

communicate with the person who requested the holding of the inquiry nor with the witnesses who have been summoned for the complainant in accordance with section 146 of this code, except with prior written permission from the syndic, the co-syndic, an assistant of the syndic or an assistant of the co-syndic.

## DIVISION VII GRAPHIC SYMBOL

47. If a representative uses the graphic symbol of the Chamber for publications or advertisements of any kind, he must make sure that it is in conformity with the original held by the secretary of the Chamber.

48. Where a representative uses the graphic symbol of the Chamber for advertising purposes, other than on a business card, he shall include the following warning in the advertisement: "This advertisement does not originate from the Chambre de la sécurité financière and does not commit its liability."

## DIVISION VIII SPECIFIC PROVISIONS APPLICABLE TO FINANCIAL PLANNERS

49. This Division applies only to a representative who is entitled to use the title of financial planner or a similar title in accordance with An Act respecting the distribution of financial products and services and its regulations.

50. When soliciting clients, a representative must avoid using methods that would have the effect, in particular, of emphasizing a specific aspect of financial planning in order to unduly attract the attention of a potential client.

51. A representative must refrain from:

(1) out of malice, making an unfounded accusation against another representative, a firm or an independent partnership;

(2) directly or indirectly paying a person who is not legally entitled to use the title of financial planner to act in that capacity or to use that title;

(3) directly or indirectly accepting or receiving payment from a person who is not legally authorized to use the title of financial planner and who acts or attempts to act in that capacity;

(4) not informing his client as soon as he is aware of a problem that will prevent him from continuing with his mandate.

52. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

## O.C. 1040-99, 8 September 1999

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

### Claims adjusters — Code of ethics

Code of ethics of claims adjusters

WHEREAS under subparagraph 1 of the first paragraph of section 313 of the Act respecting the distribution of financial products and services (1998, c. 37), each Chamber shall determine, by regulation, the rules of ethics applicable to the representatives, other than the securities representatives, of each sector or class of sectors in which contributors carry on business;

WHEREAS under that section, the Chambre de l'assurance de dommages made the Code of ethics of claims adjusters;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of that Code was published as a draft in Part 2 of the *Gazette officielle du Québec* of 12 May 1999 with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Code, with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of State for the Economy and Finance and Minister of Finance:

THAT the Code of ethics of claims adjusters, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

## Code of ethics of claims adjusters

An Act respecting the distribution of financial products and services  
(1998, c. 37, s. 313, par. 1, subpar. 1)

### DIVISION I GENERAL PROVISIONS

1. The provisions of this Code are designed to promote the protection of the public and the honest and competent practice of the activities of a claims adjuster.

2. A claims adjuster shall insure that he, his mandataries and his employees comply with the provisions of An Act respecting the distribution of financial products and services (1998, c. 37) and the regulations thereunder.

### DIVISION II DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

3. A claims adjuster must support any measure designed to protect the public.

4. A claims adjuster must support any measure likely to improve the quality of service in the field in which he carries on his activities.

5. A claims adjuster must promote measures designed to provide education and information in the field in which he carries on his activities.

6. The conduct of a claims adjuster must be characterized by objectivity, discretion, moderation and dignity.

7. No claims adjuster shall, in any manner whatsoever, make any representations which are false, misleading or liable to be misleading.

8. A claims adjuster must avoid placing himself, directly or indirectly, in a situation in which he would have a conflict of interest. Without limiting the generality of the foregoing, a claims adjuster would be in a situation of conflict of interest where:

(1) the existing interests are such that he might favour some of them over those of his client or his judgment and loyalty towards his client might be adversely affected;

(2) he obtains a current or future personal benefit, directly or indirectly, for a given act.

9. A claims adjuster must not represent the interests of both an insured and the insured's insurer at the same time.

10. In carrying on his activities, a claims adjuster must identify himself clearly and must produce his certificate upon request.

11. A claims adjuster must notify an insured of the approach of a prescription date concerning him.

12. A claims adjuster must notify the parties involved, as well as any person that he knows has an interest in the compensation requested, of any refusals or any measures that the insurer intends to take regarding the claim.

13. A claims adjuster must act in such a way as not to mislead or abuse the good faith of the parties involved or of their insurers.

14. In addition to opinions and advice, a claims adjuster must provide a claimant with the explanations necessary for him to understand and appreciate the services rendered to him.

15. A claims adjuster must not, directly or indirectly, pay, compensate or give an advantage or allow the payment, compensation or giving of any advantage to a person who is not a representative in order for that person to act in that capacity or use that title.

16. A claims adjuster must not, directly or indirectly, be promised or receive a payment, compensation or advantage from a person who is not a damage insurance representative and who acts or attempts to act in that capacity.

17. A claims adjuster must not, directly or indirectly, be promised or receive a payment, compensation or advantage not authorized by this Act or the regulations thereunder from a person other than the person who used his services.

18. A claims adjuster must not pay, offer to pay or undertake to pay to a person who is not a representative any payment, compensation or advantage, except where permitted by the Act.

19. A claims adjuster must not pay or promise to pay any remuneration, compensation or advantage in order for his services to be used, except as permitted by this Act or the regulations thereunder.

20. A claims adjuster must respect the secrecy of any personal information that he obtains about a client and use the personal information for the purposes for which

he obtained it, unless he is relieved of that obligation by a provision of an act or an order of a competent court.

21. A claims adjuster must not disclose personal or confidential information he has obtained, other than in accordance with the Act, and he must not use such information to the detriment of his client or with a view to obtaining a benefit for himself or for another person.

22. A claims adjuster must not accept or continue a mandate if it involves or may involve disclosing or using confidential information or documents obtained from another claimant, unless that claimant so consents.

23. A claims adjuster must not withhold sums of money, securities, documents or property of a claimant unless a legislative or regulatory provision so permits.

24. A claims adjuster must take reasonable care of the property entrusted to his care by the claimant or the client.

25. A claims adjuster must not endorse a cheque made out to a claimant or to a client unless he has been notified by that party in writing that he may do so and provided that he endorses the cheque only for the purpose of depositing it into a separate account.

26. A claims adjuster must not:

(1) have a personal interest in the settlement of a claim;

(2) derive or seek to derive personal benefit, other than his remuneration, from a matter entrusted to him;

(3) ask anyone whomsoever, except the client or his representatives, to inform him of the occurrence of an accident;

(4) obtain or attempt to obtain details concerning an insurance policy from a person other than the client or his representatives, with a view to having the settlement of claim entrusted to him;

(5) advise an insured, a claimant or a third party not to consult another representative or any other person of his choosing;

(6) mislead an interested party as to the identity of his client;

(7) pay or offer to pay a witness compensation conditional on the content of his testimony or on the outcome of litigation;

(8) unduly withhold, conceal, harbour, falsify, mutilate or destroy evidence, whether directly or indirectly;

(9) conceal evidence that he or a client has a legal obligation to conserve, disclose or produce.

### **DIVISION III**

#### **DUTIES AND OBLIGATIONS TOWARDS CLIENTS**

27. A claims adjuster must avoid any misrepresentations as to his level of competence or the effectiveness of his services or those of his firm or independent partnership.

28. Before accepting a mandate, a claims adjuster must take into account the limits of his abilities and knowledge and the means available to him. He must not undertake or continue a mandate for which he is not sufficiently prepared, without obtaining the necessary assistance.

29. A claims adjuster must not represent opposing interests, except with the consent of his clients.

30. A claims adjuster must not advise a client not to consult another representative or another person of his choosing.

31. A claims adjuster must act promptly, honestly and equitably in providing his professional services in connection with the mandates entrusted to him.

32. A claims adjuster must inform the client promptly of any violation, fraud or circumstances that could reduce or compromise an entitlement to compensation.

33. A claims adjuster must, without delay, follow up on the instructions that he receives from a client or notify him that he is unable to do so.

34. A claims adjuster must submit any offer of settlement to the client.

35. In carrying out a mandate, a claims adjuster must avoid multiplying professional acts.

36. A claims adjuster may, for good and reasonable cause, cease to act on behalf of a client and unilaterally terminate a mandate after taking reasonable measures to ensure that the client suffers no prejudice.

Good and reasonable cause includes:

(1) the loss of the client's confidence;

(2) deceit on the part of a client or the client's refusal to collaborate;

(3) pressure from a client to carry out illegal, unfair, immoral or fraudulent acts;

(4) persistent refusal by a client to accept a fair settlement;

(5) a claims adjuster being in conflict of interest or in a situation that casts doubt on his professional independence;

(6) refusal by a client to recognize an obligation relating to costs, disbursements and remuneration or, following reasonable prior notification, his refusal to pay the claims adjuster an instalment towards the fulfilment of that obligation.

**37.** A claims adjuster must cease to represent a client if his mandate is revoked.

**38.** A claims adjuster must, upon request, report to the client and must show diligence in preparing his reports, rendering his accounts and making his remittances.

**39.** A claims adjuster must not, through fraud, trickery or other deceitful means, avoid or attempt to avoid his professional civil liability.

**40.** The remuneration set by a claims adjuster must be fair and reasonable. Remuneration is fair and reasonable where it is justified by the circumstances and proportionate to the services rendered. In setting his remuneration, a claims adjuster must take particular account of the following factors:

(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.

**41.** A claims adjuster must ensure that a client is informed of the approximate and foreseeable cost of his services.

**42.** If a claims adjuster has concluded a contract with a client providing for remuneration on an hourly basis, he must provide the client with all explanations necessary for him to understand his statement of remuneration and the terms and conditions for payment.

**43.** A claims adjuster must not accept, other than the remuneration or compensation to which he is entitled, any other advantage relating to his activities, except where permitted by the Act. In addition, he must not pay, offer to pay or undertake to pay any remuneration, compensation or other advantage, except where permitted by the Act.

**44.** A claims adjuster may charge interest on overdue accounts only if he has an agreement to that effect with the client. Any interest charged must be at a reasonable rate which does not exceed the rate set in accordance with section 28 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31).

**45.** Upon completion of his mandate, a claims adjuster must repay any part of an advance on his remuneration for which no work was done.

#### **DIVISION IV** SPECIAL PROVISION APPLICABLE IN THE CASE OF A MANDATE BETWEEN A CLAIMS ADJUSTER AND A CLAIMANT

**46.** A claims adjuster must not borrow from a claimant sums of money that he collects for him.

#### **DIVISION V** SPECIAL PROVISIONS APPLICABLE IN THE CASE OF A MANDATE BETWEEN A CLAIMS ADJUSTER AND AN INSURER

**47.** A claims adjuster must not under any circumstances undertake appraisal work for an insurer or claim to act on its behalf unless he has received a prior mandate to that effect from the insurer.

**48.** When a claims adjuster informs the insured that he is acting on behalf of an insurer, he must also indicate to the insured that he represents only the interests of the insurer.

**49.** A claims adjuster must notify the insurer of any ties or interests held by third parties in property that is the subject of a claim and suggest to it settlements that take account thereof.

**50.** A claims adjuster must disclose to the insurer any information in his possession that could affect deci-

sions regarding the settlement of a claim, particularly breaches of contract, fraud, misrepresentations or forging of evidence.

#### **DIVISION VI DUTIES AND OBLIGATIONS TOWARDS INSURERS**

51. A claims adjuster must not mislead an insurer, abuse its good faith or use unfair practices in dealing with the insurer.

52. A claims adjuster must not falsely make representations to an insurer to the effect that he is in charge of settling a claim.

#### **DIVISION VII DUTIES AND OBLIGATIONS TOWARDS REPRESENTATIVES**

53. A claims adjuster must not discredit another representative.

54. A claims adjuster must not mislead another representative, abuse his good faith or use unfair practices in dealing with him.

55. A claims adjuster must collaborate with other representatives insofar as he causes no prejudice to his client or to the parties involved in a claim.

#### **DIVISION VIII DUTIES AND OBLIGATIONS TOWARDS THE BUREAU DES SERVICES FINANCIERS AND THE CHAMBRE DE L'ASSURANCE DE DOMMAGES**

56. A claims adjuster must answer without delay any correspondence from the syndic, the co-syndic or an assistant to the syndic of the Chamber in the performance of the duties devolved upon them under the Act respecting the distribution of financial products and services and the regulations thereunder.

57. A claims adjuster must not, directly or indirectly, obstruct the work of the Bureau, the Chamber or one of its committees, the syndic, the co-syndic, an assistant to the syndic or a member of their personnel.

58. Where a claims adjuster has been informed of an investigation or a complaint concerning him, he must not intervene vis-à-vis the complainant or the person having requested the investigation, except within the scope of performing his mandate, where applicable.

#### **DIVISION IX BREACHES OF THE CODE OF ETHICS**

59. The fact that a claims adjuster acts contrary to the honour and dignity of the profession constitutes a breach of the Code of Ethics, including:

- (1) carrying on activities dishonestly or negligently;
- (2) carrying on activities under conditions or in situations likely to compromise the quality of his services;
- (3) taking into account the intervention of a third party that could affect the carrying out of his professional duties to the detriment of his client or the insured;
- (4) knowingly deriving benefit from perjury or from false evidence;
- (5) knowingly making a statement which is false, misleading or liable to be misleading;
- (6) participating in gathering or in conserving evidence that he knows is false;
- (7) concealing or knowingly withholding that which a legislative or regulatory provision requires him to disclose;
- (8) advising or encouraging a client to do something that the claims adjuster knows is illegal or fraudulent;
- (9) not informing the client, the insured or the opposing party of any impediment to the continuation of his mandate;
- (10) insistently or repeatedly urging a person to use his professional services;
- (11) requiring a client to pay advances that are disproportionate to the nature and circumstances of the claim and the state of the parties;
- (12) carrying on activities with persons not authorized to carry on such activities by this Act or the regulations thereunder, or using their services to do so;
- (13) charging for professional services not rendered or falsely described;
- (14) filing a malicious complaint or making a malicious accusation against another representative;
- (15) 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

claims adjuster are in the sector of claims adjustment or in another sector contemplated in this Act.

**DIVISION X**  
**PROVISIONS APPLICABLE TO A CLAIMS**  
**ADJUSTER EMPLOYED BY AN INSURER**

60. The provisions of this Division apply only to a claims adjuster employed by an insurer.

61. Such a claims adjuster must not:

(1) neglect to effect promptly, honestly and fairly the settlement of claims for which responsibility has been determined;

(2) neglect to follow up promptly on a request for compensation arising from an insurance contract;

(3) neglect to accept or refuse a request for compensation within a reasonable period following the filing of the required evidence;

(4) neglect to notify an insured of the approach of the prescription date;

(5) postpone the settlement of property damage until the settlement of bodily injuries.

62. Such a claims adjuster must comply with the provisions of Division VIII.

63. Section 2 and subparagraphs 1 and 2 of section 59 shall apply to a claims adjuster employed by an insurer.

64. This Regulation comes into force on the fifteenth day following its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

**O.C. 1041-99, 8 September 1999**

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

**Damage insurance representatives**  
 — **Code of ethics**

Code of ethics of damage insurance representatives

WHEREAS under subparagraph 1 of the first paragraph of section 313 of the Act respecting the distribution of

financial products and services (1998, c. 37), each Chamber shall determine, by regulation, the rules of ethics applicable to the representatives, other than the securities representatives, of each sector or class of sectors in which contributors carry on business;

WHEREAS under that section, the Chambre de l'assurance de dommages made the Code of ethics of damage insurance representatives;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of that Code was published as a draft in Part 2 of the *Gazette officielle du Québec* of 12 May 1999 with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Code, with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of State for the Economy and Finance and Minister of Finance:

THAT the Code of ethics of damage insurance representatives, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

**Code of ethics of damage insurance representatives**

An Act respecting the distribution of financial products and services  
 (1998, c. 37, s. 313, par. 1, subpar. 1)

**DIVISION I**  
**GENERAL PROVISIONS**

1. The provisions of this Code are designed to promote the protection of the public and the honest and competent practice of the activities of a damage insurance representative.

In this Code, the expression “damage insurance representative” means a damage insurance agent and a damage insurance broker.

2. A damage insurance representative shall insure that he, his mandataries and his employees comply with the provisions of An Act respecting the distribution of financial products and services (1998, c. 37) and the regulations thereunder.