



August 14th, 2017

Mr. David Weir
Deputy Director, Insurance
Financial and Consumer Services Commission
200 – 225 King St., Fredericton, NB, E3B 1E1

By email: david.weir@fcnb.ca

Dear Mr. Weir,

Re: Request for comments on the inclusion of innocent co-insured in property insurance

The Canadian Association of Direct Relationship Insurers is the voice of insurance enterprises that offer automobile, home and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

We appreciate the opportunity to support the province of New Brunswick's move to ensure property insurance coverage for the innocent co-insured when the loss or damage occurs through an intentional or criminal act by another person or party insured by a policy.

Thankfully, such occurrences are fairly rare in Canada, but the ramifications to the innocent co-insured can be significant, as has been highlighted by recent media coverage.

Through policy and practice, the majority of CADRI's members have made a commitment to protect the innocent co-insured.

We are also aware that the Insurance Bureau of Canada's Board of Directors recommended that member companies offering property insurance in Saskatchewan, Ontario and the Atlantic provinces voluntarily adopt standards that have been legislated elsewhere. In this context, CADRI suggests that the issue may already have been addressed on a voluntary market conduct basis, and, therefore, there is no need for New Brunswick's *Insurance Act* to be amended.

Should New Brunswick decide to seek an amendment, CADRI supports the adoption of legal language that mirrors Alberta's, and is similar to those of British Columbia and Manitoba. We regularly call for the harmonization of legislation and other policies across the country to provide consistent opportunities for citizens to enjoy similar coverage from one province to another. To this end, we would be pleased to review any proposed legislation to avoid any potential unintended consequences.

From a policy perspective, there are some nuances to be considered by any province developing rules on these situations. Relative to the questions the Financial and Consumer Services Commission of New Brunswick has posed:

1. Are you aware of any challenges that other provinces have experiences with a similar regime in relation to innocent co-insureds?

CADRI members have encountered two challenges relative to claims of this nature.

Firstly, it is important to protect the innocent co-insured and at the same time not provide coverage for individuals who have had any involvement in the intentional or criminal acts.

Secondly, it is also important to provide the innocent co-insured with compensation that reflects their ownership interest in the property. However, from time to time, the quantum of that share has been challenged.

2. Do you foresee a significant increase in insurance premiums resulting from the proposed amendments?

As previously noted, thankfully, these instances are neither frequent nor common, and for that reason we do not anticipate any significant increase in insurance premiums resulting from the proposed amendments.

3. Do you have any other comments or concerns?

To summarize, CADRI supports New Brunswick's move to close the gap in insurance coverage for innocent co-insureds. Given the industry's voluntary adoption of standards legislated in Quebec and the Western provinces, we submit that New Brunswick does not necessarily need to amend its Act.

We encourage provinces who seek a legislated solution to choose exactly the same language as already exists in another jurisdiction.

Finally, we would discourage scenarios where a co-insured would be compensated having played a part in the intentional criminality, as well as compensation that is not commensurate with proportional ownership. Practically, we understand these may be matters governed by criminal, contract or family law.

CADRI would be pleased to elaborate on these comments and observations.

Yours truly,



Alain Thibault
Chairman and CEO