individual, or the spouse of such a debtor,

(ii) an individual who is a guarantor of all or part of the debt,

(iii) a director or officer of the debtor, when the debtor is a corporation, or

(iv) an individual who is essential to the ability of the debtor to meet the debtor's financial obligations, when the debtor is an entity other than an individual or a corporation.

**"creditor's loss-of-employment insurance"** means insurance

(a) that is within the class of credit protection insurance; and

(b) under which the coverage is limited to the insurer's undertaking to pay, without any individual assessment of risk, all or part of the amount of a debtor's debt to the creditor named in the policy in the event

(i) that the debtor — being an individual — becomes involuntarily unemployed, or

(ii) that an individual who is a guarantor of all or part of the debt becomes involuntarily unemployed.

**"creditor's vehicle inventory insurance"** means insurance that is within the class of credit protection insurance and provides coverage only against direct and accidental loss of or damage to vehicles — some or all of which have been financed by a creditor — that are held in stock for display and sale purposes by a debtor of the creditor.

**"deposit-taking institution"** means

(a) a bank;

(b) a credit union that is incorporated or continued under

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*The Credit Unions and Caisses Populaires Act*, or

(c) a loan corporation or trust corporation that is incorporated or continued under *The Corporations Act* and entitled to carry on business under Part XXIV of that Act.

**"equipment insurance"** means insurance that is within the class of boiler and machinery insurance and provides coverage only against damage to or the loss of

- (a) a motor vehicle;
- (b) farm equipment or a farm implement; or
- (c) recreational, marine or construction equipment.

**"export credit insurance"** means insurance

- (a) that is within the class of surety insurance; and
- (b) under which the insurer undertakes, to an exporter of goods or services, to guarantee payment for goods or services exported by the exporter.

**"financial institution"** means:

- (a) a bank;
- (b) a credit union that is incorporated or continued *The Credit Unions and Caisses Populaires Act*, or a credit union incorporated under the laws of a jurisdiction other than Manitoba that is registered as provided by section 129 of that Act;
- (c) a loan corporation or trust corporation incorporated or continued under *The Corporations Act* and entitled to carry on business under Part XXIV of that Act, or an extra-provincial loan corporation or extra-provincial trust corporation, as defined in section 315 of that Act, that is entitled to carry on business under Part XXIV of that Act;
- (d) an entity licensed to transact insurance under the Act, or an entity incorporated, continued or licensed under a similar Act of Parliament or of any province or territory of Canada;
- (e) a local cooperative credit society as defined section 2 of the *Cooperative Credit Associations Act* (Canada);
- (f) an association incorporated or continued under the *Cooperative Credit Associations Act* (Canada);
- (g) an entity that is incorporated, continued or licensed

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under an Act of Parliament or of any province or territory and is primarily engaged in dealing in securities, including portfolio management and investment counselling; or

(h) an entity that

(i) is engaged primarily in the business of providing financial services, including deposit, loan or trust services, transacting insurance or dealing in securities; and

(ii) is incorporated or continued under the laws of a jurisdiction outside Canada or is otherwise governed by the laws of such a jurisdiction.

**"funeral expense insurance"** means insurance that is within the class of life insurance and under which the insurer undertakes to pay a maximum of \$15,000 for funeral services for the insured under a prearranged funeral plan as defined in *The Prearranged Funeral Services Act*.

**"line of credit"** means a commitment on the part of a deposit-taking institution or sales finance company to lend one or more amounts to a debtor without a predetermined repayment schedule.

**"mortgage broker"** means a mortgage broker, as defined in *The Mortgage Brokers Act*, that is registered in accordance with that Act.

**"mortgage insurance"** means the class of mortgage insurance prescribed in the *Classes of Insurance Regulation*, Manitoba Regulation 165/2008.

**"personal travel insurance"** means insurance

(a) that is within the classes of life insurance and accident and sickness insurance and is group insurance as defined in sections 148 and 203 of the Act; and

(b) that

(i) provides coverage to an individual with respect to a trip by the individual away from the place where the individual ordinarily resides

(A) against expenses incurred while on the trip that result from an illness or disability of the individual that occurs on the trip,

(B) against expenses incurred while on the trip that result from the death of or bodily injury to the individual caused by an accident while on the trip,

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(C) against expenses incurred by the individual for dental care necessitated by an accident while on the trip, or

(D) in the event of the individual's death while on the trip, against expenses incurred for the return of the individual's remains to the place where the individual ordinarily resided before death, or for travel expenses incurred by a relative of the individual who is required to travel to identify the individual's remains, or

(ii) under which the insurer undertakes to pay one or more sums of money in the event of an illness or the disability of the individual that occurs on the trip, or in the event of the death of or bodily injury to the individual that is caused by an accident while on the trip.

**"portable electronics insurance"** means insurance that is within the class of property insurance and provides coverage against damage to or the loss of a portable electronic device.

**"portable electronics vendor"** means a person or entity that

(a) sells or leases portable electronics devices; or

(b) otherwise provides portable electronics devices in connection with a transaction between the person or entity and another person or entity.

**"rent"**, in relation to a vehicle, means rent the vehicle for a period of 90 days or less.

**"rented-vehicle accidental injury or death insurance"** means insurance that is within the class of automobile insurance and provides coverage to a vehicle renter and other occupants of the rented vehicle for bodily injury or death and reimbursement for medical expenses resulting from a vehicular accident involving the rented vehicle that occurs during the rental period.

**"rented-vehicle contents insurance"** means insurance that is within the class of property insurance and provides coverage to a vehicle renter and other occupants of the rented vehicle against damage to or the loss of personal property in the rented vehicle during the rental period.

**"rented-vehicle liability insurance"** means insurance that is within the class of automobile insurance and provides coverage to a vehicle renter and other authorized drivers of the rented vehicle for liability arising from its operation.

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**"restricted licence holder"** means a person who holds a restricted insurance agent licence issued under subsection 380.1(2) of the Act.

**"sales finance company"** means a corporation, other than a financial institution, that provides consumer loans, or provides or arranges for credit.

**"small business"** means

(a) a business that is a small business corporation as defined in subsection 248(1) of the *Income Tax Act* (Canada); or

(b) an unincorporated business that would, if incorporated, be a small business corporation as defined in subsection 248(1) of the *Income Tax Act* (Canada).

**"travel interruption and property-loss insurance"** means insurance that

(a) is within the class of property insurance; and

(b) without any individual assessment of risk, provides coverage — to an individual with respect to a trip by the individual away from the place where the individual ordinarily resides — against

(i) loss that results from the cancellation or interruption of the trip,

(ii) the loss of or damage to personal property that occurs while on the trip, or

(iii) loss that is caused by the delayed arrival of personal baggage while on the trip.

**"vehicle"** has the same meaning as in subsection 1(1) of *The Highway Traffic Act*.

#### **Persons and entities eligible for restricted licence**

**24** For the purpose of section 380.1 of the Act, the following persons and entities may apply for and hold a restricted insurance agent licence

(a) a deposit-taking institution;

(b) a sales finance company;

(c) a person or entity that provides transportation service for people or goods;

(d) a person or entity that carries on the business of a travel

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agency;

(e) a person or entity that carries on the business of an automobile dealership, watercraft dealership, recreational vehicle dealership, farm implement dealership or construction equipment dealership;

(f) a mortgage broker, as defined in *The Mortgage Brokers Act*, that carries on business in Manitoba in accordance with that Act;

(g) a person or entity that carries on the business of a customs brokerage;

(h) a person or entity that carries on the business of freight forwarding;

(i) a person or entity that carries on the business of renting vehicles to the public;

(j) a funeral director who holds a licence under *The Prearranged Funeral Services Act*;

(k) a portable electronics vendor.

**Classes or types of insurance for which a restricted licence may be issued**

**25** The following are the classes or types of insurance in respect of which a restricted license may be issued:

(a) cargo insurance;

(b) creditor's disability insurance;

(c) creditor's life insurance;

(d) creditor's loss-of-employment insurance;

(e) creditor's vehicle inventory insurance;

(f) equipment insurance;

(g) export credit insurance;

(h) funeral expense insurance;

(i) mortgage insurance;

(j) portable electronics insurance;

(k) personal travel insurance;

(l) rented vehicle contents insurance;

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- (n) travel interruption and property-loss insurance.

## Applying for a restricted licence

**26(1)** An application for a restricted insurance agent licence must

- (a) be filed with the superintendent;
- (b) be made in the form required by the superintendent;
- (c) specify the class or type of insurance that the applicant wishes to transact as an incidental seller; and
- (d) contain the information and be accompanied by the material required by the superintendent, including the information and material described in subsection (2).

**26(2)** An application for a restricted insurance agent licence must be accompanied by

- (a) the written recommendation of an insurer that
  - (i) has an agreement with the applicant under which the applicant is to be authorized to sell the insurer's insurance products as an incidental seller, and
  - (ii) is licensed under the Act to transact the class of insurance
    - (A) for which the licence is to be issued, or
    - (B) that includes the type of insurance for which the licence is to be issued;
- (b) the written designation of an operating agent under the licence who is designated to be responsible for receiving notices and other documents on the applicant's behalf and for supervising employees of the applicant who negotiate, solicit or transact insurance on the applicant's behalf;
- (c) a statement of the number of persons who will be authorized to negotiate, solicit or transact insurance on behalf of the applicant when and if the licence is issued; and
- (d) evidence acceptable to the superintendent that the applicant has
  - (i) liability insurance that satisfies the requirements of subsection 371(1.1) of the Act, and
  - (ii) reasonable and demonstrable policies and procedures

to ensure that anyone who solicits, negotiates or transacts insurance on behalf of the applicant is knowledgeable, competent taking into account the class or type of insurance.

**26(3)** For greater certainty, subsection 371(1.1) of the Act applies to restricted insurance agent licences under this section, except as provided in subsection (4).

**26(4)** Subclause (2)(d)(i) does not apply to a person who applies for restricted insurance agent licence or to renew such a licence if the person is a member institution of the Canada Deposit Insurance Corporation or is a credit union incorporated under *The Credit Unions and Caisses Populaires Act*.

**26(5)** To obtain the renewal of a restricted agent licence, the holder of the licence must apply in accordance with clauses (1)(a), (b) and (d), and those clauses together with clause (2)(d) apply, with necessary changes, to the application.

**26(6)** The superintendent may issue a restricted insurance agent licence if the superintendent is satisfied that

(a) the applicant

(i) is an incidental seller as defined in subsection 380.1(1) of the Act,

(ii) qualifies under section 24, and

(iii) has complied with this section; and

(b) the application is in respect of a class or type of insurance listed in section 25 and satisfies the requirements of this section.

**26(7)** The superintendent may specify

(a) which class or type of insurance listed in section 25 the restricted licence holder may transact as an incidental seller; and

(b) the category of business activity in relation to which the restricted licence holder may transact insurance as an incidental seller.

### **Employees of other entities**

**27(1)** Without limiting the application of subsection 380.1(3) of the Act, a restricted insurance agent licence authorizes the holder, through the employees of another entity that qualifies under subsection (2) (referred to in this regulation as a "qualified entity"), to act or offer to act as an agent in respect of the class or type of insurance specified in the licence.

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**27(2)** A restricted licence holder may only act or offer to act as an agent through the employees of another entity if

(a) the entity provides its employees' services to the restricted licence holder under a contract that the superintendent believes provides adequate consumer protection and adequate control by the restricted licence holder so that the restricted licence holder is able to meet its obligations under the licence and to comply with this regulation; and

(b) the restricted licence holder provides the superintendent with the information about the entity and the contract that the superintendent requires.

### **Qualifications of operating agent**

**28** An person may not be the operating agent under a restricted insurance agent licence unless

(a) the person

(i) is a director, officer or employee of the restricted licence holder,

(ii) is a member of the partnership if the restricted licence holder is a partnership, or

(iii) in the case of an individual who carries on business under a name other than his or her own, is the individual who carries on the business; and

(b) the person has the qualifications, and satisfies the educational, training and other standards, prescribed under section 396.1 of the Act.

### **Replacement or incapacity of operating agent**

**29(1)** If a restricted licence holder's operating agent ceases to be eligible under subclause 28(a)(i) or (ii) or the designation of a person as the operating agent under a restricted insurance agent licence is otherwise to be terminated, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement operating agent.

**29(2)** If a restricted licence holder's operating agent is unable to discharge the responsibilities expected of the operating agent, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement operating agent.

### **Restricted licence holder's responsibilities**

**30(1)** A restricted licence holder must

(a) have reasonable and demonstrable policies and procedures

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to ensure that anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder is knowledgeable, competent and suitable taking into account the class or type of insurance;

(b) ensure that anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder complies with the policies and procedures mentioned in clause (a);

(c) make and maintain a record of all persons authorized by the restricted licence holder to solicit, negotiate or transact insurance on the restricted licence holder's behalf showing

(i) the person's full name;

(ii) the dates on which the person's authorization began and, if applicable, ended,

(iii) the business location and address at or from which the person was authorized to solicit, negotiate or transact insurance on the restricted licence holder's behalf,

(iv) whether the person is an employee of the restricted licence holder or of a qualified entity named in the record, and

(v) the class or type of insurance that the person was authorized to solicit, negotiate or transact;

(d) ensure that the record maintained under clause (c) is current;

(e) permit the superintendent or a person authorized by the superintendent to inspect the record required by clause (c) at any reasonable time; and

(f) ensure that, before any of its employees or, if applicable, any employee of a qualified entity permits a consumer to complete an application for insurance in relation to the restricted licence holder's goods or services, the consumer is provided with a notice

(i) stating that the consumer is contracting with the insurer and not with the restricted licence holder or, if applicable, the qualified entity,

(ii) stating that the consumer is not obligated to purchase the insurance in order to obtain the goods or services,

(iii) setting out the terms, including limitation and restrictions, of the insurance,

(iv) setting out the circumstances under which the

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insurance commences or terminates and the procedures to follow in making a claim, and

(v) if applicable, stating that the restricted licence holder or the qualified entity receives direct or indirect compensation, or a direct or indirect inducement or benefit, from the insurer for soliciting, negotiating or transacting the insurance.

**30(2)** A restricted licence holder must not

(a) make its provision of goods or services conditional upon the consumer's purchase of insurance through it or from an insurer specified by it or conditional upon the consumer's purchase of other insurance;

(b) permit a person to solicit, negotiate or transact insurance on its behalf unless the person

(i) is, at the time, listed in the record of authorized persons required by clause (1)(c) and shown in the record as being authorized to solicit, negotiate or transact the class or type of insurance involved, as may be applicable,

(ii) has been suitably trained to be able to knowledgeably solicit, negotiate or transact the class or type of insurance involved, as may be applicable; or

(c) permit an employee of the restricted licence holder or a qualified entity to tell a consumer or potential consumer of the restricted licence holder's goods or services that

(i) the consumer is required to purchase insurance in relation to the goods or services, or

(ii) should the consumer wish to purchase insurance in relation to the goods or services, the consumer may only purchase insurance through the restricted licence holder or a qualified entity or from a specified insurer.

**30(3)** When a consumer purchases insurance through a restricted licence holder or a qualified entity acting on its behalf, or from an insurer specified by either of them, the restricted licence holder

(a) must inform the consumer about the name of the insurer and how it may be contacted; and

(b) must ensure that the consumer is sent a policy or, in the case of a contract of group insurance, a certificate of insurance.

**30(4)** When a consumer purchases

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- (a) rented-vehicle accidental injury or death insurance;
- (b) rented-vehicle contents insurance; or
- (c) rented-vehicle liability insurance;

through a restricted licence holder or a qualified entity acting on its behalf, or from an insurer specified by either of them, the restricted licence holder must inform the consumer that the insurance may provide a duplication of coverage already provided by the vehicle renter's automobile insurance policy or by another source of coverage.

### **Qualified entity's responsibilities**

**31** A qualified entity that acts on behalf of a restricted licence holder must

- (a) ensure that its employees who solicit, negotiate or transact insurance in relation to the restricted licence holder's goods or services comply with the policies and procedures mentioned in clause 30(1)(a);
- (b) make and maintain a record listing its employees who to solicit, negotiate or transact insurance in relation to the restricted licence holder's goods or services, including information about each employee that is equivalent to that required by clause 30(1)(c);
- (c) ensure that the record maintained under clause (c) is current;
- (d) provide a copy of the record required by clause (b) to the restricted licence holder and notify the restricted licence holder without delay when an employee
  - (i) listed in the record ceases to be employed to solicit, negotiate or transact insurance in relation to the restricted licence holder's goods or services, or
  - (ii) is added to the list for one of those purposes;
- (e) must ensure that, before any of its employees permits a consumer to complete an application for insurance in relation to the restricted licence holder's goods or services, the consumer is provided with a notice
  - (i) stating that the consumer is contracting with the insurer and not with the restricted licence holder or the qualified entity,
  - (ii) stating that the consumer is not obligated to purchase the insurance in order to obtain the goods or services,

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(iii) setting out the terms, including limitation and restrictions, of the insurance,

(iv) setting out the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim, and

(v) if applicable, stating that the restricted licence holder or the qualified entity receives direct or indirect compensation, or a direct or indirect inducement or benefit, from the insurer for soliciting, negotiating or transacting the insurance.

**31(2)** A qualified entity acting on behalf of a restricted licence holder must not

(a) permit any of its employees to solicit, negotiate or transact insurance in relation to the restricted licence holder's goods or services unless the employee

(i) is, at the time, listed in the record of authorized persons required by clause 30(1)(c) and shown in the record as being authorized to solicit, negotiate or transact the class or type of insurance involved, as may be applicable,

(ii) has been suitably trained to be able to knowledgeably solicit, negotiate or transact the class or type of insurance involved, as may be applicable; or

(b) permit any of its employees to tell a consumer or potential consumer of the restricted licence holder's goods or services that

(i) the consumer is required to purchase insurance in relation to the goods or services, or

(ii) should the consumer wish to purchase insurance in relation to the goods or services, the consumer may only purchase insurance through the qualified entity or from a specified insurer.

**31(3)** When a consumer purchases insurance through a qualified entity acting on behalf of a restricted licence holder, or from an insurer specified by either of them, the qualified entity

(a) must inform the consumer about the name of the insurer and how it may be contacted; and

(b) must ensure that the consumer is sent a policy or, in the case of a contract of group insurance, a certificate of insurance.

#### **Personal information received from consumer**

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(b) release the information described in clause (a) to a person who is not an employee of the restricted licence holder, unless

(ii) subsection (4) applies in respect of the release of the information.

**32(3)** Before a consumer signs a consent for the purpose of subclause (1)(b)(i), the restricted licence holder must inform the consumer that the consent is being given for the purpose of that subclause. The consent must state

(c) the purpose for which the released personal information may be used.

(b) is released to the insurer on whose behalf the restricted licence holder is transacting insurance.

## Responsibilities of insurers

(a) establish reasonable policies and procedures to ensure that



anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder is knowledgeable and competent taking into account the class or type of insurance; and

(b) ensure that the policies and procedures are complied with.

**33(2)** To avoid doubt, subsection (1) applies whether the restricted licence holder solicits, negotiates or transacts insurance through its own employees or through a qualified entity.

**Non-application of subsection 371(1.1) of the Act to certain restricted licence holders**

**34** Subsection 371(1.1) of the Act does not apply to a person who holds a restricted insurance agent licence if the person is a member institution of the Canada Deposit Insurance Corporation or is a credit union incorporated under *The Credit Unions and Caisses Populaires Act*.

**Exemption of certain persons from application of subsection 369(1) of the Act**

**35(1)** A person who is the operating agent under a restricted insurance agent licence is exempt from the requirement to hold a licence under subsection 369(1) of the Act while the person is acting within the scope of the person's duties as operating agent.

**35(2)** A person who is recorded as a person authorized by a restricted licence holder to solicit, negotiate or transact insurance on the restricted licence holder's behalf is exempt from the requirement to hold a licence under subsection 369(1) of the Act while the person is acting within the scope of the person's authorization.

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