

UPCOMING CHANGES TO SASKATCHEWAN INSURANCE LEGISLATION

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The Saskatchewan Minister of Justice and Attorney General has introduced Bill 177 which will implement new legislation, *The Insurance Act*, and repeal *The Saskatchewan Insurance Act*.^[1] Bill 177 was read by the legislative assembly of Saskatchewan for the first time on December 4, 2014. The proposed Act is very similar to Alberta's insurance legislation. If Bill 177 passes the next two readings and receives Royal Assent, it will come into force on proclamation.

The proposed Act is comprised of 11 parts: 1) Preliminary Matters; 2) Licensing of Insurers; 3) Provincial Companies; 4) Fraternal Societies; 5) Insurance Intermediaries and Insurance Councils; 6) Unsolicited Insurance, Reinsurance and Special Brokers; 7) Market Conduct; 8) Contracts of Insurance; 9) Inspections, Investigations, Enforcement and Administration; 10) General Provisions; and 11) Repeal, Consequential Amendments, Transitional and Coming into Force.

There are newly expanded definitions. Of note, a person is "carrying on the business of insurance" if the person "solicits, negotiates, provides, promotes, advertises, markets, sells or distributes any contract of insurance by any means that cause communication from the insurer or the insurer's agents or representatives to reach a person in Saskatchewan."

The proposed Act includes significant changes to address market conduct and unfair practices. By way of example, insurers and intermediaries are prohibited from tied selling practices and from inducing prospective insurance customers through direct or indirect payments, allowances or gifts. If an insurer, insurance intermediary or adjuster is notified of a loss and recommends a service to the insured, they must advise the insured in writing that the insured may choose any service provider. Insurers must give written notice to claimants as to the limitation periods applicable to their claims within a prescribed notice period.

Another aspect of Bill 177 that constitutes an important change is the addition of insurance compliance self-evaluative audits. The self-evaluative provisions are very similar to provisions currently existing in the Alberta insurance legislation. An insurer must conduct a self-evaluative audit when it is requested by the Superintendent. The self-evaluative audit is privileged and will not be admissible in a civil or administrative

proceeding unless privilege is expressly waived by the insurer.

If Bill 177 is passed by the legislative assembly of Saskatchewan there are transitional provisions that address the implementation of *The Insurance Act*. Investigations, actions, proceedings and orders under the former Act will be continued under *The Insurance Act*. Licenses issued under the former Act will continue on the same terms and conditions until expired, amended, cancelled or renewed under *The Insurance Act*.

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1 Bill 177, *An Act respecting Insurance and Insurers and making consequential amendments to other Acts and regulations*, 4th Sess, 27th Leg, Saskatchewan, 2014 (first reading 4 December 2014) [Bill 177].

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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