

Draft Regulations

Draft Regulation

An Act respecting insurance
(R.S.Q., c. A-32)

Act Respecting insurance — Regulation under

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation under the Act respecting insurance, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation replaces the Regulation respecting the application of the Act respecting insurance (R.R.Q., 1981, c. A-32, r.1) which has not been comprehensively revised since 1974. The Civil Code was subsequently enacted in 1991 and various amendments to the Act respecting insurance have been made over the years, including the more extensive reform brought about by chapter 70 of the Statutes of 2002. In response, the draft Regulation proposes to update the regulatory provisions to reflect those legislative developments. As well, it harmonizes insurance practices in Québec with those prevalent in the other Canadian provinces, in particular by revising the classes of insurance that insurers may transact and updating group insurance practices. The draft Regulation also contains provisions that increase the protection of the public.

The draft Regulation, considerably more streamlined than the former Regulation, will have no negative impact on the public or enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained within the 45-day period by contacting Pierre Rhéaume, Director General, Encadrement du secteur financier et des personnes morales, Ministère des Finances, 8, rue Cook, 4^e étage, Québec (Québec) G1R OA4; telephone: 418 646-7572; fax: 418 646-5744; e-mail: pierre.rheaume@finances.gouv.qc.ca

Any interested person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec) G1R 5L3.

MONIQUE JÉRÔME-FORGET,
Minister of Finance

Regulation under the Act respecting insurance

An Act respecting insurance
(R.S.Q., c. A-32, ss. 420, 420.1 and 420.2; 2008, c. 7, s. 50)

CHAPTER I CONSTITUTION, CONTINUANCE AND AMENDMENT OF THE ARTICLES OF INSURANCE COMPANIES

DIVISION I APPLICATION FOR CONSTITUTION

1. An application for the constitution of an insurance company must be accompanied by the following documents:

- (1) the résumés of the persons proposed as directors;
- (2) the proposed general by-laws;
- (3) a description of the composition and operation of the committee on ethics, the audit committee and, if applicable, the executive committee, the investment committee and any other proposed committee, as well as the names of the persons proposed as members of those committees;
- (4) the proposed rules of ethics applicable to directors;
- (5) a description of its links with financial institutions that are affiliated legal persons within the meaning of sections 1.2 to 1.4 of the Act respecting insurance (R.S.Q., c. A-32);
- (6) a description of the products that will be offered;
- (7) copies of the proposed insurance policies and riders;
- (8) the proposed product marketing and distribution policy and claim settlement policy;
- (9) the proposed investment policy;
- (10) copies of the proposed reinsurance contracts;
- (11) the name and address of the person proposed as auditor;

(12) the name and address of the person proposed as actuary; and

(13) a list of the shareholders having more than a 10% voting equity interest.

The documents must be sent to the Minister and to the Autorité des marchés financiers.

2. An application for the constitution of an insurance company must also be accompanied by a business plan that contains opening financial statements, five-year financial forecasts and a description of the organizational structure.

The business plan must be supported by a minimum five-year actuarial projection pertaining to the balance sheet, income statement and statement of retained earnings, and capital adequacy.

The actuarial projection must contain a description of the calculation assumptions used, and be drawn up by an actuary who is a Fellow of the Canadian Institute of Actuaries practising in the insurance of persons or damage insurance, depending on the type of insurance to be transacted by the company.

The documents must be sent to the Minister and to the Autorité des marchés financiers.

DIVISION II AMENDMENT OF ARTICLES OR CONTINUANCE

3. An insurance company that applies for the authorization required by sections 35.2 and 37 of the Act respecting insurance must send the following documents to the Autorité des marchés financiers:

- (1) the constituting act of the company and amendments;
- (2) the proposed articles of amendment;
- (3) a certified true copy of its general by-laws;

(4) a certified true copy of the by-law adopted by the directors of the company regarding the proposed amendments;

(5) an attestation by the secretary of the company that the by-law referred to in paragraph 4 was approved at the general meeting of shareholders, and the notice calling that meeting;

(6) a description of any change in the capital stock of the company and, if the capital stock has been reduced, an attestation by the auditor of the company that the company's financial statements permit the reduction having regard to the requirements of the Companies Act or, as the case may be, the Act respecting the special powers of legal persons (R.S.Q., c. P-16); and

(7) if applicable, a copy of the notice mentioned in paragraph 2 of section 38 of the Act respecting insurance.

4. An insurance company that requests confirmation of a continuance by-law pursuant to section 200.0.15 of the Act respecting insurance or the authorization required by section 200.0.16 of the Act must send the following documents to the Minister and to the Autorité des marchés financiers:

- (1) the constituting act of the company and amendments;
- (2) the proposed articles of continuance;
- (3) a certified true copy of its general by-laws;

(4) a certified true copy of the by-law adopted by the directors of the company regarding its continuance under Part IA of the Companies Act (R.S.Q., c. C-38);

(5) an attestation by the secretary of the company that the by-law referred to in paragraph 4 was approved at the general meeting of shareholders, and the notice calling that meeting; and

(6) a description of any change in the capital stock of the company and, if the capital stock has been reduced, an attestation by the auditor of the company that the company's financial statements permit the reduction having regard to the requirements of the Companies Act or, as the case may be, the Act respecting the special powers of legal persons (R.S.Q., c. P-16).

DIVISION III SPECIAL PROVISION

5. For the purposes of section 88.1 of the Act respecting insurance, a member of a mutual insurance company who has received the support of 5 voting members may give notice to the company of the proposals that the member intends to submit to the annual meeting.

CHAPTER II
CONSTITUTION OF MUTUAL INSURANCE
ASSOCIATIONS, FEDERATIONS OF MUTUAL
INSURANCE ASSOCIATIONS AND
GUARANTEE FUNDS

DIVISION I
APPLICATION FOR CONSTITUTION

6. An application for the constitution of a mutual insurance association must be accompanied by the following documents, in addition to the articles of the association and the documents required by section 93.18 of the Act respecting insurance:

- (1) the résumés of the persons proposed as directors;
- (2) the proposed internal by-laws;
- (3) a description of the composition and operation of the committee on ethics, the audit committee and, if applicable, the executive committee and the investment committee, as well as the names of the persons proposed as members;
- (4) the proposed rules of ethics applicable to directors;
- (5) a description of the products that will be offered;
- (6) copies of the proposed insurance policies and riders;
- (7) the proposed product marketing and distribution policy and claim settlement policy;
- (8) the proposed investment policy;
- (9) copies of the proposed reinsurance contracts;
- (10) the authorization of the federation to carry on the proposed activities;
- (11) a description of the organizational structure; and
- (12) a minimum three-year business plan that contains opening financial statements and financial forecasts.

The business plan must be supported by a minimum three-year actuarial projection pertaining to the balance sheet, income statement and statement of retained earnings, and capital adequacy.

The actuarial projection must contain a description of the calculation assumptions used, and be drawn up by an actuary who is a Fellow of the Canadian Institute of Actuaries practising in damage insurance.

7. An application for the constitution of a federation of mutual insurance associations must be accompanied by the following documents, in addition to the articles of the federation and the documents required by section 93.121 of the Act respecting insurance:

- (1) the résumés of the persons proposed as directors;
- (2) the proposed internal by-law;
- (3) a description of the composition and operation of the committee on ethics, the audit committee and, if applicable, the executive committee, the investment committee and any other proposed committee, as well as the names of the persons proposed as members;
- (4) the proposed rules of ethics applicable to directors;
- (5) the name and address of the person proposed as auditor;
- (6) a certified true copy of the resolution of the board of directors of each of the mutual insurance associations, duly confirmed by the members, authorizing the founders to apply for the constitution of the federation; and
- (7) a development plan describing the proposed activities of the federation over a period of five years, specifying the nature of the services that it will offer to its members, the means to be used to establish and maintain its services, including an estimate of costs, the training it will provide to its personnel and, if applicable, its investment policy for the investment fund.

8. An application for the constitution of a guarantee fund must be accompanied by the following documents, in addition to the articles of the fund and the documents required by section 93.218 of the Act respecting insurance:

- (1) the résumés of the persons proposed as directors;
- (2) the name and address of the person proposed as auditor;
- (3) the proposed internal by-law; and

(4) an audited statement showing the amount subscribed and paid up by each of the founding mutual associations to constitute the capital of the guarantee fund.

DIVISION II

NAME OF A MUTUAL INSURANCE ASSOCIATION

9. For the purposes of paragraph 6 of section 93.22 of the Act respecting insurance, public authorities are those listed in section 1 of the Regulation respecting the corporate names of companies governed by Part IA of the Companies Act, made by Order in Council 1857-93 dated 15 December 1993.

10. The cases in which the name of a mutual insurance association suggests that the association is related to another person, partnership or group are those mentioned in section 3 of the Regulation respecting the corporate names of companies governed by Part IA of the Companies Act.

The criteria to be taken into account to determine whether the name of an association suggests that the association is so related or leads to confusion with the name used by another person, partnership or group are those set out in sections 4 and 5 of that Regulation.

CHAPTER III

CLASSES OF INSURANCE

DIVISION I

GENERAL

11. A class of insurance that includes insurance against loss of property also includes insurance against loss of enjoyment resulting therefrom.

12. No class of insurance includes insurance against the financial consequences of liability arising out of damage unless specifically mentioned therein.

DIVISION II

INSURANCE OF PERSONS

13. Insurance in the “life insurance” class is insurance whereby the insurer undertakes to pay an agreed amount on the death of the insured. Such insurance may also include an undertaking to pay an amount during the life of the insured, depending on the insured being still alive at a specified time or on the occurrence of an event affecting the existence of the insured. Life and fixed-term annuities transacted by insurers are also included in this class.

14. Insurance in the “accident and sickness insurance” class is insurance whereby the insurer offers one or more of the following protections:

(1) payment of an indemnity in the event of bodily injury, including death, resulting from an accident sustained by an insured;

(2) payment of an indemnity in the event of sickness or disability of an insured;

(3) reimbursement for expenses incurred as a result of the sickness of or an accident sustained by an insured.

DIVISION III

DAMAGE INSURANCE

15. Insurance in the “automobile insurance” class is insurance whereby the insurer undertakes to indemnify the insured against material loss or damage resulting from an event involving a motor vehicle, under the terms of the insurance policies approved by the Autorité des marchés financiers under section 422 of the Act respecting insurance.

It includes protection against the financial consequences of liability arising out of bodily injury or damage to property caused by a motor vehicle or the use or operation of a motor vehicle.

Insurance providing for payment of an indemnity in the event of bodily injury, including death, resulting from an accident involving a motor vehicle is also included in this class, provided that such insurance is part of a motor vehicle liability insurance contract.

16. Insurance in the “aircraft insurance” class is insurance whereby the insurer undertakes to indemnify the insured against material loss or damage resulting from an event involving an aircraft. It includes protection against the financial consequences of liability arising out of bodily injury or damage to property caused by an aircraft or the use of it.

17. Insurance in the “property insurance” class is insurance whereby the insurer undertakes to indemnify the insured against loss of or damage to property, to the extent that the insurance does not cover property that is more specifically covered by another class of insurance.

18. Insurance in the “boiler and machinery insurance” class is insurance providing one or more of the following protections:

(1) insurance whereby the insurer undertakes to indemnify the insured against material loss or damage sustained by the insured by reason of the explosion or rupture of a boiler or any other pressure vessel, including any mechanism, component or accessory incidental to its operation, or material loss or damage resulting from an accident in the course of its operation;

(2) insurance against the financial consequences of liability arising out of bodily injury or damage to property caused by the explosion or rupture of a boiler or any other pressure vessel, including any mechanism, component or accessory incidental to its operation, or by an accident in the course of its operation;

(3) insurance whereby the insurer undertakes to indemnify the insured against material loss or damage sustained by the insured by reason of the use, breakage or breakdown of machinery;

(4) insurance against the financial consequences of liability arising out of bodily injury or damage to property caused by the use or operation of machinery.

19. Insurance in the “surety insurance” class is insurance whereby the insurer undertakes to guarantee the performance of an obligation or the payment of a penalty or indemnity for default on the part of the debtor. It does not include credit insurance, credit protection insurance or hypothec insurance, which are distinct classes.

20. Insurance in the “credit insurance” class is insurance whereby the insurer undertakes to indemnify an insured creditor against loss resulting from failure on the part of a debtor to repay the insured creditor. This class does not include an indemnity in relation to a claim secured by hypothec.

21. Insurance in the “credit protection insurance” class is insurance whereby the insurer undertakes to indemnify a creditor against loss resulting from failure on the part of an insured natural person owing a debt to the creditor to repay the latter by reason of insufficient income, up to the amount of the debt. This class does not include coverage under hypothec insurance or credit insurance.

22. Insurance in the “hypothec insurance” class is insurance whereby the insurer undertakes to indemnify an insured creditor against loss resulting from failure on the part of a debtor to repay a loan secured by a movable or immovable hypothec.

23. Insurance in the “fidelity insurance” class is insurance whereby the insurer undertakes to indemnify the insured against loss resulting from theft, embezzlement or breach of trust committed by an employee, a mandatary, a partner, an officer or a member. It includes insurance whereby the insurer undertakes to indemnify the insured should any of those persons fail to perform duties or perform them inappropriately.

24. Insurance in the “legal expenses insurance” class means insurance whereby the insurer undertakes to reimburse the legal costs of the insured, including fees and other costs incurred in respect of the provision of the legal services.

25. Insurance in the “hail insurance” class is insurance whereby the insurer undertakes to indemnify the insured against material loss caused by hail to crops in the field.

26. Insurance in the “fire insurance” class is insurance whereby the insurer undertakes to indemnify the insured against loss or damage that is the direct consequence of fire or the burning of insured property, regardless of the cause, including loss of or damage to property during transportation or resulting from the methods used to extinguish the fire.

27. Insurance in the “liability insurance” class is insurance whereby the insurer offers protection against the financial consequences of liability incurred for damage to a third person by reason of an injurious act. It includes insurance providing one or more of the following protections:

(1) protection against liability arising out of bodily injury or damage to property sustained by third persons, excluding the employees of the insured;

(2) protection whereby the insurer undertakes to indemnify in the event of an accident, whether liability exists or not, against damage sustained by a person neither living with the insured or on the insured premises, if the protection is provided for in a policy that also includes the protection referred to in subparagraph 1;

(3) protection against the liability of an employer arising out of bodily injury sustained by employees in the performance of their duties;

(4) protection whereby the insurer undertakes to indemnify in the event of an accident, whether liability exists or not, against damage sustained by employees in the performance of their duties, if the protection is provided for in a policy that also includes the protection referred to in subparagraph 3.

This class of insurance does not include liability covered by automobile insurance, aircraft insurance or boiler and machinery insurance.

28. Insurance in the “title insurance” class is insurance whereby the insurer undertakes to indemnify the insured against loss or damage resulting from

(1) the existence of a hypothec, a prior claim, a servitude or any other restriction on the right of ownership of property;

(2) a defect in a document that evidences a hypothec, a prior claim or a servitude or in a restriction on the right of ownership of property;

(3) a defect in the title to property; or

(4) any other situation affecting title to property or the existence of another real right, including the right to the enjoyment of property.

DIVISION IV MARINE INSURANCE

29. Insurance in the “marine insurance” class is insurance covering the risks incident to a marine adventure and may cover the risks of any adventure analogous to a marine adventure, land risks incidental to a marine adventure and risks incident to the building, repair and launch of a ship.

It includes protection against the financial consequences of liability arising out of bodily injury or damage to property arising out of such an adventure.

CHAPTER IV APPLICATION FOR AN INSURER’S LICENCE

30. Every legal person, other than a professional order, that applies for an insurer’s licence must provide the Autorité des marchés financiers with a plan of its activities in Québec. The plan must set out

(1) the nature of the insurance contracts it proposes to offer in Québec;

(2) the sales methods to be used;

(3) the training to be given to its personnel;

(4) the claim settlement services to be set up for its insured in Québec;

(5) the investment policy to be implemented for the funds held for the benefit of its insured in Québec; and

(6) the reinsurance policy and practices to be applied.

31. A licence application made by a legal person transacting insurance of persons, other than a legal person engaged exclusively in reinsurance, must be accompanied by an undertaking to be a party to a contract of adhesion with Assuris and to comply with the conditions stipulated therein, except if the legal person is already a party to such a contract or does not issue policies that guarantee for their duration the amounts of the benefits and premiums fixed in them.

32. A licence application made by a legal person transacting damage insurance, other than a professional order, a mutual insurance association or a legal person engaged exclusively in reinsurance, must also be accompanied by an undertaking to be a party to a contract of adhesion with the Property and Casualty Insurance Compensation Corporation (PACICC) and to comply with the conditions stipulated therein, except if the legal person is already a party to such a contract or intends to issue only insurance policies that are not subject to compensation under the contract.

33. Every legal person constituted under laws other than the laws of Québec that applies for a licence must send to the Minister and to the Autorité des marchés financiers the following documents:

(1) its certificate of registration;

(2) its licence or any other similar document issued by the authority in the place where it was constituted;

(3) its financial statements, as they stood at the close of the fiscal year preceding the licence application, that the legal person is required to file with the authority in the place where it was constituted; and

(4) the last inspection report submitted to it by the authority in the place where it was constituted and, if applicable, by any other authority in Canada.

CHAPTER V COMMERCIAL PRACTICES AND DISCLOSURE OF CONDITIONS OF INSURANCE CONTRACTS

34. Insurers must, in all circumstances, present themselves under their true identity and not use a phrase that could cause confusion, particularly as regards trademarks or service marks, slogans, symbols or any other identification marks.

35. An insurer may not, in any insurance offer, exaggerate the extent of the coverage offered or the amount of payable benefits, nor minimize the cost thereof. An insurer must also specify the exclusions likely to affect the nature or scope of the coverage under the contract. The insurer must also expose any limitation resulting from a waiting period.

Upon renewal, cancellation or termination of a contract, the insurer must refer to the relevant provisions in the contract.

36. An insurer advertising that no prior medical examination is required under the contract must specify whether the stipulation applies to the insurance application only, or also to the payment of benefits. The insurer must also indicate the limits to coverage under the contract in the case of death, illness or disability resulting from conditions existing prior to the effective date of the insurance.

37. No insurance offer may falsely claim or suggest that the insurance offered constitutes special coverage and that the policyholder will be able to benefit from certain additional advantages if the insurance is taken out, or that the insurance is limited to a determined group of persons.

CHAPTER VI INVESTMENTS

DIVISION I GENERAL

38. An insurer may acquire all or any of the shares of a legal person whose principal activity is the purchase, management, sale or leasing of immovables, the offering of shares in investment portfolios, the making of loans and investments, factoring, leasing, or the offering of computing services, actuarial advisory services or travel assistance services.

39. An insurer other than a mutual insurance association may acquire all or any of the shares of a legal person operating a residential and long-term care centre.

40. For the purposes of section 247.1 of the Act respecting insurance, a subsidiary newly acquired by an insurer must undertake

(1) to submit its financial statements each year to the Autorité des marchés financiers;

(2) to submit any document and provide any information on its affairs required by the Autorité des marchés financiers to enable the Authority to verify the fair market value of the investments and whether the conditions set out in paragraph 5 are complied with;

(3) to submit any document and provide any information required by the Autorité des marchés financiers relating to its financial situation or the financial situation of a holding company directly controlling the subsidiary or controlled by the subsidiary, as well as any document or information related to the application of the Act respecting insurance;

(4) to permit the Autorité des marchés financiers or its representative to enter its head office and other establishments outside Québec at any reasonable time so that the Authority or its representative may

(a) examine and make copies of the books, registers, accounts, records and other documents relating to its financial situation or the financial situation of a holding company directly controlling the subsidiary or controlled by the subsidiary;

(b) require any information relating to the administration of the Act respecting insurance and the production of any related document; and

(c) require every person having the custody, possession or control of the books, registers, accounts, records and other documents to allow access to and facilitate examination of them;

(5) to provide, at its own expense, on request by the Autorité des marchés financiers, an assessment made by an independent expert of any proposed investment if, in the opinion of the Autorité des marchés financiers, the assessment made by the subsidiary does not reflect market value; and

(6) to not hold more than 30% of the voting shares issued by a legal person unless

(a) the legal person is an insurer, a bank, a trust company, a savings company, a firm within the meaning of the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2) or a securities dealer or adviser; or

(b) the principal activity of the legal person is the purchase, management, sale or leasing of immovables, the offering of shares in investment portfolios, the making of loans and investments, factoring, leasing, or the offering of computing services, actuarial advisory services or travel assistance services.

DIVISION II

INVESTMENTS BY A FEDERATION OF MUTUAL INSURANCE ASSOCIATIONS

41. The following investments must be authorized in advance by the board of directors of a federation of mutual insurance associations:

(1) any transaction for the purpose of acquiring, using the federation's investment fund, securities issued by a restricted party in respect of the federation or by a legal person belonging to the same group as the federation; and

(2) any transfer of assets between the federation's investment fund and a restricted party in respect of the federation or by a legal person belonging to the same group as the federation.

Bad debts, unproductive assets and assets repossessed from a debtor in default may not be transferred to the investment fund.

42. The investment fund of a federation must be valued at least once a year at the time the accounts of the federation are audited. The valuation must be effected in accordance with generally accepted accounting principles.

43. A federation must, within two months after the end of its fiscal year, send a statement to its members setting forth, in comparison with the statement of the preceding year, the financial situation of the investment fund and the value of their participation as at the end of the fiscal year.

CHAPTER VII

ACTIVITIES OF A TRUST COMPANY

44. For the purposes of section 33.2.1 of the Act respecting insurance, the activities of a trust company that an insurance company holding a licence issued under the Act is authorized to carry on are

(1) acting as trustee for any retirement plan, retirement savings plan, education savings plan, disability savings plan or any other plan, fund or mechanism of the same nature administered by the insurance company and registered under the Taxation Act (R.S.Q., c. I-3) or the Income Tax Act (R.S.C., 1985, c. 1, (5th Supp.)) ;

(2) acting as trustee of an investment fund within the meaning of the Securities Act (R.S.Q., c. V-1.1) administered by the insurance company; and

(3) the activities that a trust company may carry on under the Act respecting trust companies and savings companies (R.S.Q., c. S-29.01) in respect of the annuity contracts administered by the insurance company and the insured amounts kept by it for the benefit of others.

CHAPTER VIII

ANNUAL STATEMENTS

DIVISION I

GENERAL

45. Every insurer that transacts insurance of persons and damage insurance must file annual statements for each of those activities.

46. Every insurer must keep, for inspection purposes, all documents including the working sheets used in determining the balance for each item in the annual statement.

47. Mutual benefit associations must send to the Autorité des marchés financiers, along with their annual statement, a true copy of their by-laws if they were amended in the last fiscal year.

DIVISION II

INSURER CONSTITUTED UNDER LAWS OTHER THAN THE LAWS OF QUÉBEC

48. Every insurer constituted under laws other than the laws of Québec that transacts insurance in Québec must send to the Autorité des marchés financiers, in addition to the annual statement required by sections 305 to 312 of the Act respecting insurance, any annual or interim statements required to be filed with another authority in Canada.

49. Every insurer constituted under laws other than the laws of Québec that transacts only marine insurance in Québec must send to the Autorité des marchés financiers the annual statement required by sections 305 to 312 of the Act respecting insurance.

CHAPTER IX

METHODS FOR THE VALUATION OF THE ASSETS AND LIABILITIES OF INSURERS

DIVISION I

GENERAL VALUATION METHOD

50. Subject to the special provisions in this chapter, the assets and liabilities of an insurer or of an insurance fund in the case of a professional order must be valued and presented in their annual statement in accordance with generally accepted accounting principles.

DIVISION II
INVESTMENTS IN LEGAL PERSONS
CONTROLLED BY AN INSURER
TRANSACTIONING DAMAGE INSURANCE

51. Investments in legal persons controlled by an insurer transacting damage insurance must be valued on an equity basis.

DIVISION III
SEPARATE FUNDS

52. The assets of separate funds maintained by an insurer transacting insurance of persons and contracting obligations that vary according to the market value of a specified group of assets must be valued in accordance with generally accepted accounting principles.

DIVISION IV
RESERVES MAINTAINED BY MUTUAL
BENEFIT ASSOCIATIONS

53. Subject to section 54, the reserve of each of the funds established by a mutual benefit association must be calculated so that it is sufficient to guarantee payment at maturity of the association's obligations in respect of each of the funds.

In calculating the reserve, the actuary must not take into account a possible reduction in mutual benefits or increase in assessments arising from an amendment to the by-laws of the mutual benefit association after the valuation date.

54. If the mutual benefit association issues policies or certificates guaranteeing, for their duration, the amounts of the mutual benefits and assessments fixed in them, the reserve must be calculated in respect of the policies or certificates according to the methods applicable to every insurer under the Act respecting insurance and this Regulation.

CHAPTER X
LOANS

55. Every insurer proposing to contract a loan by issuing bonds or other unsecured evidences of indebtedness must be authorized to do so by its general by-laws or its internal by-law, as the case may be, and by a resolution of the board of directors fixing the terms and conditions of the issue.

56. The resolution required by section 55 must indicate

(1) the rate of interest on the bonds or other evidences of indebtedness or the fact that the rate may be determined by the board of directors;

(2) the due date and, if applicable, the possibility of pre-payment;

(3) the privilege, if applicable, to convert bonds into shares of the capital stock or that the board of directors is authorized to grant such a privilege;

(4) if the resolution authorizes the issue of one or more series of unsecured bonds, their designation, the rights and the conditions attached to each of them or, as the case may be, that each series has the same rights and conditions as the bonds of any other series, with the exception of the rate of interest, the payment of interest and the dates of issue and redemption for each series; and

(5) the total par value of the series or various series or, in the absence of such a value, the total par value of the unsecured bonds that the insurer proposes to issue immediately, with a statement that the amount may be exceeded only if the insurer is authorized to do so by a new resolution.

57. Unsecured bonds must mention the rights, conditions and restrictions attached to them.

58. Every insurer proposing to contract a loan by accepting subordinated loans must be authorized to do so by its general by-laws or its internal management by-law, as the case may be, and by a resolution of the board of directors fixing the terms and conditions, in particular

(1) the total amount;

(2) the rate of interest or authority for the board of directors to determine it; and

(3) if applicable, the privilege to convert subordinated loans into shares in the capital stock or the authority for the board of directors to grant such a privilege.

CHAPTER XI GROUP INSURANCE OF PERSONS

DIVISION I CONDITIONS APPLICABLE TO CONTRACTS FOR GROUP INSURANCE OF PERSONS

§1. *General*

59. A group life insurance contract or a group sickness or accident insurance contract may be issued under a master policy solely to cover a specified group of persons and, in certain cases, their spouses and dependants. The members of the group who are parties to one of the contract are participants.

60. A specified group of persons is a group whose members share common activities or interests before a group insurance plan is offered to them, including socio-economic or cultural interests.

The group may be composed of such persons as, for example,

- (1) persons currently or formerly employed by one or more employers;
- (2) persons having the same profession or usual occupation;
- (3) the members of a financial services cooperative;
- (4) the members of a mutual insurance association.

Despite the foregoing, a specified group of persons may not be constituted for the sole purpose of entering into a group insurance contract, and group insurance may be offered to the members of the group only as a benefit complementary to membership.

61. The policyholder of a group insurance contract must be able to provide for the management of the master policy, in particular the collection of the premiums for the insurer. If the policyholder is an association of employees or a professional syndicate, it may enter into an agreement with the employer so that the employer manages the master policy in the name of the policyholder.

§2. *Conversion of a group life insurance contract*

62. Every group life insurance contract must give a participant who ceases to belong to the group the option to convert all or part of the participant's life insurance coverage or, as the case may be, that of the spouse and

dependants, into an individual life insurance contract. The amount of the converted protection must be at least \$10,000 for the participant and \$5,000 for the spouse and each of the dependants.

The conversion option may be exercised by the participant within 31 days after leaving the group, without the participant having to provide evidence of insurability, including for the spouse and dependants. The group insurance coverage remains in force during that period or until converted into individual insurance.

That option does not apply to sickness or accident insurance incidental to the life insurance contract.

63. The insurer must give a participant who leaves the group either of the following options without the participant having to provide evidence of insurability:

(1) individual life insurance, temporary or permanent, at the participant's option, providing coverage comparable to that provided under the group insurance contract both as to amount and term; or

(2) individual life insurance for one year, providing coverage comparable to that provided under the group insurance contract, but convertible at the end of the year, at the participant's option, into insurance described in subparagraph 1.

The premium for the first year of the insurance described in subparagraph 1 of the first paragraph may not exceed the premium for temporary one-year insurance.

64. The premiums for an individual life insurance contract resulting from a conversion must be uniform for the term of the contract, except the premiums for the first year. The premiums are established on the basis of the age of the insured in accordance with the rate for standard risks that applies at the time of conversion.

Despite the foregoing, the insurer may, in respect of a participant subject to an extra premium before the conversion of the group insurance, apply a comparable increase at the time the premium for the individual insurance is established.

65. The insurer must allow a participant who opts for individual life insurance under section 63 to pay the premiums for the first year on a quarterly basis or on other terms agreed on.

66. A group life insurance contract must give a person who has been a participant for at least 5 years the option to convert all or part of the life insurance coverage into individual life insurance within 31 days after the expiry

of the master policy if the master policy is not replaced or the replacement contract provides for a lesser amount of insurance.

The amount of insurance that may be converted must be at least \$10,000 or 25% of the amount of the participant's life insurance on the expiry of the master policy, whichever amount is greater.

The participant is not required to provide evidence of insurability and the insurer must comply with sections 63 to 65.

The conversion option does not apply to sickness or accident insurance incidental to the group life insurance contract.

67. For the purposes of sections 63, 70 and 71, coverage is comparable if the content is the same despite differences in the amounts of insurance, the amounts of premium waivers or the conditions of eligibility.

§3. *Compulsory clauses*

68. Every group life insurance contract must stipulate that its expiry or the cancellation of any contract coverage may not be set up against a claim based on an event that occurred while the contract was in force or on a death resulting from a disability that arose while the contract was in force.

69. Every group sickness or accident insurance contract must stipulate

(1) that its expiry or the cancellation of any coverage may not be set up against a claim based on

(a) death or mutilation resulting from an accident that occurred while the contract was in force; or

(b) a sickness contracted while the contract was in force; and

(2) that the insurer remains bound to compensate the participant for salary loss if the participant is still disabled after the contract expires.

70. Despite sections 68 and 69, the insurer is not bound to compensate the participant in the event of recurrence of the disabling affliction after the expiry of the contract if the participant has not been disabled for more than 180 days.

In all other cases, coverage ceases as soon as the participant becomes covered by another insurer under a group insurance contract having comparable provisions.

71. If a group life insurance contract or a group sickness or accident insurance contract is terminated and replaced within 31 days by a contract providing comparable coverage for all or part of the same group, the new group insurance contract must stipulate that

(1) a person insured under the former contract may not be excluded from the new contract or be denied benefits solely because of a pre-existing condition limitation that was not applicable or that did not exist in the former contract, or because the person is not at work on the date of coming into force of the new contract; and

(2) every person insured under the former contract is covered *pleno jure* by the new contract on the termination of the former contract if the cessation of insurance is exclusively attributable to the termination and the person belongs to a class of participant covered by the new contract.

72. Despite sections 68 and 69, the new insurer must cover an insured who suffers from a disabling affliction that arose under the former contract but was declared to the first insurer more than 180 days after it arose, during the new contract.

In addition, even if the insured again has a disability covered by the new contract within 180 days after the end of the first disability, the former contract ceases to apply and the new contract applies as soon as the participant has accumulated 30 days of full-time work after the expiry of the former contract in duties in a class covered by the new contract.

If the disability covered by the new group insurance contract is subject to more restrictive coverage conditions, in applying the conditions, the new insurer may not take into account any period of disability occurring while the former contract was in force.

73. A participant in the new contract is exempt from any waiting period if

(1) the new disability period is attributable to the same or related causes that gave rise to the payment of benefits under the former contract; and

(2) a period of less than 180 days has elapsed since the due date of the last benefit or the last premium for which there was waiver and the beginning of the new disability period.

74. Benefits owing by reason of death or mutilation covered by the former contract under sections 68 and 69 are not covered by the new insurer.

Despite the foregoing, the former contract ceases to apply and the new contract applies as soon as the insured has accumulated 30 days of full-time work after the expiry of the former contract in duties in a class covered by the new contract.

DIVISION II

CONDITIONS APPLICABLE TO GROUP INSURANCE CONTRACTS ON THE LIFE OR HEALTH OF DEBTORS AND ON THE LIFE OF DEPOSITORS

§1. General

75. In group insurance on the life or health of debtors and on the life of depositors, the enrollment form must indicate the premiums required to cover all or part of the cost of the life insurance or sickness or accident insurance. If the cost of the premiums is determined by a rate of interest added to the rate of interest for the loan, the enrollment form must indicate the percentage of added interest that constitutes the premium.

All questions or limitations regarding state of health as a condition of eligibility must be clearly specified on the enrollment form.

The policyholder must, at the time the enrollment form is signed by the participant, give a duly completed and signed copy of the form to the participant.

Any form used in the policyholder's business that contains an application for insurance constitutes an enrollment form.

§2. Conditions applicable to group insurance on the life or health of debtors

76. Subject to the provisions of this subdivision, any creditor may underwrite a group insurance contract on the life or health of debtors that provides coverage up to the amounts loaned.

The insurance may also cover the life or health of persons other than debtors, but only if the creditor has a pecuniary interest in their life or health.

77. A creditor does not cease to act as the policyholder by reason of the assignment of the claim to a third person except that, in such a case, the amount payable under the contract must be paid to the assignee.

78. The amount payable under a group insurance contract on the life of debtors is limited to the net debt at the time of the death of the debtor.

79. Despite sections 76 and 78, a group insurance contract on the life or health of debtors may, at the debtors' option, provide for an amount payable that is equal to the amount of their loan or, in the case of a contract extending variable credit, equal to the amount of the variable credit authorized by the creditor.

The maximum amount payable to the creditor is limited to the net debt of the debtor, the balance being paid to the designated beneficiary or, if applicable, to that person's succession.

80. For the purposes of sections 78 and 79, "net debt" means the amount of the original claim, excluding credit charges, increased by the portion of the credit charges accrued up to the time of death, and decreased by the payments made by the debtor.

81. The group insurance contract on the life of debtors and all documents given to the debtor must clearly indicate the amount of the benefits payable by the insurer or how that amount is determined.

82. If the debtors are responsible for payment in full of the insurance premiums, the master policy must state the amount of the premiums; the amount may not be greater than the amount remitted by the policyholder to the insurer.

83. The master policy must also stipulate that all the insurance premiums collected by the policyholder must be promptly remitted to the insurer.

84. No experience rebate or dividend may be directly or indirectly paid to the policyholder of a group insurance contract on the life or health of debtors, either during the contract or after its expiry, unless the premiums are paid in full by the policyholder.

Despite the foregoing, the master policy may stipulate that experience rebates and dividends are payable retroactively to the participants, that they may be applied to reduce premiums or that they are deposited with the insurer for the purpose of reducing future premiums.

85. In group insurance on the life or health of debtors, the master policy may not provide for policyholder remuneration other than reimbursement for expenses actually incurred by the policyholder to administer the contract.

Those expenses may not be calculated as a percentage of the premiums or be otherwise associated with the premiums, except in the case of expenses incurred for the collection of the premiums.

§3. Conditions applicable to group depositor insurance

86. Subject to the provisions of this subdivision, any bank, financial services cooperative, trust company, legal person managing mutual funds or any other legal person carrying on similar activities may underwrite a group insurance contract on the life of depositors that provides coverage up to the amounts deposited or invested or up to the amounts to be deposited or invested by the depositor.

87. The amount payable on the death of a participant under a group insurance contract on the life of depositors may not exceed the greatest of

(1) the balance on deposit or the amount invested with the policyholder;

(2) the amounts to be deposited or invested by the depositor with the policyholder;

(3) the amount determined or to be determined, payable at maturity, if the depositor undertook to pay the amount in cash on a date that is specified or to be specified; and

(4) an amount of \$25,000 in the case of insurance issued to a financial services cooperative.

The amount in subparagraph 4 of the first paragraph is adjusted annually based on the percentage increase in the average of the Consumer Price Index for Canada, published by Statistics Canada under the Statistics Act (R.S.C., 1985, c. S-19), for the 12 months of the preceding year compared to the 12 months of the year prior to that year.

If an annual average or the percentage calculated pursuant to the second paragraph or the amount thus adjusted has more than two decimals, only the first two decimals are retained and the second is increased by one unit if the third decimal is equal to or greater than five.

**CHAPTER XII
TARIFF OF FEES**

88. The fees payable under this Regulation are those established in the following table:

Act	Tariff of fees	
	to the Autorité des marchés financiers	to the Minister of Revenue
Constitution of an insurance company	\$5,000	
Constitution of a mutual insurance association	\$5,000	
Constitution of a federation of mutual insurance associations	\$5,000	
Constitution of a guarantee fund	\$5,000	
Constitution of a fund to insure professional liability of members of a professional order governed by the Professional Code	\$5,000	
Filing of articles and issue of a certificate of constitution of an insurance company		\$500
Issue of supplementary letters patent to an insurance company	\$2,500	\$500
Filing of articles of amendment for an insurance company and issue of a certificate of amendment	\$2,500	\$500
Amendment to the articles of a mutual insurance association and issue of a certificate of amendment	\$2,500	
Amendment to the articles of a federation of mutual insurance associations	\$2,500	
Amendment to the articles of a guarantee fund	\$2,500	

Act	Tariff of fees	
	Fees payable	
	to the Autorité des marchés financiers	to the Minister of Revenue
Amendment to the articles of a mutual benefit association	\$2,500	
Amalgamation or conversion of an insurance company or mutual insurance association	\$2,500	
Filing of articles of amalgamation or conversion of an insurance company and issue of an amalgamation or conversion certificate		\$500
Filing of articles of continuance of an insurance company and issue of a certificate of continuance under section 200.0.15, 200.0.16 or 200.6 of the Act respecting insurance	\$2,500	\$500
Issue of a first permit to an insurance company, a mutual insurance association or a professional order	\$2,500	
Issue of a first licence to a mutual benefit association after amalgamation	\$2,500	
Issue of a licence amended to indicate the classes of insurance	\$500	
Examination of application and reinstatement of an insurer's licence	\$2,500	
True copy of an insurer's licence	\$75	

Act	Tariff of fees	
	Fees payable	
	to the Autorité des marchés financiers	to the Minister of Revenue
True copy of the appointment of a representative in Québec or a proxy	\$75	
Change in the appointment of a representative in Québec or a proxy	\$200	
Certification of a document by the Autorité des marchés financiers	\$100	

89. The fees under this Regulation are the only fees payable.

90. Every cheque in payment of fees under this chapter must be sent with the related application to the Autorité des marchés financiers or, if they are payable to the Minister of Revenue, to the enterprise registrar.

CHAPTER XIII TRANSITIONAL AND FINAL

91. An insurer who holds a licence to transact surety insurance under the Regulation respecting the application of the Act respecting insurance (R.R.Q., 1981, c. A-32, r.1), as it read on (*insert the date preceding the date of coming into force of this section*), is deemed to hold a licence to transact surety and fidelity insurance under this Regulation, unless restrictions to the contrary appear on the licence.

92. An insurer who holds a licence to transact property insurance under the Regulation respecting the application of the Act respecting insurance (R.R.Q., 1981, c. A-32, r.1), as it read on (*insert the date preceding the date of coming into force of this section*), is deemed to hold a licence to transact property insurance in addition to a licence to transact fire insurance under this Regulation, unless restrictions to the contrary appear on the licence.

93. An insurer that, on 18 December 2002, held a licence to transact damage insurance may transact insurance of persons if the insurer is authorized to transact automobile insurance or liability insurance, but only to the extent permitted by those classes of insurance.

94. This Regulation replaces the Regulation respecting the application of the Act respecting insurance (R.R.Q., 1981, c. A-32, r.1).

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

9010

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Professional technologists — Diplomas which give access to permits — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders to update the programs listed in section 2.09 which give access to the permit issued by the Ordre professionnel des technologues professionnels du Québec. New programs will be added in a subsequent regulation.

The amendments will have no impact on enterprises, including small and medium-sized businesses.

The draft Regulation will be submitted to the Office des professions du Québec and the Ordre professionnel des technologues professionnels du Québec for their opinion. The Office will seek the opinion of the Order and forward it with its own opinion to the Minister responsible for the administration of legislation respecting the professions after consultation with the educational institutions and bodies concerned.

Further information may be obtained by contacting Denis Beauchamp, Director General and Secretary, Ordre professionnel des technologues professionnels du Québec, 1265, rue Berri, bureau 720, Montréal (Québec) H2L 4X4; telephone: 514 845-3247 or 1 800 561-3459; fax: 514 845-3643.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Jean Paul Dutrisac, Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions and may also be sent to the professional order concerned and to interested persons, departments and bodies.

JACQUES P. DUPUIS,
*Minister responsible for the administration
of legislation respecting the professions*

Regulation to amend the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders*

Professional Code
(R.S.Q., c. C-26, s. 184, 1st par.)

1. The Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders is amended by replacing section 2.09 by the following:

“**2.09.** The diploma of college studies awarded by the Minister of Education, Recreation and Sports upon completion of the following programs gives access to the permit issued by the Ordre professionnel des technologues professionnels du Québec:

(1) in the Administration, Commerce and Computer Technology vocational sector:

* The Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders, made by Order in Council 1139-83 dated 1 June 1983 (1983, *G.O.* 2, 2369), was last amended by the regulations made by Orders in Council 670-2007 dated 14 August 2007 (2007, *G.O.* 2, 2452), 438-2008 dated 7 May 2008 (2008, *G.O.* 2, 1382) and 496-2008 dated 21 May 2008 (2008, *G.O.* 2, 2045). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 March 2008.