
BULLETIN NUMBER: INS-06-009

TITLE: PRODUCT AND VEHICLE WARRANTY INSURANCE

LEGISLATION: *FINANCIAL INSTITUTIONS ACT; INSURANCE COMPANY EXEMPTION REGULATION; INSURANCE LICENSING EXEMPTIONS REGULATION*

DATE: AUGUST 2006

PURPOSE

The purpose of this bulletin is to describe the requirements of the *Financial Institutions Act* and its regulations with respect to the underwriting, marketing and sale of product warranty insurance and vehicle warranty insurance in British Columbia.

In British Columbia, warranties are considered to be insurance. Accordingly, these products can be underwritten only by an authorized insurer and marketed only by a licensed insurance agent unless an appropriate exemption exists under legislation or regulation.

DEFINITIONS

Product warranty insurance and vehicle warranty insurance are defined in the *Insurance Classes Regulation* as follows:

"Product warranty insurance" means insurance, not being insurance included in or incidental to any other class of insurance, against loss of or damage to personal property other than a motor vehicle, that is contracted between the purchaser of the property and an insurer whereby the insurer undertakes for a specific period to assume costs of repairs or replacement.

"Vehicle warranty insurance" means insurance, not being insurance included in or incidental to automobile insurance, against loss of or damage to a motor vehicle arising from mechanical failure, that is contracted between the purchaser of the motor vehicle and an insurer

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whereby the insurer undertakes for a specific period to assume costs of repairs, towing fees, car rentals and accommodation as a result of a covered mechanical failure.

UNDERWRITING

All contracts which undertake to indemnify another person for a loss by:

- Repairing a product or vehicle;
- Replacing the broken parts of a product or vehicle; or
- Reimbursing the cost of repairs made to a product or vehicle,

are considered to be contracts of product warranty insurance or vehicle warranty insurance. That being the case, they can be underwritten only by an insurance company that is authorized to carry on general insurance business in British Columbia.

Section 75 of the *Financial Institutions Act* states that a person must not carry on insurance business in British Columbia unless the person is, among other things, an insurance company or extraprovincial insurance corporation that has a business authorization to carry on insurance business or is licensed as an insurance agent or salesperson and is carrying on the insurance business only in that capacity.

Manufacturer and Retailer Exemption:

Section 11 of the *Insurance Company Exemption Regulation* permits manufacturers and retailers or a wholly owned subsidiary of the manufacturer or retailer to underwrite their own product or vehicle warranty insurance contracts when it is incidental to the sale of the vehicle or product.

The exemption reads as follows:

"Section 75 of the Act does not apply to a manufacturer or a retailer or a wholly owned subsidiary of the manufacturer or retailer, who provides vehicle warranty insurance or product warranty insurance which is solely incidental to the sale of the vehicle or product by the manufacturer or retailer, as the case may be."

For the purposes of administering this exemption, the Financial Institutions Commission considers that:

- A manufacturer is one who by labour, art, or skill transforms raw material and/or manufactured parts into some kind of finished product or article of trade; and
- A retailer is one who buys articles in gross or merchandise in large quantities and sells the same by single articles or in small quantities.

Please note that Insurance Premium Tax is payable as set out in the *Insurance Premium Tax Act*. For information regarding insurance premium taxes, please contact:

Ministry of Small Business and Revenue
Income Taxation Branch
P.O. Box 9444 Stn Prov Govt
Victoria, British Columbia
V8W 9W8

Telephone: 250 953-3082
Facsimile: 250 356-0434

MARKETING AND SALE

Generally, solicitation of product warranty or vehicle warranty insurance can be undertaken only by:

- An individual who is licensed by the Insurance Council of British Columbia; or
- A person whose only insurance related activity is in connection with product warranty insurance sold incidentally to the sale by that person or that person's employer, of the product; or
- A motor dealer or an employee or commissioned sales representative of a motor vehicle dealer whose only activity as an insurance agent or insurance salesperson is in connection with vehicle warranty insurance sold incidentally to the ordinary business of the motor vehicle dealer.

ADMINISTRATION OF WARRANTY INSURANCE PROGRAMS

Managing general agents and third-party administrators of warranty insurance programs will usually be performing some or all of the functions for which an insurance agent or adjuster licence is required, i.e., they may at various times solicit, obtain, or take insurance applications, negotiate or procure insurance, sign or deliver insurance policies, or collect or receive insurance premiums, or adjust warranty claims. Anyone performing any of these activities must hold an appropriate insurance licence unless an exemption is provided in the *Insurance Licensing Exemptions Regulation*.

The licensing requirement applies regardless of whether the party involved is dealing with another broker, a dealer, or a member of the general public. Managing general agents and third-party administrators usually do not qualify for any of the exemptions set out in the *Insurance Licensing Exemptions Regulation*.

LICENSING

To obtain information regarding the licensing of individuals or companies, please contact the Insurance Council of British Columbia at:

300 - 1040 W. Georgia Street
P.O. Box 7
Vancouver, British Columbia
V6E 4H1

Telephone: 604 688-0321
Facsimile: 604 662-7767

Contacts

For more information, please contact:

Deputy Superintendent, Insurance And Pensions Financial Institutions Commission 1200 – 13450 102 nd Avenue Surrey, British Columbia V3T 5X3	Telephone: (604) 953-5300 Fax: (604) 953-5301 Web site: www.fic.gov.bc.ca E-mail: ficom@ficombc.ca
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Staff of the Financial Institutions Commission periodically issue interpretation bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Financial Institutions Act* and Regulations. While the comments in a particular part of an interpretation bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, an interpretation or position contained in an interpretation bulletin generally applies as of the date on which it was published, unless otherwise specified.