
DISCLOSURE NOTICE UNDER THE FINANCIAL INSTITUTIONS ACT

The *Financial Institutions Act* requires that the information contained in this Disclosure Notice be provided to a customer in writing prior to the customer entering a financial transaction.

To: _____
(name of applicant)

(address)

Re: _____
(transaction, eg. insurance application)

Date: _____

1. I, _____, am licensed as a general/life insurance agent by the Insurance Council of British Columbia.

2. This transaction is between you and _____
(name of insurer)

3. In soliciting the transaction described above, I am representing:

(a) _____ ; or
(name of insurer)

(b) _____ ; which represents _____
(name of agency) (name of insurer)

4. The nature and extent of my interest in _____ is none or:
(name of insurer)

(Agent must provide details of shareholding/loans, etc. from insurer)

5. The nature and extent of _____'s interest in me is none or:
(name of insurer)

(Agent must provide details of shareholding/loans, etc. from insurer)

6. Upon completion of this transaction, I will be remunerated by way of commission or other remuneration which will be paid to me by:

_____ ; or _____, the agency which I represent.
(name of insurer)

7. The *Financial Institutions Act* prohibits _____ and/or
(name of insurer)
me from requiring you to transact additional or other business with
_____ or any other person or corporation as a
(name of insurer)
condition of this transaction.

(Date)

(agent's signature)

I acknowledge receipt of this disclosure notice and acknowledge that it was provided to me prior to my entering the financial transaction described above.

(Date)

(applicant's signature)

SECTION 90 DISCLOSURE REQUIREMENT

Council is putting all licensees on notice that from now on it will no longer issue warnings on the obligations to comply with the disclosure provisions in section 90 of the *Financial Institutions Act*. This provision, which has been in place for seven years, requires that an insurance salesperson or agent provide a customer with particular information prior to conducting any insurance business with that individual.

Failure on the part of any insurance licensee to adhere to this requirement will now result in disciplinary action against that licensee, ranging from a reprimand to a fine.

Reprinted below is an Information Bulletin issued by the Financial Institutions Commission in June, 1996 setting out the precise nature and extent of obligations incumbent upon licensees in complying with section 90.

FINANCIAL INSTITUTIONS COMMISSION

The Application Of The Disclosure Requirements Of The Financial Institutions Act To Insurance Agents And Insurance Salespersons

PURPOSE

The purpose of this bulletin is to inform insurance agents and insurance salespersons in British Columbia of the requirements of section 90 of the *Financial Institutions Act* (FIA), the Marketing of Financial Products Regulation and subsection 14(1) of the Insurance Licensing Regulation.

COMMENTARY

Subsection 14(1) of the Insurance Licensing Regulation states that it is a condition of every licence issued to an insurance agent that prior to conducting insurance activities, the licensee must disclose to the public that he or she is an insurance agent.

Section 90 of the FIA and the Marketing

of Financial Products Regulation require an insurance salesperson or insurance agent to provide each customer the following information in writing before the sale of an insurance policy:

1. the transaction is between the customer and a named insurance company;
2. the particulars of the relationship between the insurance salesperson or insurance agent and the insurance company;
3. the nature and extent of any business or financial interest, if any, that the insurance salesperson or insurance agent has in the insurance company and the insurance company has in the insurance salesperson or insurance agent;
4. the nature and extent of whatever interest, if any, the insurance salesperson or insurance agent has in the transaction, including, but not limited to, whether he or she has the right to receive a commission or other remuneration in respect of the transaction (the amount of remuneration or commission does not have to be disclosed);
5. where a commission or remuneration is payable, the identity of the insurance company and/or insurance agency paying it; and
6. the prohibition against tied selling as set out in section 94 of the FIA which prohibits an insurance company and/or an insurance agent from requiring as a condition of any transaction that a person who receives a product or service under the transaction must transact additional or other business with the insurance company and/or the insurance agent providing the product or service.

There are two exceptions to these requirements:

First, if a transaction is an oral contract arranged by a general insurance agent as a result of a customer's telephone request, and is between the customer and an insurer that the agent has authority to bind under contracts of

insurance, then the agent may make the disclosure required, as set out above, to the customer immediately after arranging the transaction.

Second, in insurance renewal situations, the Marketing of Financial Products Regulation exempts an insurance agent or an insurance salesperson from the requirement to provide an additional written disclosure statement to a customer if the particulars disclosed in writing to the customer in the original transaction are identical to the particulars of the subsequent transaction (eg. same insurer, same agent, same method of remuneration, etc.).

Paragraph 252(2)(b) of the FIA states that a person commits an offence who contravenes subsection 90(1) of the FIA. According to section 253 of the FIA, a person who commits such an offence is liable, on conviction, in the case of a corporation, to a fine of not more than \$5,000, and, in the case of an individual, to a fine of not more than \$2,000.

Set out at the end of this notice is a model disclosure statement the content of which meets the requirements of section 90 of the FIA, the Marketing of Financial Products Regulation and subsection 14(1) of the Insurance Licensing Regulation.

An insurance agent or insurance salesperson may, however, develop an alternative disclosure statement provided it meets the requirements of the FIA and the Marketing of Financial Products Regulation. Although it is not a statutory requirement that a customer sign the disclosure statement, it may be prudent for the purpose of documenting compliance with the FIA.

NOTE: The information contained in this bulletin is presented in a non-technical way. It is not intended to be a legal explanation of the *Financial Institutions Act*. If you have any queries or concerns about the provisions set out you must refer to the Act itself for direction.