

Superintendent of Insurance

Interpretation Bulletin

Bulletin Number:	07-2022
Title:	Unlicensed Insurance
Date:	June 6, 2022

Purpose

This bulletin replaces [Interpretation Bulletin 02-2017](#) and provides updated clarification on the requirements for disclosure of unlicensed insurance in accordance with the *Insurance Act* (Act).

Background

[Bill 16: Insurance Amendment Act, 2022](#) amended several provisions of the Act related to the regulatory charge for unlicensed insurance and the financial penalty for the late payment of regulatory charges and special broker's tax. The amendments more-closely aligns Alberta with other Canadian jurisdictions.

Effective May 31, 2022, sections 61(1)(b)(ii), 61(2), 61 (2.1), 72(2), 80(1)(d)(ii) and 80(2) of the Act are amended to reduce the 50 per cent regulatory charge for unlicensed insurance, and the 50 per cent late payment on the regulatory charge or special broker's tax, to 10 per cent.

Requirements for disclosure

Pursuant to section 18 of the Act, an insurer may not carry on the business of insurance in Alberta unless the insurer holds a valid licence. Notwithstanding section 18, an insurer without a licence may undertake insurance in Alberta 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).

Pursuant to sections 61 and 63 of 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, or by special broker, 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,

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and they 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, since these contracts of insurance must be underwritten by a licensed insurer in all cases.

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 or receives any policy, interim receipt or insuring document issued by or on behalf of the insurer, whichever occurs first. The Superintendent does not have the authority to extend the prescribed period during which an insured must notify the Superintendent.

A regulatory charge is calculated based on the amount of the premiums paid to an unlicensed insurer and is to be paid to the Government of Alberta by the insured. The amount of the charge is equal to 10 per cent of the premiums paid for the unlicensed insurance that covers a risk in Alberta. The Superintendent will accept a reasonable allocation of premiums when the policy covers risks in other locations in addition to Alberta.

The Superintendent requires the reporting of unlicensed insurance to be made [online](#).

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. The Superintendent does not have the authority to extend the prescribed period during which a special broker must notify the Superintendent.

A tax is paid based on the amount of premium paid or payable by the insured. The tax amount is based on the amount that would be payable if the premiums had been received by a licensed insurer. The tax rate on premiums for life and accident and sickness insurance is three per cent. The tax rate on premiums for all other classes of insurance is four per cent. These amounts are equal to what licensed insurers pay. Pursuant to section 72 of the Act, the tax is paid by the special broker, on behalf of its insured client, to the Government of Alberta.

Before effecting unlicensed insurance, a special broker must obtain declinations confirming that the insurance could not be obtained from an insurer licensed in Alberta. The Superintendent requires special brokers to report unlicensed insurance [online](#).

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 10 per cent of the charge or tax unpaid becomes a penalty amount in addition to the original charge or tax.

Inability to waive fees and charges

Under the Act, neither the President of Treasury Board and Minister of Finance (“Minister”), nor the Superintendent, have discretion to waive a regulatory charge or tax owing. Also, neither the Minister nor the Superintendent have discretion to extend the prescribed period during which an insured or a special broker must notify the Superintendent and pay the charge or tax.

If you have any questions regarding this Interpretation Bulletin, please contact my office at (780) 643-2237 or tbf.insurance@gov.ab.ca.

[ORIGINAL SIGNED]

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