

## **Bulletin – Professional Liability Insurance** **(Errors & Omissions)**

The Insurance Act Legislation was amended in Bill 39 which passed last fall. As a result, professional liability insurance is now mandatory. The legislation affecting agents, brokers and independent adjusters is as follows:

### **Section 370(4) Proof of liability insurance required on application**

Every application made under subsection (1) for an insurance agent licence shall be accompanied by proof satisfactory to the superintendent of the existence of the liability insurance policy required under subsection 371(1.1).

### **Section 371(1.1) Liability insurance required**

Every insurance agent licence issued under this Act and every renewal of such a licence is conditional upon the existence of and continual maintenance by the agent of a liability insurance policy issued by an insurer licensed under this Act insuring the liability of the agent for the loss of any person as a result of the person's dealings with the agent, in the form, upon the terms and for not less than the amount prescribed in the regulations.

### **Section 372.1(1) Failure to have liability insurance**

No licensed insurance agent shall carry on the activities of an insurance agent while he or she is not insured under a policy of liability insurance that meets the requirements of subsection 371(1.1)

### **Section 372.1(2) Notice to superintendent**

A licensed insurance agent whose liability insurance lapses, or is cancelled by the agent or the insurer, shall notify the superintendent without delay.

### **Section 373(1.1) Proof of liability insurance required on renewal**

Every renewal application under subsection (1) shall be accompanied by proof satisfactory to the superintendent of the continuing existence of the liability insurance policy required under subsection 371(1.1)

### **Section 385(5.1) Liability insurance required**

Every insurance adjuster licence issued under this Act and every renewal of such a licence is conditional upon the existence of and continual maintenance by the adjuster of a liability insurance policy, issued by an insurer licensed under this Act, insuring (a) the liability of the adjuster for the loss of any person as a result of the person's dealings with the adjuster; and (b) the liability of any assistant adjuster employed by the adjuster for the loss of any person as a result of the person's dealings with the assistant adjuster; in the form, upon the terms, and for not less than the amount prescribed in the regulations.

### **Section 385(6.1) Proof of liability insurance required on renewal**

Every request made under subsection (6) to renew an insurance adjuster licence shall be accompanied by proof satisfactory to the superintendent of the continuing existence of the liability insurance policy required under subsection (5.1)

**The Manitoba Regulation 389/87 R amended states:**  
Liability Insurance Requirements for Agents and Adjusters

**Liability insurance - life, accident and sickness**

12(1) for the purposes of subsection 371(1.1) of the Act, an applicant for an insurance agent licence of any of the following types or classes shall have, and an agent who holds any of such licenses shall maintain, liability insurance of at least \$1,000,000 in respect of any one occurrence, with an overall policy aggregate of at least \$5,000,000: (a) life, (b) accident and sickness, (c) life, accident and sickness

12(2) The liability insurance required by subsection (1)

- (a) shall, at a minimum,
  - (i) include extended reporting for a period of five years
  - (ii) include extended coverage for errors or omissions that were made before the inception of the insurance, provided that the errors and omissions were made on or after June 1, 2001 and the insured had no knowledge of the claims before the inception of the insurance,
  - (iii) provide coverage amounts that are exclusive of defence and investigative expenses,
  - (iv) include coverage that covers all of the insurance products that the insured is or will be licensed to sell,
  - (v) include coverage for
    - (A) financial planning services provided by the insured, if applicable
    - (B) the insured's supervisory activities, if applicable, and
    - (C) any unlicensed employee for whose acts the insured is responsible; and
- (b) shall not be restricted to particular insurers' products.

12(3) The underwriting insurer of a liability insurance policy issued, or a group liability insurance policy providing coverage, to satisfy the requirements of subsection 371(1.1) of the Act shall not, without providing the superintendent and the Insurance Council of Manitoba with at least 15 days' prior notice by registered mail,

- (a) cancel, terminate or refuse to renew the policy or group policy; or
- (b) delete an insured from the group policy.

**Liability insurance - general insurance**

13(1) For the purposes of subsection 371(1.1) of the Act, an applicant for a general insurance agent licence shall have, and an agent who holds such a licence shall maintain, liability insurance of at least \$1,000,000 in respect of any one occurrence, with an overall policy aggregate of at least \$2,000,000.

13(2) The liability insurance required by subsection (1)

- (a) shall, at a minimum,
  - (i) include extended reporting for a period of 12 months,
  - (ii) include extended coverage for errors or omissions that were made before the inception of the insurance, provided that the errors and omissions were made on or after June 1, 2001 and the insured had no knowledge of the claims before the inception of the insurance,
  - (iii) provide coverage amounts that are exclusive of defence and investigative expenses,
  - (iv) include coverage that covers all of the insurance products that the insured is or will be licensed to sell,
  - (v) include coverage for
    - (A) the insured's supervisory activities, if applicable, and
    - (B) any unlicensed employee for whose acts the insured is responsible; and
- (b) shall not be restricted to particular insurers' products.

13(3) The underwriting insurer of a liability insurance policy issued, or a group liability insurance policy providing coverage, to satisfy the requirements of subsection 371(1.1) of the Act shall not, without providing the superintendent and the Insurance Council of Manitoba with at least 15 days' prior notice by registered mail, (a) cancel, terminate or refuse to renew the policy or group policy; or (b) delete an insured from the group policy.

### **Liability insurance - adjusters other than hail insurance adjusters**

16(1) For the purposes of subsection 385(5.1) of the Act, an applicant for an insurance adjuster licence shall have, and the holder of such a licence shall maintain, liability insurance of at least \$1,000,000 in respect of any one occurrence, with an overall policy aggregate of at least \$1,000,000.

16(3) The liability insurance required by subsection (1)

- (a) shall, at a minimum,
  - (i) include extended reporting for a period of 12 months,
  - (ii) include extended coverage for errors or omissions that were made before the inception of the insurance, provided that the errors and omissions were made on or after June 1, 2001 and the insured had no knowledge of the claims before the inception of the insurance,
  - (iii) provide coverage amounts that are exclusive of defence and investigative expenses,
  - (iv) include coverage for
    - (A) the insured's supervisory activities, if applicable, and
    - (B) any unlicensed employee for whose acts the insured is responsible; and
- (b) shall not be restricted to particular insurers' products.

16(4) The underwriting insurer of a liability insurance policy issued, or a group liability insurance policy providing coverage, to satisfy the requirements of subsection 385(5.1) of the Act shall not, without providing the superintendent and the Insurance Council of Manitoba with at least 15 days' prior notice by registered mail, (a) cancel, terminate or refuse to renew the policy or group policy; or (b) delete an insured from the group policy.

### **Coverage in respect of more than one class of agent licence**

17 When an applicant is applying for a licence in more than one of the classes referred to sections 12 to 15, or an licensee holds a licence of more than one of those classes, the applicant or licensee may satisfy the combined liability insurance requirements for the licenses through one policy or group policy, if that policy

- (a) provides for coverage amounts in the highest amounts required for any of the licenses;
- (b) includes coverage that covers all of the insurance products that the insured is or will be licensed to sell under each of the licenses; and
- (c) meets all of the other coverage requirements set out in sections 12 to 15 applicable to the licenses.

### **This is provided as information only.**

The Insurance Council is mandated with the licensing of agents and adjusters. The Superintendent of Insurance continues to regulate HAIL AGENTS and ACCIDENT & BAGGAGE AGENTS. There are new regulations for these classes as well. You may wish to contact Scott Moore at 945-2542 respecting those requirements.

I hope this clarifies the provincial government regulation. Should you have any further questions, please do not hesitate to contact the Council office immediately.