



## Insurance Brokers Association of Ontario

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Dr. Bob Christie  
Chief Executive Officer & Superintendent  
Financial Services Commission of Ontario  
5160 Yonge Street, 4<sup>th</sup> Floor  
PO Box 85  
Toronto, Ontario M2N 6L9

**Comments from the Insurance Brokers Association of Ontario (IBAO) in response to the Financial Services Commission of Ontario for consideration in its review of stakeholder concerns regarding the Proposed Amendments to the Ontario Insurance Act, (the "Act").**

Dear Dr. Christie:

The following is a brief outline of issues that the Insurance Brokers Association of Ontario ("IBAO") would like to address in its submission to the Financial Services Commission of Ontario ("FSCO") for consideration in its review of stakeholder concerns regarding the Insurance Act, Ontario (the "Act").

Our primary concerns are the continued affordability and availability of the automobile insurance product in Ontario. We assume that, as the regulator, any change proposed or suggested will only be considered if there was a benefit derived, or at least no detriment dealt to the Ontario consumer because of the implemented change. Given the pressure that is being placed on the Ontario automobile insurance marketplace for increased rates, these concerns are not only important, but also timely. Any change that would increase the cost to deliver or service the product would be borne by the consumer, impede the insurers' ability to deliver such a product, and ultimately result in a lack of availability in the marketplace. The sustainability of any proposed change must be considered along with the short and long term impact of these changes.

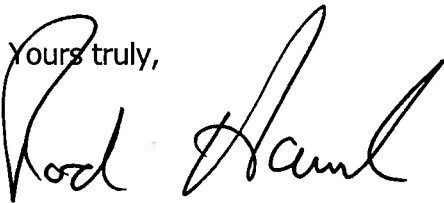
From this perspective, we recommend a few key issues for consideration. These issues impact the long term health and sustainability of the property casualty insurance marketplace, and we believe are in the best interest of the Ontario consumer.

- 1.** A further examination of potential reductions in Accident Benefits administration costs should be undertaken, and better controls implemented. A recent IBC study related to Accident Benefits claims in the 2007 accident year indicated that for each dollar spent on medical treatment required following an automobile accident, a further 60 cents was required to be spent on assessments and reports. For Statutory Accident Benefits claims valued between \$1,000 and \$20,000, the study also found that assessment costs added between 70 and 80 cents to every dollar of treatment costs. These assessment costs are almost as expensive as the treatments themselves, with the money spent not compensating the injured party at all. The study sites other examples of increasing costs throughout the claim settlement process, largely caused by expenses suffered where the injured party is not the recipient of the insurance proceeds. We feel there are cost savings to be found here, as an extension to the practical measures implemented through Bill 198.
- 2.** Section 267 of the Act addresses the manner in which collateral benefits will be factored into any accident benefit quantum received by an individual. IBAO recognizes this section is intended to address only the calculation of quantum. However, this presents an opportunity to once again state our position regarding the potential recognition of collateral benefits in the Act that could be introduced to benefit the majority of consumers. In addition, the current regulatory practices pertaining to group rated programs need considerable improvement. Enforcement of the regulatory framework needs to be bolstered, and processes need to be implemented focused on reducing areas of abuse within the current system.
- 3.** Section 267 (1) (2) and Section 277 in the Insurance Act was amended to comply with Bill 18 that came into effect March 1, 2006. Section 267.3 was also amended to make changes to the Highway Traffic Act to comply with this Bill. Consideration should be given to amend Section 277 of the Insurance Act to provide coverage for heavy vehicles over 4,500 kg. There has been a concern for some time about the gaps created by insurance protection for consumers who rent vehicles with a Manufacturer's Gross Vehicle weight over 4,500 kg. Bill 18 currently limits the protection to \$1,000,000.00. There is no mechanism in place to increase this protection limit.
- 4.** We understand there is some debate within the industry about the administrative monetary penalty system. We would support any consideration that FSCO may be entertaining to re-examine the current practices. Consistency would generate greater confidence in the fairness of remedial action taken by the regulator and would enhance relations between stakeholders and FSCO.

5. IBAO submits that s. 236 of the Act be amended. Currently, this section of the Act leaves to the discretion of the Insurer the option to contact an insured directly, or to contact the insured through the applicable broker. We submit that the Act should be amended to permit the insurer to contact the insured directly only where the insurance broker is unable to do so. In our opinion, that is what this provision is intended to convey. However, insurers have tended to interpret the section more broadly in a manner that permits them to contact an insured directly and for any reason or purpose it chooses. It is settled law that the insured is the customer of the broker, and all information and data relating to that customer is the "property" of the broker, as suggested by the notion of commercial "goodwill". Brokers own their customer lists and provide customer information to the insurer only to facilitate the issuance and servicing of a policy. For insurers to presume the right to communicate directly with the broker's customer generally is inappropriate and unnecessary. We ask FSCO to consider stating clearly and expressly in s.236 that the insurer may communicate with the insured only to advise that a policy is or will be cancelled in the event that the broker is unable to, as stipulated in section 236 idem (2).
  
6. Finally, with the request for input asking for other areas in which we see inconsistencies or areas for improvement, we would like to see Section 393(21) (d.9) amended to specify the regulator can prescribe standards of practice and duties of agents who hold licenses within *all* the class of licenses described in Section 393(2)(a)(b) and (c) and not just 393(2)(a). This amendment would grant FSCO regulation making authority over general insurance agents.

We have provided feedback on this issue in the past, but the matter appears to have been stalled. In the interest of our Ontario consumers, insurance agents should provide transparency and disclosure documents, undertake continuing education courses and carry errors and omissions insurance. With these changes, insurance agents would provide the same level of protection to consumers that Ontario insurance brokers do today. Before the regulations can be created to set these standards however, the regulation-making authority must be granted to the regulator.

Bob, I look forward to discussing these issues with you and your colleagues. Should you have any questions, please don't hesitate to give me a call.

Yours truly,  


Rodney Hancock, Ph.D.  
President  
Insurance Brokers Association of Ontario