
BULLETIN NUMBER: 03-2016

TITLE: Insurance Legislation Compliance

DATE: February 2016

PURPOSE:

My office has received a significant number of inquiries and complaints in regard to insurers failing to act in accordance with specific requirements of insurance legislation. The purpose of this bulletin is to remind all insurance companies operating in Alberta of a few of these requirements and the possible consequences of non-compliance.

In many inquiries and complaints, my office commonly finds non-compliance with the following sections of insurance legislation (excerpts of the legislation are attached for your reference):

NON-COMPLIANCE WITH THESE SECTIONS IS AN OFFENCE:

Insurance Act (Act)

- Section 508 – Disclosure of Name – conspicuously set out as in insurer’s license
- Section 523 – Insurer to Furnish Forms – blank proof of loss form
- Section 551 – Approval of Forms – **ALL** automobile insurance forms must be approved

Fair Practices Regulation

- Section 2 – Claims Disclosure – notification of liability
- Section 3 – Disclosure of Insured’s Right to Choose Service Provider – in writing
- Section 5.3 – Notice of Limitation Period – notification to defined claimants

Non-compliance with the provisions of the preceding legislation are offences for which an insurer is subject to an administrative penalty of up to \$25,000 for each occurrence of non-compliance, or subject to a prosecution carrying a fine of up to \$200,000.

NOTICE OF DISPUTE RESOLUTION PROCESS:

Fair Practices Regulation

- Section 5.2 – Notice of Dispute Resolution Process – in writing, with copy of section 519 of the Act

My office expects insurers to comply with the provisions of section 5.2 of the Fair Practices Regulation and provide notification as required in the regulation.

I strongly encourage insurers to ensure that all of their staff are aware of the legislation and the possible consequences of non-compliance.

If you have questions regarding this Bulletin, please contact our office, either by e-mail at TBF.insurance@gov.ab.ca or by telephone at (780) 427-8322 (toll-free in Alberta by first dialing 310-0000).

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Attachments: Excerpts of the Act and *Fair Practices Regulation*

Excerpts from Insurance Act:

Disclosure of name

508 Every licensed insurer must ensure that its name as set out in its licence is shown in a conspicuous manner in all of its advertising, correspondence, contracts of insurance and policies.

Insurer to furnish forms

523(1) An insurer, immediately on receipt of a request, and in any event not later than 60 days after receipt of notice of loss, must furnish to the insured or the person to whom the insurance money is payable forms on which to make the proof of loss required under the contract.

(2) An insurer that neglects or refuses to comply with subsection

(1) is guilty of an offence and, in addition, section 524 is not available to the insurer as a defence to an action brought, after the neglect or refusal, for the recovery of money payable under the contract.

(3) If the insurer has, within 30 days after notification of loss, adjusted the loss acceptably to the person to whom the insurance money is payable, the insurer is deemed to have complied with this section.

(4) An insurer by reason only of furnishing forms to make the proof of loss is not to be taken to have admitted that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

Approval of forms

551(1) No insurer may use a form of application, policy, endorsement or renewal or continuation certificate in respect of automobile insurance other than a form approved by the Superintendent.

Excerpts from 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.

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.

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.

Notice of limitation period

5.3(1) In this section,

(a) “claimant” means

(i) a beneficiary,

(ii) an insured, a group life insured or a debtor insured,

(iii) a person who has a claim against an insured who has initiated a claim for indemnity under a contract of insurance, or

(iv) a person referred to in section 579 of the Act;

(b) “insured” means a person insured by a contract of insurance, whether named in the contract or not.

(2) An insurer must give written notice to a claimant of the applicable limitation period

(a) if the claim has not been satisfactorily settled, within 60 days from the date the claimant notifies the insurer of the claim, in the case of a claimant referred to in subsection

(1)(a)(i) or (ii),

(b) within 60 days of the insurer’s first becoming aware that an insured is claiming indemnity for a claim lodged by a third party against the insured, in the case of a claimant referred to in subsection (1)(a)(iii),

(c) within 60 days of the insurer’s first becoming aware that a claimant referred to in subsection (1)(a)(iv) has initiated an action pursuant to section 579 of the Act, or

(d) within 5 business days from the date the claimant’s claim is denied.

(3) The written notice referred to in subsection (2) must indicate the name of the Act or regulation that refers to the applicable limitation period.

(4) An insurer is not required to give notice under subsection (2) if at the time the notice is required to be given the insurer is aware that the claimant is represented by legal counsel.

(5) Despite subsection (2), with respect to a claim by a person insured under Section B of a standard automobile insurance policy, notification of the fact of an applicable limitation period is required only in respect of a denial of a claim under one or more of those coverages under Section B.

(6) Despite subsection (2), with respect to a claim by a group person insured under a group accident and sickness policy, no notice under subsection (2) is required to be given if the claim is with respect to a coverage other than disability coverage.

(7) If an insurer fails to give notice under subsection (2) when required to do so, the Court may, on application by the claimant,

(a) order that the applicable limitation period be extended,
and

(b) grant any other remedy that the Court considers appropriate.