INTERPRETATION BULLETIN

BULLETIN NUMBER:	**02-2017**
TITLE:	**Unlicensed Insurance**
DATE:	**October 2017**

PURPOSE

The purpose of this interpretation bulletin is to provide clarification on the requirements for disclosure of unlicensed insurance in accordance with the *Insurance Act* (Alberta) ("Act").

REQUIREMENTS FOR DISCLOSURE

The Act, Section 18, states that an insurer may not carry on business in Alberta unless the insurer holds a valid licence. However, despite the licence requirement in section 18, an insurer that is not licensed in Alberta may undertake insurance if specific requirements are met under section 61 (insurance placed directly with an insurer not licensed in Alberta, "unlicensed insurer") or section 63 (insurance through a special broker) of the Act.

Pursuant to sections 61 and 63 the Act, an unlicensed insurer may enter into a contract of insurance insuring a risk in Alberta if a disclosure of the unlicensed insurance is made by the insured to the Superintendent of Insurance ("Superintendent"). All disclosures must include the information required under the Act and be provided on the appropriate reporting form. Since 2014, auditors from Alberta's Tax and Revenue Administration division within the Ministry of Treasury Board and Finance have been appointed by the Superintendent as examiners under the Act and have worked closely with the Superintendent in the auditing of insured companies. The audits focus on unlicensed insurance and compliance with the Act.

Section 61 and 63 of the Act do not apply to motor vehicle liability insurance policies, these contracts of insurance must be underwritten by a licensed insurer in all cases.

Superintendent of Insurance

402 Terrace Building
9515 – 107 Street
Edmonton, AB T5K 2C3
Telephone: 780-415-6496
Facsimile: 780-420-0752
www.finance.alberta.ca

Insurance Placed Directly with the Unlicensed Insurer (not through a special broker)

Section 61 of the Act applies to a contract of insurance placed directly by an insured with an unlicensed insurance company without the participation of a licensed special broker. In this circumstance, the purchase of unlicensed insurance by an insured must be disclosed to the Superintendent by the insured no later than 30 days after the insured signs the contract of insurance. A regulatory charge is calculated based on the amount of premium and is to be paid to the Government Alberta by the insured. The amount of the charge is equal to 50% of the premiums paid for the unlicensed insurance that covers a risk in Alberta. We will accept a reasonable allocation of premiums, where the policy covers risks in other locations in addition to Alberta. At the request of the insured, the Superintendent may consider a reduction in the charge to an amount not less than 10 percent of the premium paid if the insured can provide evidence that at least five insurers licensed in Alberta have declined to provide coverage, commonly referred to as "declinations", at the time of purchase.

The Superintendent requires the reporting of unlicensed insurance to be made online. Click here for the website.

Insurance Placed Through a Special Broker

Section 63 of the Act applies to a contract of insurance placed with an unlicensed insurance company by way of a licensed special broker. In this circumstance, the purchase of unlicensed insurance must be disclosed to the Superintendent by the special broker no later than the 10th day of the month following the effective date of the insurance. A tax is to be paid based on the amount of premium paid or payable by the insured. The amount of the tax is the amount that would be payable if the premiums had been received by a licensed insurer and are currently what a licensed insurer would pay, 3% of the premium paid with respect to life and accident and sickness insurance and 4% for all other classes of insurance. Pursuant to section 72 of the Act, the tax is to be paid by the special broker, on behalf of its insured client, to the Government of Alberta.

A special broker is required to obtain declinations confirming that the insurance could not be obtained from an insurer licensed in Alberta before the insurance is effected.

The Superintendent requires the reporting of unlicensed insurance through a special broker to be made online. Click here for the website.

Superintendent of Insurance

Penalties

Under both sections 61 and 72 of the Act, if the regulatory charge or tax is not paid within 30 days from the time it becomes payable, a sum equal to 50% of the charge or tax unpaid becomes a penalty amount in addition to the original charge or tax.

Voluntary Disclosure

Under the Act, the President of Treasury Board and the Minister of Finance ("Minister"), and the Superintendent do not have the discretion to waive a regulatory charge or tax owing. Also, neither the Minister nor the Superintendent have the discretion to extend the prescribed period during which an insured or a special broker must notify the Superintendent and pay the charge or tax.

The Superintendent, through delegation by the Minister, does not have the legislative authority to establish a voluntary disclosure program that would waive or reduce the charges, taxes, or penalties. Further, there is no appeal process available to an insured or a special broker to apply for relief or reduction in the amounts payable.

If you have any questions regarding this Bulletin, please contact my office by email to tbf.unlicensedinsurance@gov.ab.ca or by telephone at 780-643-2237 or toll free by dialing 310-0000 then 780-643-2237.

[ORIGINAL SIGNED]

Nilam Jetha
Superintendent of Insurance

See related web page: Unlicensed insurance.

Superintendent of Insurance