

CHAPTER IV WITHDRAWAL OF A TITLE

9. An insurance representative is not authorized to use the title of “Registered Life Underwriter” (R.L.U.) or “Chartered Life Underwriter” (C.L.U.) while he is under suspension, struck off the roll, expelled or has had his certificate revoked.

10. An insurance representative is not authorized to use the title of “Registered Life Underwriter” (R.L.U.) or “Chartered Life Underwriter” (C.L.U.) where, for more than thirty days, he has been in default of paying the dues for a “Registered Life Underwriter” (R.L.U.) or “Chartered Life Underwriter” (C.L.U.), as applicable, as well as any other dues and fees prescribed in the regulations of the Chamber.

CHAPTER V TRANSITIONAL PROVISIONS

11. Individuals who began the training required to obtain the title of “Registered Life Underwriter” (R.L.U.) or “Chartered Life Underwriter” (C.L.U.) before this Regulation came into force may, at their choice, be awarded this title in accordance with the regulation in force before this date or in accordance with the new provisions, provided that they have taken and passed the required courses.

In the event that some individuals cannot satisfy the requirements of the former program because certain courses are no longer offered, they shall have to take and pass certain courses, deemed equivalent by the Chamber, in order to be awarded the title.

12. Individuals who began the training required to obtain the title of “Registered Life Underwriter” (R.L.U.) or “Chartered Life Underwriter” (C.L.U.) before this Regulation came into force and who choose to take the R.L.U. or C.L.U. program of the Association des intermédiaires en assurance de personnes du Québec (R.S.Q., c. I-15.1) must take and pass the courses required to obtain their diploma within three years of the effective date of this Regulation.

13. This Regulation comes into force on the date prescribed by the government.

2838

Draft Regulation

An Act respecting the distribution of financial products and services
(1998, c. 37)

Chambre de l’assurance de dommages — Ethics

In accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice is hereby given that the Regulation of the Chambre de l’assurance de dommages respecting ethics, the text whereof is set forth hereinbelow, will be submitted to the Government which may approve it, with or without any amendments, upon the expiry of 45 days from the present publication.

This proposed regulation sets forth the rules of ethics applicable to representatives in damage insurance and claims adjusters.

According to the Chambre, the regulation stipulates rules of ethics intended to promote the protection of the public and to promote integrity and competence in the way representatives carry out their activities. It sets forth the obligations of representatives, including their obligations towards the public, towards clients, insurers, and representatives, and towards the Bureau des services financiers and the Chambre de l’assurance de dommages. The regulation draws on the current rules of ethics set forth in the By-law of the Conseil des assurances de dommages respecting market intermediaries in damage insurance. However, adjustments and amendments have been made in order to clarify the current rules and provide greater detail regarding certain obligations, given the new environment created by An Act respecting the distribution of financial products and services, and in order to fill certain gaps which had been noted.

According to the Chambre, to date, a review of this file has not disclosed any impact upon the public, other than a greater degree of protection through effective monitoring of the representatives with whom the public will do business.

Additional information may be obtained by contacting Mrs. Maya Raic, Director General and Interim Secretary, Chambre de l’assurance de dommages, 500, rue Sherbrooke Ouest, 7^e étage, Montréal (Québec) H3A 3C6, telephone number (514) 842-2591 or 1-800-361-7288, telecopier number (514) 842-3138, e-mail: acapq@videotron.ca.

Any interested persons wishing to comment on the above matter are requested to send two copies of their

comments to the Minister of State for the Economy and Finance and Minister of Finance, 12, rue Saint-Louis, bureau 1.01, Québec (Québec) G1R 5L3 before the expiry of the 45-day time period.

BERNARD LANDRY,
Minister of State for the Economy and Finance
Minister of Finance

Code of ethics of damage insurance agents

An Act respecting the distribution of financial products and services
(1998, c. 37)

CHAPTER I GENERAL PROVISIONS

(omitted)

1. A damage insurance agent must take all reasonable steps to ensure that his employees or those of the partnership of which he is a partner comply with the provisions of An Act respecting the distribution of financial products and services (1998, c. 37), the regulations adopted thereunder which are applicable to him and this Code.

The person under whose supervision and responsibility are carried on the activities of an office or a point of sale of a firm, an independent representative or an independent partnership must act in the same manner as regards the employees carrying on their activities in the said office or point of sale, as the case may be.

The training supervisor for a trainee must act in the same manner as regards the trainee.

2. A damage insurance agent must not carry on an occupation that runs counter to the dignity of the profession or that is incompatible therewith.

CHAPTER II DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

3. A damage insurance agent must support any measure designed to protect the public.

4. A damage insurance agent must support any measure likely to improve the quality of service in the field in which he carries on activities.

5. A damage insurance agent must promote measures designed to provide education and information in the field in which he carries on activities.

6. The conduct of a damage insurance agent must be characterized by objectivity, discretion, moderation and dignity.

7. A damage insurance agent must avoid placing himself, directly or indirectly, in a situation of conflict of interest.

CHAPTER III DUTIES AND OBLIGATIONS TOWARDS CLIENTS

8. A damage insurance agent must, without delay, follow up on the instructions that he receives from a client or notify him that he is unable to do so.

9. Before informing a client or a prospective client, a damage insurance agent must take into account the limits of his knowledge and the means available to him. In particular, he must not undertake or continue a mandate for which he is not sufficiently prepared, without obtaining the necessary assistance.

10. Before informing a client or a prospective client about an insurance product, a damage insurance agent must take into account the actual needs of the client or prospective client regarding the product concerned.

11. A damage insurance agent must not advise a client not to consult another representative in damage insurance, a member of another discipline or any other person of his choosing.

12. A damage insurance agent must carry out his professional obligations with integrity.

13. A damage insurance agent must act conscientiously and with integrity in giving a client or a prospective client information to which he is entitled regarding the insurance product concerned.

14. A damage insurance agent must not, by fraud, trickery or other deceitful means, avoid or attempt to avoid his professional civil liability.

15. A damage insurance agent must not allow the intervention of a third party to affect the carrying out of his professional obligations to the detriment of his client.

16. A damage insurance agent must charge a fair and reasonable remuneration for his services where he is not paid exclusively on a percentage basis. In particular, he must take into account the following factors in determining his remuneration:

- (1) his experience;
- (2) the time devoted to the matter;
- (3) the difficulty of the problem submitted;
- (4) the importance of the matter;
- (5) the responsibility assumed;
- (6) the provision of unusual services or services requiring exceptional competence or speed;
- (7) the result obtained.

17. A damage insurance agent must not pay, offer to pay or undertake to pay to a person who is not a representative any advantage, compensation, rebate or other remuneration, except where permitted by the Act.

18. Unless he has obtained the written consent of his client and all other interested persons, a damage insurance agent must maintain the secrecy of what has been confided to him in the course of his activities, unless he is relieved of that obligation by an express provision of an act, by an order of a competent court or by the carrying on of his activities.

19. A damage insurance agent must not use personal or confidential information gathered in the course of his activities for purposes other than those for which he gathered it.

20. A damage insurance agent must take all reasonable measures to ensure that employees do not reveal personal information about a client.

CHAPTER IV

DUTIES AND OBLIGATIONS TOWARDS INSURERS

21. A damage insurance agent must give insurers the information that it is common practice for him to provide.

22. A damage insurance agent must not abuse the good faith of an insurer or use unfair practices in dealing with it.

23. A damage insurance agent must not neglect to disclose to an insurer any information in his possession that may affect compensation, in particular breaches of contract, fraud, misrepresentations or forging of evidence.

24. Where applicable, a damage insurance agent must not, without good cause, fail to pay an insurer, upon request or upon the expiry of a prescribed period, the premiums that he collects on its behalf.

CHAPTER V

DUTIES AND OBLIGATIONS TOWARDS REPRESENTATIVES

25. A damage insurance agent must use fair methods of competition and solicitation.

26. A damage insurance agent must not discredit another representative.

27. A damage insurance agent must not abuse the good faith of another representative or use unfair practices in dealing with him.

CHAPTER VI

DUTIES AND OBLIGATIONS TOWARDS THE BUREAU DES SERVICES FINANCIERS AND THE CHAMBRE DE L'ASSURANCE DE DOMMAGES

28. A damage insurance agent must answer without delay any correspondence from the Bureau or the Chamber, from their executive officers or inspectors, from the syndic of the Chamber or his assistants, or from an investigator referred to in sections 339 and following of the Act, in the performance of the duties devolved upon them under the Act or its regulations.

29. A damage insurance agent must not, directly or indirectly, obstruct the work of the Bureau or the Chamber, of their executive officers or inspectors, of the syndic of the Chamber or of its investigators.

30. Where a damage insurance agent has been informed of an investigation concerning him, he must not intervene vis-à-vis the complainant or informer, except within the scope of performing his mandate, where applicable.

31. A damage insurance agent must not use judicial proceedings deemed dilatory or excessive by the body seized thereof in order to prevent the filing or continuance of a complaint against him for a breach of the Act or its regulations or in order to cause such complaint to be withdrawn or abandoned.

CHAPTER VII

BREACHES OF THE CODE OF ETHICS

32. Breaches of the Code of Ethics by a damage insurance agent include:

- (1) ceasing to fulfil the requirements for becoming a holder of a certificate for a damage insurance agent;
- (2) carrying on activities dishonestly or negligently;

(3) having been found guilty, by final judgment, of a criminal act related to the activity of representative;

(4) contravening any provision of the Act and its regulations applicable to him;

(5) being an undischarged bankrupt, unless the bankruptcy resulted from causes unrelated to the activity of representative;

(6) carrying on activities under conditions or in situations likely to comprise the quality of his services;

(7) directly or indirectly paying or compensating a person who is not a representative in order for that person to act in that capacity or use that title;

(8) directly or indirectly accepting or obtaining payment or compensation from a person who is not a representative and who acts or attempts to act in that capacity;

(9) directly or indirectly accepting or obtaining payment or compensation not authorized by the Act from a person other than the person who used his services;

(10) sharing, offering to share or promising to share his commission or compensation with a person who is not a representative;

(11) paying or promising to pay remuneration or compensation in order for his services to be used, except as provided for by the Act;

(12) carrying on activities not authorized by his certificate or by the class indicated thereon, or implying that he is authorized to do so;

(13) falsely implying that he holds a particular certificate;

(14) knowingly making a false statement;

(15) participating in gathering or in conserving evidence that he knows is false;

(16) concealing or knowingly withholding that which a legislative or regulatory provision requires him to disclose;

(17) advising or encouraging a client to do something that the damage insurance agent knows is illegal or fraudulent;

(18) using or paying a third party to obtain a mandate where that party is not authorized by the Act to do so;

(19) unjustifiably refusing or neglecting to appear at the office of the syndic, of one of his assistants or of an investigator referred to in sections 339 and following of the Act, at the request of any of them;

(20) carrying on activities with persons not authorized to carry on such activities by the Act or the regulations adopted thereunder, or using their services to do so;

(21) charging for professional services not rendered or falsely described;

(omitted)

(22) carrying out solicitation or placing advertisements not permitted by the Act or the regulations adopted thereunder, or allowing such solicitation to be carried out or such advertisements to be placed;

(23) out of malice, filing a complaint or making an unfounded accusation against another representative;

(24) using or appropriating, for personal purposes, money or securities entrusted to him in the carrying out of any mandate, whether the activities carried on by the agent are in the discipline of damage insurance or in another discipline contemplated in the Act.

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Draft Regulation

An Act respecting the distribution of financial products and services
(1998, c. 37)

Chambre de l'assurance de dommages — Titles of associate insurance broker and chartered insurance broker

In accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice is hereby given that the Regulation of the Chambre de l'assurance de dommages respecting the titles of associate insurance broker and chartered insurance broker, the text whereof is set forth hereinbelow, will be submitted to the Government which may approve it, with or without any amendments, upon the expiry of 45 days from the present publication.

According to the Chambre, this proposed regulation sets forth the purpose of the program of studies leading to the title of "associate insurance broker" and the abbreviation "A.I.B.", as well as the title of "chartered insurance broker" and the abbreviation "C.I.B.", by fo-