

**Extracts from The Insurance Act , Insurance Agents and Adjusters Regulation and the
Certificate Expiry, Penalties and Fees Regulation**

The following sections are an overview of the relevant sections of the Act and Regulations concerning Restricted Certificate holders. This is not intended to be an exhaustive review of every requirement.

Insurance Act, R.S.A. 2000, Chapter I - 3

Restricted insurance agent's certificate

454(1) The Minister may issue a restricted insurance agent's certificate of authority to a business

- (a) that is a deposit-taking institution, or
- (b) that operates
 - (i) a transportation company,
 - (ii) a travel agency,
 - (iii) an automobile dealership, or
 - (iv) another prescribed enterprise.

(2) A restricted insurance agent's certificate of authority authorizes the holder and the holder's employees to act or offer to act, subject to prescribed conditions and restrictions, as an insurance agent in respect of classes or types of insurance specified by the Minister.

1999 cI-5.1 s454

Restricted certificate holders - designated individual

457 Every business that holds a restricted insurance agent's certificate of authority must designate an individual to be responsible for receiving notices and other documents under this Act.

1999 cI-5.1 s457

Financial guarantee

465(1) Every business and individual that holds a certificate of authority must meet the requirements respecting financial guarantees set out in the regulations.

(2) This section does not apply in respect of

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- (a) a certificate of authority issued to an employee of a licensed insurer, or
- (b) a certificate of authority for a prescribed class or type of insurance or for a prescribed class or type of certificate holder.

1999 cI-5.1 s465

Application for certificate

467(1) An application for a certificate of authority must

- (a) be filed with the Minister,
- (b) in the case of an insurance agent's certificate of authority, specify the classes of insurance in respect of which the applicant wishes to transact,
- (c) contain the information, material and evidence required by the Minister, and
- (d) be accompanied with proof that the requirements respecting financial guarantees referred to in section 465(1) have been met.

(2) An application for an applicant's new or reinstated certificate of authority must be accompanied with

- (a) a written recommendation of an insurer or designated representative as required by section 458, 459 or 464, as the case may be, and
- (b) in the case of an application by a business for an insurance agent's or adjuster's certificate of authority, the written designation of an individual to be the business's designated representative.

(3) The requirement to submit a designation under subsection (2)(b) applies to a sole proprietorship only if the sole proprietor designates someone other than the proprietor to be the designated representative.

(4) After filing an application, the applicant must provide the Minister with any additional information, material and evidence that the Minister considers necessary.

1999 cI-5.1 s467

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Financial guarantee not in force

478**(1)** If, during the term of a certificate of authority, the financial guarantee referred to in section 465 maintained in respect of that certificate is no longer in force, the grantor of the financial guarantee must notify the Minister of this fact in accordance with the terms of the guarantee.

(2) If, during the term of the certificate of authority, the financial guarantee referred to in section 465 maintained in respect of the certificate is no longer in force, the certificate of authority is automatically suspended unless, while the guarantee is in force, the holder of the certificate satisfies the Minister that the holder is covered by a new financial guarantee that meets the requirements of section 465.

(3) If a business's certificate of authority is suspended under subsection (2), the certificates of authority for the business's employees and independent contractors are automatically suspended.

1999 cI-5.1 s478

Sanctions affecting certificates

480**(1)** If the Minister is satisfied that the holder or a former holder of a certificate of authority

(a) has been guilty of misrepresentation, fraud, deceit, untrustworthiness or dishonesty,

(b) has contravened any provision of this Act or the regulations or similar legislation in another jurisdiction or legislation that is a predecessor of this Act or the regulations,

(c) has unreasonably failed to pay any premium collected by the holder within the time period stipulated in the holder's agency contract to an insurer or an insurance agent who is entitled to the premium,

(d) has placed insurance with an insurer not licensed in Alberta under this Act without complying with the provisions of this Act relating to unlicensed insurers, or

(e) has demonstrated incompetence to act as an insurance agent in the case of an insurance agent's certificate of authority or to act as an adjuster in the case of an adjuster's certificate of authority,

the Minister may revoke, suspend or refuse to renew or reinstate one or more of the certificates of authority held by the holder, impose terms and conditions provided for in the regulations on one or more of the certificates of authority held by the holder and impose a penalty on the holder or former holder.

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(2) The amount of a penalty imposed under subsection (1) is governed by the regulations.

(3) The Minister must notify the holder or former holder of a certificate of any decision of the Minister under subsection (1).

(4) If a penalty levied against a certificate holder under subsection (1) is not paid within 30 days after the serving of the written notice of the penalty and the decision of the Minister is not appealed, the certificate of authority is automatically suspended immediately following the last date for paying the penalty or appealing the decision, whichever is later, and remains suspended until the penalty is paid or cancelled or the certificate expires.

(5) If a certificate expires while it is suspended under subsection (1) or (4), the former holder of the certificate must not be issued a certificate of authority until any penalty that is imposed under this section is paid or the penalty is cancelled.

(6) A penalty need not be paid while the decision imposing it is under appeal.

(7) If any amount of the penalty is due and is not paid, that amount bears interest at the prescribed rate from the last date for paying it.

(8) If a business's certificate of authority is revoked or suspended by the Minister under subsection (1) or by the operation of subsection (4), the certificates of authority held by employees or independent contractors of the business are automatically suspended if they are of the same class as the business's certificate that is revoked or suspended, and the Minister must notify the employees and independent contractors of the suspension.

(9) The Minister must not impose a penalty under this section in respect of an act or omission more than 3 years after

(a) the act or omission occurred, or

(b) if the act or omission is of a continuing nature, the termination of the act or omission.

1999 cI-5.1 s480

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Demand for information

481(1) The Minister may direct the holder or former holder of a certificate of authority to provide to the Minister within a reasonable period of time specified in the direction any information specified by the Minister relating to the matters in section 480(1).

(2) A person served with a direction under subsection (1) who has the information must provide the information in accordance with the direction.

(3) Where a person served with a direction under this section does not provide the information in accordance with the direction, the Minister may on 2 days' written notice to that person, without affecting any sanction that the person may be subject to under this Act, apply to the Court for an order under subsection (4).

(4) The Court may order the person to provide the information subject to any conditions the Court considers appropriate if the Court is satisfied that the information is in the possession or under the control of the person and is relevant to the matters in section 480(1).

(5) The Minister may copy or otherwise record any information provided under this section and must, within a reasonable time, return the originals of any documents that have been provided under this section to the person who provided them.

1999 cI-5.1 s481

Knowledgeable personnel

486 Every holder of a restricted insurance agent's certificate of authority and every insurer on behalf of which the holder is marketing insurance must

(a) establish reasonable procedures to ensure that personnel marketing insurance for the holder are knowledgeable about the insurance being marketed, and

(b) use those procedures.

1999 cI-5.1 s486

Information

487 Every holder of a certificate of authority must, on the request of the Minister, provide the Minister with information and copies of any document in its possession relating to its insurance activities.

1999 cI-5.1 s487

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Additional fees

505**(1)** In this section, "fee" does not include the premium payable under a contract of insurance.

(2) No insurance agent may charge or collect a fee for providing a service to a person who is or is in the process of acquiring insurance through the agent unless the person has agreed in writing before the service is provided to pay the fee.

1999 cI-5.1 s505

Unfair practices

509**(1)** No insurer, insurance agent or adjuster may

- (a) make a false or misleading statement, representation or advertisement,
- (b) engage in a tied selling practice prohibited by the regulations,
- (c) commit any unfair, coercive or deceptive practice, or
- (d) make any statement or representation or commit any practice or act that is prohibited by the regulations.

(2) No person may, by means of misleading or false statements, procure or induce or attempt to procure or induce any person to forfeit, surrender or allow the lapse of any policy of insurance.

1999 cI-5.1 s509

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Insurance Agents and Adjusters Regulation, A.R. 122/2001

Restricted Certificates

Information provided by consumer

12(1) The holder of a restricted certificate

(a) may not use personal information given by a person buying insurance unless it is used for the purpose for which it is given and the person signs a consent that meets the requirements of subsection (2), and

(b) may not release the information described in clause (a) to someone who is not an employee of the holder unless the person signs a consent that meets the requirements of subsection (3).

(2) The consent referred to in subsection (1)(a) must be identified as a consent to the person who is the subject of the information and specifically identify the purpose for which the information may be used by the restricted certificate holder.

(3) The consent referred to in subsection (1)(b) must be identified as a consent to the person who is the subject of the information and specifically identify the information to be released, to whom the information is to be released and the purpose for which the released information may be used.

(4) Subsection (1)(b) does not apply if the personal information

(a) is released to another person as required by law, or

(b) is released to the insurer on behalf of which the holder of the restricted certificate is marketing insurance.

Information from non-insurance transaction

13(1) If a holder of a restricted certificate receives, for the purposes of a non-insurance transaction, personal information pertaining to a person's insurance coverage, the holder may not

(a) release the information to another person except for the purposes of the non-insurance transaction or a similar subsequent transaction, or

(b) use the information for a purpose except for the purpose of the non-insurance transaction or a similar subsequent transaction.

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(2) Subsection (1) does not apply if the release or use of the information pertaining to the person's insurance coverage is required by law.

Insurance application

14(1) When a holder of a restricted certificate negotiates or enters into a transaction with a person for credit-related insurance at the same time as a credit arrangement is being negotiated or entered into with the person, the holder must provide the person with a separate application for the insurance coverage.

(2) A holder of a restricted certificate must, on request, provide a person making an application for insurance with a copy of the completed insurance application.

Disclosure

15(1) A holder of a restricted certificate, at the time the person applies for insurance coverage, must

(a) provide to a person buying insurance

(i) a summary of the terms, including limitations and restrictions, of the insurance offered, and

(ii) a summary of the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim,

and

(b) notify a person buying insurance that the policy will be sent to the person, or in the case of a contract of group insurance, a certificate will be sent to the person.

(2) A holder of a restricted certificate who is marketing credit-related insurance, at the time of application for insurance coverage

(a) must provide to a person buying insurance

(i) a statement that sets out the right to rescind the insurance contract and obtain a full refund of the premium pursuant to section 18, and

(ii) a statement that the duration of the insurance is less than the term of the amortization period of any related loan, or that the amount of the insurance is less than the indebtedness, if that is the case,

and

(b) must inform a person buying insurance that the person may contact the insurer for further information or clarification, the name of the insurer that is providing the insurance and how that insurer may be contacted.

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(3) The insurer on behalf of which the holder of the restricted certificate is marketing insurance must ensure that procedures are in place to effect the requirements of this section.

(4) Where a holder of a restricted certificate receives any compensation, inducement or benefit from an insurer, directly or indirectly, for selling insurance, the holder of a restricted certificate must disclose that fact to any person who is considering buying insurance from that holder.

Loan offers

16(1) A holder of a restricted certificate may not, when offering to make a loan to, or arrange a loan for, a person, inform the person that the person must, or require the person to, purchase insurance before the loan can be made.

(2) Despite subsection (1), a holder of a restricted certificate may, when offering to make a loan to, or arrange a loan for, a person, inform the person that the person must, or require the person to, purchase insurance if the insurance is to protect the lender against default of the borrower and the insurance is from an insurer licensed to do business in Alberta.

(3) For the purpose of subsection (2), a holder of a restricted certificate may not inform the person that the person must, or require the person to, purchase insurance from the holder or an insurer or insurance agent, specified by the holder.

Information certificate

17 A holder of a restricted certificate must

(a) ensure that purchasers or potential purchasers of insurance are informed that they are contracting or considering contracting with an insurer and not with the holder, and

(b) ensure that written documentation is provided to the purchaser of insurance evidencing the insurance and setting out the information required to be disclosed by clause (a) and section 15(1)(b) within 30 days of the insurance coming into force.

Right of rescission

18(1) A person who buys life insurance through the holder of a restricted certificate has 10 days, or any longer period specified in the policy or certificate, after receiving the written documentation referred to in section 17 to rescind the insurance.

(2) A person who rescinds insurance in accordance with subsection (1) is entitled to receive from the insurer a refund of the whole premium that has been paid.

Financial Guarantee

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Errors and omissions insurance

33(1) The financial guarantee required by the Act is a policy of insurance against errors and omissions that meets the requirements of this section.

(2) The policy must be issued by a licensed insurer and be in a form and contain the terms, conditions, definitions and exclusions approved by the Minister including the period after the term of the policy in which claims may be made.

(3) The policy must provide coverage for errors and omissions for which a claim is made during the term of the policy.

(4) If a claimant has a claim resulting from a judgment or from an agreement between the insurer and the claimant against the insured for an error or omission, the insurer must pay the proceeds from the policy directly to the claimant and may recover any amount equating to the deductible from the insured under a reimbursement agreement between the insurer and the insured.

(5) The insurer must provide 30 days' advance notice to the Minister by certified mail of the cancellation or non-renewal of the policy or any change whereby the policy does not meet the form and contents required under subsection (2).

AR 122/2001 s33;9/2003

Existing insurance

34 If an insurance agent offers financial services other than insurance and has errors and omissions insurance in respect of the other financial services, the policy of errors and omissions insurance required by section 33 in respect of the insurance agent must be separate and distinct from the errors and omissions insurance in respect of the other financial services, but may be provided within one policy of insurance.

Amount of insurance

35(1) The errors and omissions insurance required in respect of a business that holds a certificate of authority, other than a restricted certificate, must provide coverage of at least \$500 000 per claim with a maximum policy payout for all claims of \$2 000 000 in a policy year, and the policy must be issued in the name of the business and the insurance must provide coverage for the employees and independent contractors of the business who hold certificates of authority.

(2) The errors and omissions insurance required in respect of a business that holds a restricted certificate must provide coverage of at least \$500 000 per claim, with a maximum policy payout for all claims in a policy year determined by multiplying \$500 000 by the number of employees of the business who act or offer to act as insurance agents, to a maximum of \$2 000 000.

(3) Repealed AR 94/2006 s15.

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AR 122/2001 s35;293/2002;196/2005;94/2006

Exception to financial guarantee requirements

36 Section 465 of the Act does not apply to a business that

- (a) holds a restricted certificate, **and**
- (b) is a deposit-taking institution.

(emphasis added)***

*** Please note that the exemption from E&O insurance only applies where the insurance agent is a holder of a restricted certificate AND that holder is a deposit-taking institution.

Certificate Expiry, Penalties and Fees Regulation, A.R. 125/2001

Restricted insurance agent

12 The fee payable for a restricted insurance agent certificate of authority is as follows and is based on the number of employees soliciting insurance on behalf of the restricted insurance agent's business:

(a)	1 - 4 employees	\$150;
(b)	5 - 10 employees	\$225;
(c)	11 - 15 employees	\$375;
(d)	16 - 20 employees	\$500;
(e)	21 - 99 employees	\$700;
(f)	100 - 249 employees	\$1500;
(g)	250 - 499 employees	\$3000;
(h)	500 - or more	\$5500.

Section 480 penalties

13(1) For the purposes of section 480(2) of the Act, the amount of the penalty that may be imposed may not exceed the following:

- (a) \$5000 for a matter referred to in section 480(1)(a) of the Act;
- (b) \$1000 for a matter referred to in section 480(1)(b), (c), (d) or (e) of the Act.

(2) The rate of interest prescribed for the purposes of section 480 of the Act is 12% per annum, prorated in respect of any part of a month, on the unpaid balance.