

NATIONAL ASSEMBLY

SECOND SESSION

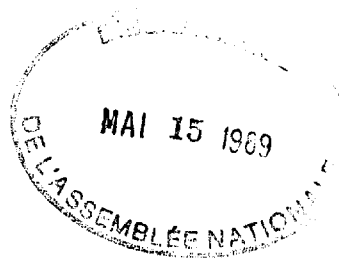
THIRTY-THIRD LEGISLATURE

Bill 134

An Act respecting market intermediaries

Introduction

**Introduced by
Mr Pierre Fortier
Minister for Finance and Privatization**



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EXPLANATORY NOTES

This bill introduces various legislative provisions which will be applicable to insurance agents and brokers, claims adjusters and financial planners as well as securities dealers and advisers and their representatives, all of whom are defined in the bill as market intermediaries.

Market intermediaries will be authorized to carry on activities in more than one field, upon certain conditions, or to form partnerships or groups. Rules are provided for the protection of persons who do business with market intermediaries, in particular, rules relating to conflicts of interests, sales made conditional upon the purchase of another product and the disclosure of information held by market intermediaries.

Moreover, the bill establishes a set of rules intended to regulate the activities of insurance agents and brokers and claims adjusters. In that respect, self-regulation is the favoured approach. To that end, the bill provides for the creation of two councils, namely the Conseil des assurances de personnes and the Conseil des assurances de dommages, composed of a majority of representatives of market intermediaries and it confers certain powers, such as the power to adopt rules of discipline, on two associations of market intermediaries dealing in insurance business, namely the Association des intermédiaires en assurance de personnes and the Association des courtiers d'assurances de la province de Québec.

The bill also provides certain rules concerning the independence of insurance brokers. The object of these rules is, subject to certain exceptions, to prohibit market intermediaries from engaging in insurance brokerage where more than 20% of their shares or of the voting rights attached to their shares is held by financial institutions, financial groups or by legal persons related to such institutions or groups.

In relation to financial planning, the bill contains, in addition to the rules which apply to all market intermediaries, including

financial planners, rules to regulate the use of the title of financial planner.

Furthermore, the bill provides that securities dealers and advisers and their representatives will continue to be governed by the Securities Act and will be subject to the rules applicable to all market intermediaries.

Finally, the bill contains other provisions concerning, in particular, the powers of the Inspector General of Financial Institutions and the regulations of the Government.

ACTS AMENDED BY THIS BILL:

- Automobile Insurance Act (R.S.Q., chapter A-25);
- Crop Insurance Act (R.S.Q., chapter A-30);
- Act respecting insurance (R.S.Q., chapter A-32);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);
- Act respecting the collection of certain debts (R.S.Q., chapter R-2.2);
- Securities Act (R.S.Q., chapter V-1.1).

ACT REPEALED BY THIS BILL:

- Insurance Brokers Act (R.S.Q., chapter C-74).

Bill 134

An Act respecting market intermediaries

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION AND APPLICATION

1. In this Act, unless the context indicates otherwise,

“claims adjuster” means a person who, in damage insurance, investigates insured losses, appraises damages and negotiates the settlement of claims;

“firm” means a partnership or a legal person which carries on, through market intermediaries in insurance business or through financial planners, activities in such capacity;

“insurance agent” means a person who, in insurance of persons or in damage insurance, offers insurance products directly to the public on behalf of one insurer, or a person bound to one insurer by exclusive contract;

“insurance broker” means a person who, in insurance of persons or in damage insurance, offers insurance products directly to the public or to other market intermediaries in insurance business on behalf of two or more insurers, and who is not bound by exclusive contract to any of them;

“insurer” means an insurer within the meaning of section 1 of the Act respecting insurance (R.S.Q., chapter A-32);

“market intermediary” means a market intermediary in insurance business, a financial planner and a securities dealer or

adviser within the meaning of the Securities Act (R.S.Q., chapter V-1.1) or the representative of such a dealer or adviser;

“market intermediary in damage insurance” means an insurance agent or broker in damage insurance or a claims adjuster;

“market intermediary in insurance business” means a market intermediary in damage insurance or in insurance of persons;

“market intermediary in insurance of persons” means an insurance agent or broker in insurance of persons;

“risk manager” means a person acting as the representative of an insurer and whose duties include selecting risks, drafting insurance policies, establishing the rate applicable to premiums and selecting the claims adjuster in charge of processing claims;

“special broker” means a damage insurance broker authorized to offer and sell the products of an insurer not licensed in Québec who does not maintain an establishment in Québec.

2. The provisions of this Act which apply to a market intermediary shall apply to a firm unless the context indicates otherwise.

The provisions of this Act which concern the title of “financial planner” concern also to any other similar title determined by regulation.

3. The following persons are excluded from the definition of market intermediary in insurance of persons where they engage in intermediation as part of their main activity:

- (1) the directors and members of a mutual benefit association;
- (2) risk managers who perform certain administrative duties on behalf of an insurer, where such duties are not related to the actual sale of insurance products;
- (3) actuaries acting as agents or brokers in group insurance of persons;
- (4) travel agents.

4. The following persons are excluded from the definition of market intermediary in damage insurance where they engage in intermediation as part of their main activity:

(1) the directors and members of a mutual insurance company or of a mutual damage-insurance company who, before 11 September 1985, were acting on behalf of a mutual fire-insurance association;

(2) risk managers who perform certain administrative duties on behalf of an insurer, where such duties are not related to the actual sale of insurance products;

(3) travel agents;

(4) customs brokers.

5. The following persons are excluded from the definition of claims adjuster where they engage in claims adjustment as part of their main activity:

(1) advocates, engineers and architects;

(2) liquidators, sequestrators and trustees in bankruptcy;

(3) tutors, curators, testamentary executors, administrators and trustees;

(4) assessors contemplated by the Act respecting municipal taxation (R.S.Q., chapter F-2.1);

(5) holders of a permit issued under the Act respecting detective or security agencies (R.S.Q., chapter A-8);

(6) persons who by reason of their occupation are called upon to appraise the value of property;

(7) experts or average adjuster dealing exclusively in ocean marine losses;

(8) the directors and officers of a mutual insurance association or mutual damage-insurance company;

(9) the employees of an insurer.

6. This Act does not apply to

(1) the directors of a liability insurance fund created by a professional corporation or to the employees of that professional corporation;

(2) persons who appraise the damage caused to a motor vehicle for the purpose of filing a claim with an insurer.

CHAPTER II

PROFESSIONAL REQUIREMENTS

DIVISION I

MARKET INTERMEDIARIES IN INSURANCE BUSINESS

7. No person may act as market intermediary in insurance business or hold himself out as an insurance agent or broker or as a claims adjuster unless he is the holder of a certificate authorizing him to act as such issued by the Conseil des assurances de personnes or the Conseil des assurances de dommages, according to the activity he intends to carry on.

8. Every market intermediary in insurance business must meet the requirements established in the by-laws of the council which regulates the activity he intends to carry on to be entitled to the certificate authorizing him to act in that capacity.

Every market intermediary in insurance business must, in addition, comply with the provisions of this Act and the regulations thereunder to carry on his activities.

9. Every market intermediary in insurance business who wishes to carry on his activities as an insurance agent or broker in insurance of persons must, in addition, be a member of the Association des intermédiaires de marché en assurance de personnes to obtain a certificate.

10. Every market intermediary in insurance business who wishes to carry on activities as a damage insurance broker must, in addition, be a member of the Association des courtiers d'assurances de la province de Québec to obtain a certificate.

11. Every market intermediary in insurance business must furnish security or a guarantee or take out civil liability insurance in accordance with the regulations made under this Act.

12. All persons employed by a market intermediary in insurance business who deal directly with the public must possess the minimum qualifications and pertinent training required by the by-laws of the council which regulates the activity of that market intermediary.

13. No damage insurance broker may be a special broker except with the authorization of the Conseil des assurances de dommages. This authorization cannot be granted in automobile insurance.

Before availing himself of his special broker certificate, the broker must obtain from the insured a signed and dated declaration identifying the property or other interests to be insured, specifying the place where they are situated and mentioning the amount of insurance applied for as well as the insurers who have refused to accept it.

Moreover, the broker must ascertain that the placing of a risk with an insurer not authorized to do business in Québec is justified by market scarcity. He must, in addition, disclose to the insured the fact that the insurer with whom the risk is placed is not licensed to do business in Québec and does not maintain an establishment in Québec.

14. Notwithstanding sections 23 and 24 of the Deposit Insurance Act (R.S.Q., chapter A-26), a market intermediary in insurance business may receive deposits within the meaning of the said Act as well as saving bonds issued by the Government of Québec or of Canada

(1) on behalf of one financial institution, if he is a market intermediary in insurance of persons;

(2) on behalf of two or more financial institutions, if he is a damage insurance broker.

Deposits received by a market intermediary in insurance business shall be made by cheques made to the order of the financial institution on whose behalf the intermediary is acting.

Subject to the Real Estate Brokerage Act (R.S.Q., chapter C-73), a market intermediary in insurance business may place hypothecary loans on the conditions set out in subparagraphs 1 and 2 of the first paragraph.

15. A damage insurance broker may, to the extent provided in a contract with an insurer and in accordance with the conditions prescribed by the Conseil des assurances de dommages, engage in claim adjustment without being the holder of a claims adjuster's certificate.

The damage insurance broker must disclose to the person with whom he does business the method used to calculate the remuneration he receives for services rendered as a claims adjuster.

16. Subject to the remunerated activities permitted under a government regulation, no market intermediary in insurance business

may carry on, at the same time, activities in that capacity and be employed by a financial institution that is not an insurer.

17. No market intermediary in insurance business may, for the making a contract, oblige a person to make another contract.

Any person on whom a contract was imposed may cancel the contract by sending a notice by registered or certified mail within 10 days from the date on which the contract was made.

The first paragraph shall not prevent a market intermediary in insurance business from offering to a person with whom he does business a set of financial products permitting a reduction of the cost.

18. A market intermediary in insurance business is the representative of the insurer when collecting premiums from the insured or when receiving from the insurer sums of money intended for the insured or beneficiaries of the insured.

A damage insurance broker also acts in the capacity of representative of the insurer when he carries on the activity of claims adjuster.

In all other cases, the market intermediary in insurance business is the representative of the insured.

19. A claims adjuster may, with the consent of the person concerned, engage in prevention and investigation activities.

20. The remuneration of a claims adjuster who offers his services to loss victims by way of solicitation shall be established on the basis of fees.

Any contract made through solicitation by a claims adjuster may be cancelled within 10 days from the date on which it was made by a notice sent by registered or certified mail.

21. The remuneration of market intermediaries in insurance of persons may, from 1 January 1991, be standardized in the manner prescribed by government regulation.

22. No person acting as a market intermediary in insurance business without being authorized therefor may claim or receive any remuneration for services rendered.

23. Every market intermediary in insurance business must disclose to the person with whom he does business the manner in

which he is remunerated for the services he renders to him, in accordance with the by-laws and regulations applicable to him.

24. Every insurance broker must, at the request of the person with whom he does business, disclose the names of the financial institutions with which he has a business link for the purposes of the activities he carries on.

25. Except if required by a person or body having power to compel the release thereof, personal information obtained in the course of his activities by a market intermediary in insurance business shall not be disclosed except, in each case, with specific authorization from the person concerned, which shall indicate to whom and for what purpose the information is to be disclosed, in accordance with government regulations.

26. Every market intermediary in insurance business must, on the conditions prescribed in the by-laws and regulations applicable to him, deposit in a trust account the sums of money collected in the course of his activities.

The account shall be in the name of the firm within which the market intermediary in insurance business is acting, where that is the case.

27. A market intermediary in insurance business may, on the conditions determined in the by-laws and regulations applicable to him, carry on his activities through franchising.

28. Firms and financial institutions are jointly liable with the market intermediaries through whom they act for any breach of discipline they may commit.

DIVISION II

FINANCIAL PLANNERS

29. No person may use the title of financial planner unless he holds a diploma awarded by an institution offering training in financial planning in Québec which is accredited by the Minister, after obtaining the advice of the Inspector General.

30. The institution accredited by the Minister shall establish, by by-law approved by the Government, the conditions governing the issuance of financial planner's diploma awarded by the institute, including those applicable to equivalence.

31. No partnership or legal person may hold itself out as offering financial planning services unless it does so through persons duly qualified to use the title of financial planner.

32. A member of a professional corporation who complies with section 29 must, to use the title of financial planner, be authorized therefor by the professional corporation which regulates the activities carried on by that member; the other provisions of this Act which relate thereto do not apply to that member.

For the purposes of this section, the expression “professional corporation” means the Corporation professionnelle des avocats du Québec, the Corporation professionnelle des notaires du Québec, the Corporation professionnelle des comptables agréés du Québec, the Corporation professionnelle des comptables en management accrédités du Québec, the Corporation professionnelle des comptables généraux licenciés du Québec or the Corporation professionnelle des administrateurs agréés du Québec.

33. Every market intermediary who uses the title of financial planner must comply with the regulations made in that respect by the Government.

34. Every person or firm whose activities consist exclusively in activities that may be carried on by a financial planner must be the holder of a certificate issued by the Inspector General, in accordance with government regulation.

35. The Inspector General may suspend or cancel the financial planner’s certificate issued by him to any person or firm who or which

(1) ceases to meet the prescribed requirements;

(2) carries on activities in a dishonest or negligent manner;

(3) is convicted of a criminal act in connection with financial planning activities;

(4) infringes this Act or the regulations made by the Government for the carrying out of this Act.

36. Before cancelling or suspending a certificate, the Inspector General must give the holder an opportunity to be heard.

37. Any decision of the Inspector General relating to the refusal, suspension or cancellation of a financial planner’s certificate may be appealed from to the Court of Québec.

Appeals under this section are introduced and heard in accordance with sections 366 and following of the Act respecting insurance, adapted as required.

38. The provisions of section 11 and of sections 23 to 28, adapted as required, apply to financial planners.

DIVISION III

SECURITIES DEALERS AND ADVISERS AND THEIR REPRESENTATIVES

39. Securities dealers and advisers and their representatives are governed by the Securities Act and by the provisions of this Act which applies to market intermediaries generally.

DIVISION IV

PROVISIONS COMMON TO MARKET INTERMEDIARIES

§ 1.—*Multiple certification and multidisciplinary firms*

40. A market intermediary may, for the purpose of carrying on activities in more than one field, hold simultaneously the various certificates issued under this Act.

41. The holder of a certificate issued under this Act may also engage in market intermediation activities governed by another Act, on the conditions determined by that other Act and the regulations made by the Government for its carrying out.

42. A firm acting through market intermediaries whose activities are regulated by more than one council or by one council and the Government shall constitute a multidisciplinary firm which must be the holder of a certificate issued by the Inspector General in accordance with government regulation.

43. Sections 35, 36 and 37, adapted as required, apply to multidisciplinary firms holding a certificate issued by the Inspector General.

§ 2.—*Sharing of commissions*

44. A market intermediary may, to the extent and in the manner determined by government regulation, share the commission he receives with another market intermediary.

Payment to a market intermediary of a commission for having referred a person to another market intermediary shall constitute the sharing of a commission.

The apportionment of the commission of a market intermediary carrying on his activity within a partnership or a legal person offering market intermediation services shall be made through the partnership or legal person.

The commission paid to a market intermediary for services rendered to a person may in no case be shared with that person.

45. Every apportionment of the commission of a market intermediary shall be recorded in a register kept for that purpose, in the manner prescribed by government regulation.

Where market intermediation services are offered by a partnership or a legal person, the register shall be kept by the partnership or legal person.

46. Market intermediaries shall, to the extent determined by government regulation, inform the persons with whom they do business of the sharing policy regarding the commission to which they are entitled for services rendered.

§ 3.—*Disclosure of financial relationships*

47. Market intermediaries shall, when offering or selling a product of a financial institution which holds, directly or indirectly, more than 10% of the voting rights attached to the shares issued by the legal person within which they carry on their activities or a product of a legal person which is related to that financial institution within the meaning of section 50, disclose such interest or such non-arm's length relationship.

48. Any market intermediary of whom 10% of the voting rights attached to the shares issued by him is held, directly or indirectly, by a financial institution shall, in using his firm name or corporate name, disclose his non-arm's length relationship with such financial institution, unless the relationship is already established in the firm name or corporate name.

CHAPTER III

INDEPENDENCE OF INSURANCE BROKERS

49. This chapter applies to insurance brokers, in insurance of persons or in damage insurance, who do not deal exclusively in reinsurance business.

50. For the purposes of this chapter,

(1) “insurer” and “financial institution” do not include an insurer dealing exclusively in reinsurance business;

(2) “firm” means a legal person offering brokerage services in insurance of persons or in damage insurance;

(3) the group composed of all or some of the following entities constitutes a financial group: a confederation governed by the Savings and Credit Unions Act (1988, chapter 64), legal persons which are members of the member federations of the confederation and every other legal persons that is a member of or affiliated with any of them.

Any other group of legal persons composed of a financial institution and a legal person affiliated with it also constitutes a financial group;

(4) legal persons are affiliated if one is controlled by the other.

A legal person affiliated with another legal person is deemed to be affiliated with any legal person affiliated with the other legal person;

(5) a legal person is controlled by another legal person where the other legal person holds, directly or indirectly, over 50 % of the voting rights attached to its shares or can elect the majority of its directors;

(6) a legal person is related to financial institutions or financial groups if over 20 % of its shares or of the voting rights attached to its shares is held, directly or indirectly, by such financial institutions or financial groups.

51. A firm may allocate or register a transfer of the shares issued by it in favour of a financial institution, a financial group or a related legal person, up to 20% of its shares or of the voting rights attached thereto.

A broker may associate with a financial institution, a financial group or a related legal person to the extent that the financial

contribution of the financial institution, financial group or related legal person does not represent more than 20% of the broker's financing requirements.

52. No financial institution, financial group or related legal person shall use the firm name or corporate name of a broker.

53. No market intermediary shall act as an insurance broker unless he meets the requirements set out in section 51. The same rule applies to the market intermediaries through whom he is acting.

54. Section 53 does not apply, as regards the percentage of shares, to a firm incorporated in Canada to the extent that its shares were listed on a Canadian stock exchange on 21 December 1988.

Section 53 does not apply to a firm if its shares are held

(1) by another firm incorporated in Canada the shares of which were listed on a Canadian stock exchange on 21 December 1988, as long as the latter does not, as regards the percentage of voting rights, become a related legal person;

(2) by a legal person incorporated in Canada the shares of which were listed on a Canadian stock exchange on 21 December 1988 and which, on that date, controlled a firm referred to in the first paragraph, as long as that legal person does not, as regards the percentage of voting rights, become a related legal person.

55. Section 53 does not apply to a firm referred to therein if the percentage of its shares or of the voting rights attached to its shares was greater than 20% on 21 December 1988. However, this percentage cannot be increased except to give effect to a contract entered into before 21 December 1988.

Where, on or after 22 December 1988, a firm referred to in the first paragraph allocates its shares or registers a transfer of shares which results in a reduction of the percentage of its shares or of the voting rights attached to its shares held directly or indirectly by financial institutions, financial groups or related legal persons, the new percentage becomes the limit for the shares or voting rights attached to the shares which may be held directly or indirectly by financial institutions, financial groups or related legal persons. However, this paragraph shall not prevent a firm from allocating or registering a transfer of its shares to give effect to a contract entered into before 21 December 1988.

The first and second paragraphs cease to apply to a firm referred to therein when the percentage of shares or of the voting rights attached to such shares reaches 20 %.

56. No firm referred to in the first paragraph of section 55 may, as long as over 20 % of its shares or of the voting rights attached to such shares is held directly or indirectly by financial institutions, financial groups or related legal persons, directly or indirectly hold shares of another firm acting as insurance broker in Québec or, from *(insert here the date of introduction of this bill)* grant it a franchise or acquire its business.

Any firm referred to in the first paragraph which, on 21 December 1988, holds directly or indirectly shares of another firm acting as insurance broker in Québec may continue to hold such shares. However, from 22 December 1988, their percentage and, from *(insert here the date of introduction of this bill)*, the percentage of the voting rights attached to the shares cannot be increased and if, on or after either of such date, as the case may be, the percentages are reduced, the new percentage becomes the limit for the shares or voting rights attached to the shares that the firm may hold as long as over 20 % of its shares or voting rights attached to its shares is held, directly or indirectly, by financial institutions, financial groups or related legal persons.

The first and second paragraphs do not apply to a firm incorporated in Canada if the shares of the firm were listed on a Canadian stock exchange on 21 December 1988.

57. In no case may a market intermediary who contravenes section 55 or 56 act as a broker in insurance of persons or in damage insurance. The same rule applies to market intermediaries through whom he is acting.

CHAPTER IV

THE CONSEIL DES ASSURANCES DE PERSONNES AND THE CONSEIL DES ASSURANCES DE DOMMAGES

DIVISION I

INCORPORATION AND POWERS OF THE COUNCILS

58. Two insurance councils, namely the Conseil des assurances de personnes and the Conseil des assurances de dommages, vested with legal personality, are hereby established.

59. Each council has the general powers of a corporation within the meaning of the Civil Code and the special powers conferred thereon by this Act.

60. The function of a council is to ensure the protection of the public through the supervision and control of the activities carried on by market intermediaries in insurance business and firms of such intermediaries.

61. The head office of each council shall be in Québec at the place determined in the internal management by-laws of the council.

A notice of the location of the head office of a council or a change of its location shall be published in the *Gazette officielle du Québec*.

62. The Conseil des assurances de personnes shall consist of not more than 14 members, including a chairman and a consumer representative. The other members shall represent, in equal number, the Canadian Life and Health Insurance Association and the Association des intermédiaires en assurance de personnes.

63. The Conseil des assurances de dommages shall consist of not more than 14 members, including a chairman.

Two members shall represent the Association des courtiers d'assurances de la province de Québec, two members shall represent the Regroupement des cabinets de courtage d'assurances du Québec, one member shall represent the group of large damage-insurance brokerage firms, one member shall represent an institute of insurance of Québec, two members shall represent the Association des experts en sinistres indépendants du Québec, one member shall represent consumers, two members shall represent insurers offering their products through brokers and two other members shall represent insurers offering their products through agents.

64. The Minister shall appoint the chairman of each council after obtaining the advice of the Inspector General.

He shall appoint the other members on the recommendation of the associations and groups which are represented on the council and after obtaining the advice of the Inspector General. These members shall be persons in authority within the associations they represent. In addition, the members representing the Canadian Life and Health Insurance Association and the members representing insurers shall be officers or directors of an insurer authorized to do business in Québec.

65. The members of a council shall elect a vice-chairman from among themselves. They shall appoint a secretary, from among themselves or not, and may hire any other officer necessary for the proper functioning of the council.

66. The powers and duties of the chairman, vice-chairman and secretary shall be determined in the internal management by-laws of the council.

67. If the chairman is unable to act, the vice-chairman shall replace him.

68. The term of office of the members of a council is two years, except for half of the members who form the first council, whose term of office is one year.

69. Upon the expiry of their term of office, the members of a council shall remain in office until they are reappointed or replaced.

70. A vacancy on a council shall be filled in the manner prescribed for the appointment of the member to be replaced and for the unexpired portion of his term of office.

71. The members of a council are not remunerated.

However, the members of a council are entitled, to the extent determined in the internal management by-laws, to an attendance allowance and to reimbursement, upon presentation of vouchers, of expenses incurred in the performance of their duties.

72. The business of a council shall be managed by the members.

73. A majority of the members, including the chairman or vice-chairman and, in the case of the Conseil des assurances de personnes, at least one representative of each of the associations represented, is a quorum at sittings of a council.

74. The decisions of a council are made by a majority of the votes cast by the members present.

In the event of a tie, the chairman or the vice-chairman has a casting vote.

75. A member of a council who has a direct or indirect interest in an undertaking which places his personal interest in conflict with that of the council shall, upon pain of forfeiture of office, disclose his interest and abstain from participating in a decision concerning the

undertaking in which he has the interest. Moreover, he shall withdraw from the meeting for the duration of the deliberation relating thereto.

76. A council may hire the personnel required for its operations.

The remuneration standards and scales of the members of the personnel of a council as well as the social benefits and other conditions of employment shall be determined in the internal management by-laws of the council.

77. Each council shall, by by-law, adopt rules of internal management.

78. Each council shall determine, by by-law applicable to the market intermediaries of whom it regulates the activity,

(1) the minimum qualification and training required to carry on the activity of market intermediary in insurance business as well as the minimum qualification and training required for those of his employees who deal directly with the public;

(2) the requirements relating to the use of the title of insurance agent, insurance broker or claims adjuster;

(3) the occupations in which a market intermediary in insurance business may engage;

(4) the other conditions required for the issue of a certificate attesting the authorization to act as market intermediary in insurance business;

(5) the dues exigible for carrying on the activity of market intermediary in insurance business;

(6) the period of validity of a certificate;

(7) the various categories of certificate which it may issue and the conditions and restrictions attaching to each;

(8) the terms and conditions of issue, renewal, suspension or cancellation of a certificate of market intermediary in insurance business;

(9) the mentions which a certificate of market intermediary in insurance business may contain;

(10) the conditions governing the carrying on of the activity of market intermediary in insurance business;

(11) the rules of conduct applicable to market intermediaries in insurance business other than damage insurance brokers;

(12) the contributions exigible from financial institutions using the services of market intermediaries in insurance business;

(13) the cases and conditions in which security, a guarantee or civil liability insurance is exigible;

(14) the information and other documents to be furnished by a market intermediary in insurance business;

(15) the advertising and representations which a market intermediary in insurance business may make and the items with which the advertising and representations may deal;

(16) the rules relating to the disclosure of the mode of remuneration of a market intermediary in insurance business and to the keeping of a register of commissions;

(17) the nature, form and tenor of the books and registers to be kept by a market intermediary in insurance business;

(18) the rules relating to the establishment and maintenance of a trust account;

(19) the rules relating to the preservation or use and to the destruction of records, books and registers to be maintained by a market intermediary in insurance business;

(20) the rules relating to the administration of an insurance compensation fund, the terms and conditions of investment of the sums of money which constitute the fund, the conditions applicable to claims filed, the maximum amount of compensation which may be paid, according to the nature of the liability coverage of a market intermediary in insurance business, and the amounts and terms of payment of annual or special contributions to be paid into that fund;

(21) the procedure and conditions applicable to the franchising of market intermediation in insurance business.

A council may, in respect of market intermediaries in insurance business of whom it regulates the activity, determine by by-law, special rules applicable to those of them who also have the title of financial planner.

A council may, by by-law dealing with the same topics, determine the rules applicable to firms.

The by-laws made by a council under this section shall be submitted to the Government for approval.

79. The Conseil des assurances de personnes shall, in addition, determine, by by-law which shall be submitted to the Government for approval, the conditions applicable to agents or brokers who are members of the Association provinciale des assureurs-vie du Québec or holders of an insurance agent's certificate issued by the Inspector General on *(insert here the date of coming into force of this section)* or who were members of that association or holders of that certificate in the three years preceding that date. The intent of these measures is to preserve the rights of market intermediaries in insurance of persons to carry on their activity.

80. The Conseil des assurances de dommages shall, in addition, determine, by by-law which shall be submitted to the Government for approval, the measures applicable to brokers who are members of the Association des courtiers d'assurances de la province de Québec or holders of an insurance agent's or claims adjuster's certificate issued by the Inspector General on *(insert here the date of coming into force of this paragraph)* or who were members of that association or holders of such a certificate in the three years preceding that date. The intent of these measures is to preserve the rights of market intermediaries in damage insurance to carry on their activity.

Any person who, on *(insert here the date of coming into force of this paragraph)* uses the title of claims adjuster and limits his activities to appraising the value of property may retain his title and continue to carry on that activity. He shall, in that case, be subject to the by-laws made in his respect by the Conseil des assurances de dommages.

DIVISION II

FINANCING, BOOKS, REGISTERS AND AUDIT OF THE COUNCILS

81. Each council shall finance its operations out of the amounts received from market intermediaries subject to its supervision and control, and out of the contributions which must be paid to the council, by financial institutions utilizing the services of market intermediaries.

82. The costs incurred for the carrying out of this Act, which are determined every year by the Government, shall be assumed by the councils.

83. Each council shall keep a register of market intermediaries in insurance business who are holders of a certificate issued by the council. The register shall contain the surname and given names of every certified market intermediary and the titles which he may use, the address at which he carries on his activities, the period of validity of the certificate which he holds and the restrictions it includes, if any.

In the case of a partnership or legal person, the register shall contain the corporate name and firm name of the certificate holder, the address of its head office, the period of validity of the certificate held, the restrictions it includes, if any, and the surnames and given names of the persons authorized to act in the said capacity and through whom the certificate holder carries on its activities.

The register shall also contain any other information which the council considers appropriate.

84. Each council shall preserve and keep open for public examination, during regular office hours, the register of market intermediaries in insurance business who are holders of certificates issued by the council.

85. Each council shall cause its books and accounts to be audited every year by an auditor.

On failure by the a council to have its books and accounts audited by an auditor, the Inspector General may cause the audit to be made and shall designate an auditor for that purpose; the remuneration of the auditor shall be payable by the council.

86. The auditor shall have access to all the books, registers, accounts and other accounting records of the council of which he is responsible for the audit, and to the vouchers. Every person having custody of the documents shall facilitate the examination thereof by the auditor.

He may require the officers, representatives or employees of the council to provide the information and documents required for the performance of his duties as auditor.

87. The auditor may require that a meeting of the members of the council of which he is responsible for the audit be held on any question relating to his duties as auditor.

88. The fiscal year of a council ends on 31 December each year.

89. Each council shall transmit to the Inspector General, within two months after the end of each fiscal year, its audited annual report showing its financial position and activities for the preceding year.

The report shall contain any other information which the Inspector General may require.

90. Each council shall, in addition, transmit to the Inspector General, at his request, on the dates and in the form he determines, the statements, statistical data, reports and other information which he considers appropriate for the purposes of this Act.

CHAPTER V

INSURANCE ASSOCIATIONS

DIVISION I

THE ASSOCIATION DES INTERMÉDIARIES EN ASSURANCE DE PERSONNES

91. The Association des intermédiaires en assurance de personnes is hereby incorporated.

92. The Association des intermédiaires en assurance de personnes continues the existence of the corporation known under the name of the Provincial Association of Québec Life Underwriters, incorporated on 11 October 1962 by letters patent under Part III of the Quebec Companies Act (R.S.Q., 1941, chapter 276).

The Association des intermédiaires en assurance de personnes is vested with all the property and has the rights and obligations of the corporation of which it continues the existence.

93. The affairs of the Association shall be administered provisionally by a board of directors of which the directors are designated by the Inspector General.

Three-quarters of the directors shall be chosen from among the members of the Association provinciale des assureurs-vie du Québec and one-quarter from among the members of the Ordre des assureurs-vie de Québec, incorporated on 1 April 1987 by letters patent issued under Part III of the Companies Act (R.S.Q., chapter C-38).

The directors shall remain in office until the date of the first annual meeting of the members of the Association, which they must

call and hold within six months of (insert here the date of coming into force of this section).

The Inspector General shall ensure that the procedure for calling the meeting and electing the new directors has been followed.

He may designate a person to attend the meeting as an observer. That person shall make a report of his observations respecting the conduct of the meeting, and submit any recommendation which he considers advisable, to the Inspector General.

94. Market intermediaries in insurance of persons who are members of the Association provinciale des assureurs-vie du Québec or holders of a certificate issued by the Inspector General on *(insert here the date of coming into force of this section)* are members of the Association des intermédiaires en assurance de personnes.

Persons authorized to act as market intermediaries in insurance business in the three years preceding the said date become members, upon payment of the fees exigible by by-law of the Association.

95. The Association has exclusive jurisdiction to confer on market intermediaries in insurance of persons who are members thereof the title of “assureur-vie agréé” (A.V.A.) according to the terms and conditions determined by the Association.

Market intermediaries in insurance of persons on whom the title of “assureur-vie agréé” has been conferred before *(insert here the date of coming into force of this section)* shall retain that title.

Market intermediaries in insurance of persons enrolled on *(insert here the date of introduction of this Act)* in a training course enabling access to the said title may use the title if they qualify therefor.

Subject to the second and third paragraphs, only members authorized by the Association des intermédiaires en assurance de personnes may use the title of “assureur-vie agréé”.

96. The object of the Association is to ensure the protection of the public by upholding the discipline of its members. It may, for prevention purposes, make an inspection into the affairs of its members.

Moreover, the Association may dispense continuing training courses to its members.

97. Persons or partnerships who meet the membership requirements determined in the by-laws of the Association are members of the Association.

98. The head office of the Association shall be in Québec at the place determined in the internal management by-laws of the Association.

A notice of the location of the head office of the Association or a change of its location shall be published in the *Gazette officielle du Québec*.

99. The Association shall hold a meeting of its members at least once a year on the date and at the place fixed by the internal management by-laws.

100. The Association may hold special meetings of its members as often as the affairs of the Association so require.

A special meeting shall be called by the director general, in accordance with the terms and conditions set out in the internal management by-laws, upon a resolution of the board of directors or a petition by not fewer than 50 members of the Association.

If the special meeting is not called within 10 days after the resolution or the petition for that purpose, a member of the board of directors or one of the signatories of the petition may call the meeting.

101. Fifty members is a quorum at a general meeting.

102. Decisions are made by a majority of the votes cast by the members present.

103. The Association shall, by by-law, adopt rules for its internal management.

104. The Association shall, by by-law, which shall be submitted to the Government for approval, determine

(1) the conditions of admission, refusal, renewal, removal, expulsion and readmission of members of the Association;

(2) the membership fees payable;

(3) the criteria governing the grant or withdrawal of the title of "assureur-vie agréé";

(4) any other matter coming under its jurisdiction.

105. The affairs of the Association shall be managed by a board of directors consisting of not fewer than seven directors.

106. The directors shall be elected at the annual meeting of the Association from among its members.

107. The directors shall elect from among themselves a chairman of the board, a president of the Association, one or more vice-president and a treasurer.

108. The directors shall appoint a director general, who may also act as secretary.

109. The directors may hire the personnel required for the operations of the Association.

110. Except if otherwise provided in the by-laws of the Association, a majority of the members is a quorum at sittings of the board.

111. The decisions of the board shall be made by a majority of the votes cast by the directors present.

In the event of a tie, the chairman shall have a casting vote.

112. The Association may undertake any procedure advisable to prevent the unlawful use of the title which it confers on an exclusive basis.

DIVISION II

THE ASSOCIATION DES COURTIER D'ASSURANCES DE LA PROVINCE DE QUÉBEC

113. The corporation known under the name of "Association des courtiers d'assurances de la province de Québec", incorporated by letters patent on 2 March 1932 under Part III of The Quebec Companies Act (R.S.Q., 1925, chapter 223), governed by chapter 90 of the statutes of 1946 and continued by chapter 52 of the statutes of 1963, is vested with the rights, duties and obligations with which it was vested, subject to the provisions of this Act.

114. The Association has exclusive jurisdiction to confer on its members the title of "courtier agréé en assurance".

Members of the Association on whom the title of "courtier d'assurance agréé" was conferred before (*insert here the date of*

coming into force of this section) shall assume the title of “courtier agréé en assurance”.

115. The object of the Association is to ensure the protection of the public by upholding the discipline of its members. It may, for prevention purposes, make an inspection into the affairs of its members.

The Association may, in addition, dispense on-going training courses to its members.

116. Persons or partnerships who meet the membership requirements determined in the by-laws of the Association are members of the Association.

117. The head office of the Association shall be in Québec at the place determined in the internal management by-laws of the Association.

A notice of the location of the head office of the Association or a change of its location shall be published in the *Gazette officielle du Québec*.

118. The Association shall hold a meeting of its members at least once a year on the date and at the place fixed by the by-laws of the Association.

119. The Association may hold special meetings of its members as often as the affairs of the Association so require.

A special meeting shall be called by the director general, in accordance with the terms and conditions set out in the internal management by-laws, upon a resolution of the board of directors or a petition by not fewer than 50 members of the Association.

If the special meeting is not called within 10 days after the resolution or the petition for that purpose, a member of the board of directors or one of the signatories of the petition may call the meeting.

120. Fifty members is a quorum at a general meeting.

121. Decisions are made by a majority of the votes cast by the members present.

122. The Association shall, by by-law, adopt rules for its internal management.

123. The Association shall, by by-law which shall be submitted to the Government for approval, determine

(1) the conditions of admission, refusal, renewal, removal, expulsion and readmission of members of the Association;

(2) the rules relating to the discipline applicable to damage-insurance brokers;

(3) the membership fees payable;

(4) the criteria governing the grant or withdrawal of the title of "courtier agréé d'assurance";

(5) any other matter coming under its jurisdiction.

124. The affairs of the Association shall be managed by a board of directors consisting of not less than 15 and not more than 35 directors.

125. The directors shall be elected at the annual meeting of the Association from among its members.

Two-thirds of the directors must be courtiers agréés en assurance.

126. The directors shall elect from among themselves a chairman of the board, a president of the Association, one or more vice-president and a treasurer.

127. The directors shall appoint a director general, who may also act as secretary.

128. The directors may hire the personnel required for the operations of the Association.

129. Except if otherwise provided in the by-laws of the Association, seven directors is a quorum at sittings of the board.

130. The decisions of the board shall be made by a majority of the votes cast by the directors present.

In the event of a tie, the chairman shall have a casting vote.

CHAPTER VI

RULES OF DISCIPLINE IN INSURANCE MARKET
INTERMEDIATION

DIVISION I

SUPERVISION COMMITTEES

131. Supervision committees shall be established within the Conseil des assurances de dommages, the Association des intermédiaires en assurance de personnes and the Association des courtiers d'assurances de la province de Québec.

132. The supervision committee of the Conseil des assurances de dommages shall exercise its functions with respect to damage insurance agents and claims adjusters. The supervision committee of the Association des intermédiaires en assurance de personnes and the supervision committee of the Association des courtiers d'assurances de la province de Québec shall exercise their functions with respect to their respective members.

133. The function of a supervision committee is to examine the conduct of market intermediaries in insurance business, investigate any disciplinary matter relating to market intermediaries in insurance business and, if need be, file complaints with the disciplinary committee.

134. Each supervision committee shall be composed of not less than three members, including the chairman. The members shall be designated by the association or the council, as the case may be.

135. A majority of the members of a supervision committee is a quorum.

In the event of a tie, the chairman has a casting vote.

136. A member of a supervision committee who has a direct or indirect interest in an undertaking which places his personal interest in conflict with that of the committee shall, on pain of forfeiture of office, disclose his interest and abstain from participating in any decision concerning the undertaking in which he has an interest. Moreover, he shall withdraw from the meeting for the duration of the deliberations relating thereto.

137. The members of a supervision committee shall be remunerated according to the scales established in the internal management by-laws of the association or council, as the case may be.

138. A supervision committee may hire the personnel required for the carrying out of its functions.

The remuneration standards and scales of the members of the personnel of a supervision committee as well as the social benefits and other conditions of employment shall be determined in the internal management by-laws of the association or council, as the case may be.

139. The supervision committee shall investigate the affairs of a market intermediary in insurance business when a complaint is filed with the relevant disciplinary committee, at the request of the council which regulates the business carried on by that market intermediary, or on its own initiative.

The investigation shall be made under the responsibility of a member of the supervision committee who engages in the same field of activity as the market intermediary whose affairs are being investigated.

140. Any person making an investigation under this division may

(1) enter, at any reasonable time, the establishment of any market intermediary in insurance business whose affairs are being investigated, or the establishment of the firm within which he carries on his activities or of the financial institution which utilizes the services of the intermediary;

(2) examine and make copies of the books, registers, accounts, records and other documents relating to the activities of the market intermediary concerned;

(3) require any information or document relating to the carrying out of this Act and the regulations made thereunder.

Every person having custody, possession or control of the books, registers, accounts, records and other documents shall, at the request of the person making the investigation, permit access to the documents and facilitate the examination thereof by the person making the investigation.

141. The person making an investigation under this division shall identify himself on request and produce an attestation of his

capacity, signed by a member authorized for that purpose by the supervision committee for which he is acting.

142. No person may hinder the work of a person making an investigation, in particular by misleading him.

143. The person making an investigation shall submit a report to the supervision committee which shall, in writing and within 15 days, inform the complainant or the council which requested that an investigation be made of its decision to prosecute or not prosecute the complaint filed or to file or not file a complaint.

DIVISION II

DISCIPLINARY COMMITTEES

144. Disciplinary committees shall be established within the Conseil des assurances de dommages, the Association des intermédiaires en assurance de personnes and the Association des courtiers d'assurances de la province de Québec.

145. The disciplinary committee of the Conseil des assurances de dommages shall dispose of disciplinary complaints concerning damage insurance agents and claims adjusters. The disciplinary committee of the Association des intermédiaires en assurance de personnes and the disciplinary committee of the Association des courtiers d'assurances de la province de Québec shall dispose of complaints concerning their respective members.

146. Where a breach of discipline is attributable to a legal person, a complaint may be filed against those of its directors, officers or employees who participated in or consented to the breach of discipline.

147. Each disciplinary committee shall be composed of not less than three members, including the chairman.

The chairman shall be designated from among advocates having at least 10 years of practice, after consultation with the Barreau du Québec. He shall be appointed by the Minister.

The other members shall be designated by the association from among its members or, as the case may be, by the council from among the market intermediaries whose activities it regulates. However, where the complaint involves a damage insurance agent or a claims

adjuster, the members, other than the chairman, hearing the complaint shall be persons who are engaged in the same field of activity as the person in whose respect the complaint was filed.

148. A member of a disciplinary committee who has a direct or indirect interest in an undertaking which places his personal interest in conflict with that of the committee shall, on pain of forfeiture of office, disclose his interest and abstain from participating in any decision concerning the undertaking in which he has an interest. Moreover, he shall withdraw from the meeting for the duration of the deliberations relating thereto.

149. If the chairman is unable to act, the association shall designate a replacement who possesses the same qualifications.

150. The members of a disciplinary committee shall be appointed for three years.

151. Upon the expiry of their term of office, the members of a disciplinary committee shall remain in office until they are reappointed or replaced.

152. A vacancy on a disciplinary committee shall be filled in the manner prescribed for the appointment of the member to be replaced and for the unexpired portion of his term of office.

153. The association or council, as the case may be, shall appoint the secretary of its disciplinary committee.

The secretary shall, in particular, see to the preparation and preservation of the records of the committee.

154. The members and the secretary of a disciplinary committee shall be remunerated according to the scales established in the internal management by-laws of the association or council, as the case may be.

155. The provisions of the Professional Code relating to the institution and trial of complaints and to the related decisions and penalties apply, adapted as required, to complaints received by a disciplinary committee.

156. The decisions of a disciplinary committee may be appealed from before the Court of Québec, in accordance with section 366 and the following sections of the Act respecting insurance, adapted as required.

CHAPTER VII

COMPENSATION FUNDS

157. Three compensation funds are hereby established, namely the Fonds d'indemnisation en assurance de personnes within the Conseil des assurances de personnes, the Fonds d'indemnisation en assurance de dommages within the Conseil des assurances de dommages and the Fonds d'indemnisation des planificateurs financiers for financial planners who are holders of a certificate issued by the Inspector General.

158. Each fund is vested with legal personality.

159. The head office of each fund shall be in Québec at the place determined in the internal management by-laws of the fund.

160. Each fund shall be administered by a board of directors composed of seven directors.

161. The board of directors of the fund established within a council shall be composed of six directors designated by the council, three of whom shall be chosen from among holders of certificates issued by the council; the other three directors shall be persons who, by reason of their occupation, are capable of making a significant contribution to solving problems inherent in the activities carried on by market intermediaries in insurance business. The seventh director shall be designated by the Minister.

162. The directors of the Fonds d'indemnisation des planificateurs financiers shall be appointed by the Minister. Three directors shall be chosen from among holders of certificates issued by the Inspector General; three other directors shall be persons who, by reason of their occupation, are capable of making a significant contribution to solving problems inherent in the activities carried on by market intermediaries in insurance business.

163. The term of office of the directors of a fund is two years.

Upon the expiry of their term of office, the directors of a fund shall remain in office until they are reappointed or replaced.

164. The directors of a fund shall designate a chairman and a vice-chairman from among themselves.

165. The directors of a fund are not remunerated.

However, the directors of a fund are entitled, to the extent determined in the internal management by-laws, to an attendance allowance and to reimbursement, on presentation of vouchers, of expenses incurred in the performance of their duties.

166. The directors may name a secretary and hire the personnel required for the operation of the fund.

167. The secretary and the other members of the personnel shall be appointed and remunerated in accordance with the standards, scales and staffing plan established in the by-laws of the fund.

168. The board of directors may hold its sittings anywhere in Québec.

169. A majority of the directors is a quorum at a meeting of the board of directors of a fund.

In the event of a tie, the chairman has a casting vote.

170. Each fund shall, by by-law, adopt rules of internal management. The rules come into force on the date of their approval by the council within which it is established or, as the case may be, by the Government.

171. The object of a compensation fund is to administer the sums of money deposited therein for securing the liability that may be incurred by a market intermediary owing to fraud, dishonest practices, or misappropriation of funds or other property that must be held in a trust account in accordance with the regulations made under this Act.

172. Each fund shall, according to the conditions, in the manner and in accordance with the rules established in the by-laws of the council or, as the case may be, by government regulation,

- (1) administer the sums of money deposited therein;
- (2) rule on the admissibility for payment of claims against a market intermediary;
- (3) make a decision regarding any payment or outlay to be made out of the fund;
- (4) invest the sums constituting the fund.

173. Each fund shall be constituted of

(1) contributions fixed for that purpose in the by-laws of the council or, as the case may be, by government regulation;

(2) sums recovered by way of subrogation from market intermediaries;

(3) interest yielded on the sums of money constituting the fund;

(4) any increase in the fund's assets.

174. Each fund is subrogated in the rights of a compensated person up to the compensation paid.

175. Any amount required for the operation of a fund shall be paid out of the sums of money constituting the fund.

176. The assets of a fund shall be invested in accordance with the rules governing the investment of moneys belonging to other persons provided for in the Civil Code.

177. Each fund shall cause its books and accounts to be audited each year by an auditor.

178. The fiscal year of a fund ends on 31 December each year.

179. Within two months after the end of a fiscal year, each fund shall submit to the council within which it is established or to the Inspector General, as the case may be, its audited annual report showing its financial position and activities for the preceding fiscal year.

The report shall also contain any other information which the council or the Inspector General, as the case may be, may require.

CHAPTER VIII

INSPECTOR GENERAL OF FINANCIAL INSTITUTIONS

180. The Inspector General shall keep a register of all financial planners and multidisciplinary firms holding a certificate issued by the Inspector General.

The register shall contain the surname and given names of each financial planner, the address of the place at which he carries on his activity, the period of validity of the certificate which he holds and the restrictions it includes, if any.

The register shall, in the case of a firm of financial planners or a multidisciplinary firm, contain the firm name of the certificate holder, the address of its head office, the period of validity of the certificate held and the restrictions it includes, if any, and the surnames and given names of the persons authorized to act as financial planners and through whom the firm exercises its activities.

The register shall, in addition, contain any other information which the Inspector General considers appropriate.

181. The Inspector General shall maintain and keep open for public examination during regular office hours, the register of financial planners and multidisciplinary firms holding a certificate issued by the Inspector General.

182. The Inspector General shall make an inspection of the affairs of the councils and associations to which this Act applies, or cause such an inspection to be made, whenever he considers it appropriate for the carrying out of this Act.

183. Any person making an inspection may, for the purposes of his inspection,

(1) enter, at any reasonable time, the head office of a council or association;

(2) examine and make copies of the books, registers, accounts, records and other documents relating to the activities of the council or association;

(3) require any information or document relating to the carrying out of this Act and the regulations and by-laws made thereunder.

Every person having custody, possession or control of the books, registers, accounts, records and other documents shall, at the request of the person making the inspection, permit access to the documents and facilitate the examination thereof by the person making the inspection.

184. The Inspector General or the representative designated by him in writing may, in the exercise of his powers of inspection and if he has reasonable grounds to believe that an offence under this Act or any other Act under the administration of the Inspector General has been committed, seize any document relating to the offence, provided he gives a copy thereof to the person from whom the document is seized; the Inspector General shall have custody of the seized document.

The Inspector General shall not retain the seized document for more than 90 days unless an information is filed before the expiry of that period; a judge of the Court of Québec may, however, order that the period of retention be reduced, or that it be extended, for an additional period of 90 days.

185. Any person making an inspection shall, on request, identify himself and produce a certificate of his capacity, signed by the Inspector General.

186. No person may hinder the work of a person making an inspection, in particular, by misleading him.

187. The Inspector General may, whenever he considers it necessary or useful for the carrying out of this Act, make an inspection into the internal affairs and activities of a financial planner or multidisciplinary firm holding a certificate issued by the Inspector General, or cause such an inspection to be made.

The provisions of sections 183 to 186, adapted as required, apply to the inspection.

188. The Inspector General may, where he considers that public interest so requires, or at the request of the Minister, order that an inquiry be held on any matter within his jurisdiction.

The Inspector General and every person authorized by him in writing shall have the powers and immunity granted to commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

189. No person employed by the Government or authorized by the Inspector General to exercise powers of inspection or inquiry shall communicate or allow to be communicated to anyone information obtained under this Act, or allow a document filed pursuant to this Act to be examined, unless the person is authorized to do so by the Inspector General.

Notwithstanding sections 9, 23, 24 and 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), only a person generally or specially authorized by the Inspector General himself may have access to such information or document.

Nothing in this section shall prevent the Minister or a person generally or specially authorized by him from obtaining any

information or examining any document filed with the Inspector General under this Act.

190. Where a council fails or neglects to exercise responsibilities conferred on it or where, as a result of its action, the protection of the public is not ensured or the requirements of this Act or of the regulations and by-laws made under or pursuant to this Act in relation to market intermediation in insurance business are not met, the Inspector General may exercise all or part of the powers conferred on a council and, to the extent and for the period he determines, prohibit that council from exercising those powers.

Before rendering his decision, the Inspector General shall notify the council concerned and give it an opportunity to be heard. The council may appeal from the decision of the Inspector General to the Superior Court, within 30 days.

191. The Inspector General may, for the same reasons and in the same manner, suspend all or part of the responsibilities of the Association des courtiers d'assurances de la province de Québec or of the Association des intermédiaires en assurance de personnes, prohibit it from exercising them, entrust the exercise thereof to the Conseil des assurances de personnes or to the Conseil des assurances de dommages, as the case may be, or assume the exercise thereof.

An association may appeal from the decision of the Inspector General to the Superior Court, within 30 days.

192. Where, in his opinion, an association or council is engaged in a course of action contrary to this Act or a regulation or by-law made under or pursuant to this Act, the Inspector General may order the association or council to alter its course of action and remedy the situation.

193. The order issued by the Inspector General shall set forth the reasons on which it is based and be transmitted to each person for which the order is intended. It shall become effective on its date of service or on any later date indicated therein.

Before issuing an order, the Inspector General shall serve on the offender a prior notice of not less than 15 days stating the reasons which appear to justify the order, the date on which it is to take effect and the possibility for the offender to be heard.

194. The Inspector General may, however, without prior notice, issue a provisional order, valid for a period of not more than

15 days, if he is of the opinion that a delayed hearing might cause prejudice.

The order must include the reasons on which it is based and shall take effect on its date of service on the person for whom it is intended. The person may, within six days of receiving the order, apply in writing to the Inspector General for a hearing.

195. The Inspector General may revoke any order issued under this chapter.

196. The Inspector General may, by motion, apply to a judge of the Superior Court for an injunction in respect of any matter relating to this Act or any government regulation made thereunder for its carrying out.

A motion for injunction is a proceeding in itself.

The procedure provided for in the Code of Civil Procedure applies except that the Inspector General shall not be required to give security.

197. Each year, the Inspector General shall submit to the Minister a report on the activities of the councils and associations.

The report shall include any other information which the Inspector General considers appropriate or which the Minister may require.

CHAPTER IX

REGULATIONS

198. The Government may, by regulation, determine

(1) the fees payable for any formality or measure provided for in this Act or the regulations made thereunder;

(2) the amount to be paid annually to the Inspector General by each council for the purposes of this Act;

(3) in which cases and on what conditions a market intermediary dealing in insurance business may be employed by a financial institution other than an insurer;

(4) the terms and conditions governing the use of the title of financial planner by any market intermediary;

- (5) the titles similar to that of financial planner;
- (6) the rules relating to the standardization of the remuneration of market intermediaries in insurance of persons;
- (7) the conditions of issue of certificates by the Inspector General;
- (8) the fees payable for the issue of a certificate by the Inspector General;
- (9) the period of validity of certificates issued by the Inspector General;
- (10) the various classes of certificates that may be issued by the Inspector General and the conditions and restrictions attaching to each class;
- (11) the terms and conditions of issue, renewal, suspension or cancellation of certificates issued by the Inspector General;
- (12) the particulars contained in certificates issued by the Inspector General;
- (13) the rules of discipline applicable to a financial planner who is the holder of a certificate issued by the Inspector General;
- (14) the cases and circumstances in which a security, a guarantee or a civil liability insurance may be required from the holder of a certificate issued by the Inspector General;
- (15) the information and other documents which the holder of a certificate issued by the Inspector General is required to furnish;
- (16) the advertising and representations which the holder of a certificate issued by the Inspector General may make, and the items with which it may deal;
- (17) the rules relating to the protection of personal information obtained by a market intermediary in the course of his activities, and the rules relating to the circulation of information in his possession;
- (18) the terms and conditions on which a person having done business with a market intermediary is entitled to have access to and reproduce the documents and information concerning him which are in the possession of that market intermediary;

(19) the rules relating to the disclosure of the method of remuneration and the keeping of a register of commissions received by the holder of a certificate issued by the Inspector General;

(20) the terms and conditions applicable to the apportionment or sharing of a market intermediary's commission;

(21) the nature, form and tenor of the books and registers to be kept by the holder of a certificate issued by the Inspector General;

(22) the rules relating to the opening and maintenance of a trust account by the holder of a certificate issued by the Inspector General;

(23) the rules applicable to multidisciplinary firms and firms of financial planners;

(24) the rules relating to the preservation or to the use and destruction of records, books and registers which the holder of a certificate issued by the Inspector General is required to keep;

(25) the rules relating to the administration of the compensation fund of financial planners who are holders of a certificate issued by the Inspector General, the terms and conditions of investment of the sums of money which constitute the fund, the conditions applicable to claims filed, the maximum amount of compensation which may be paid, according to the nature of the liability coverage of financial planners, and the amounts and terms and conditions of payment of the annual or special contributions which must be paid into the fund;

(26) the terms and conditions applicable to the franchising of activities carried on by the holder of a certificate issued by the Inspector General.

199. Sixty days after having notified a defaulting council or association to which this Act applies to adopt by-laws under section 78, 104 or 123, as the case may be, the Government may exercise the regulatory powers provided for in the said sections.

Any by-law made by the Government is deemed to be a by-law of the council or association and the council or association may amend it. The amended by-law shall be submitted to the Government for approval.

200. The Government may amend any by-law submitted to it for approval.

201. The Government may, by regulation made within 12 months from the coming into force of this section, prescribe transitional measures for the application of this Act.

CHAPTER X

PENAL PROVISIONS

202. Any person who, without authorization, acts as a market intermediary in insurance business or as a financial planner or who uses any related or similar title suggesting that he has special competence in that respect, is guilty of an offence.

203. Any person who holds himself out as offering financial planning services which are offered through persons who are not authorized to use the title of financial planner is guilty of an offence.

204. Any market intermediary in insurance business, other than a special broker, who offers or sells a product of an insurer who is not authorized to engage in insurance business in Québec, is guilty of an offence.

205. Any market intermediary in insurance business who, directly or indirectly, grants a rebate on the premium stipulated in an insurance policy to a person insured or applying for insurance, or makes an agreement with him on a method of payment of the premium other than the method set forth in the policy or who makes the purchase of a financial product conditional upon the purchase of another product, is guilty of an offence.

The payment of benefits stipulated in a policy or the rebate granted to an insured person for the purchase of two or more financial products is not a rebate of premium referred to in the first paragraph.

206. Any person who hinders the work of a person who is making an inquiry or an inspection under this Act is guilty of an offence.

207. Any financial institution, any financial group or any related legal person within the meaning of section 50 which uses the corporate name or firm name of an insurance broker dealing in insurance of persons or in damage insurance is guilty of an offence.

208. Any person convicted of an offence under any of sections 202 to 207 is liable to a fine of not less than \$200 and not more than

\$2 000 in the case of a natural person, or to a fine of not less than \$500 and not more than \$5 000 in the case of a legal person.

In determining the fines, the court shall take into account, in particular, the injury involved and benefits derived from the offence.

209. Where an offence under any of sections 202 to 207 is committed by a legal person, every director, executive officer, officer or representative of the legal person who knowingly authorized, encouraged, ordered or advised the commission of the offence is guilty of an offence and is liable to the fine prescribed in section 208.

210. Any proceedings relating to the unlawful carrying on of market intermediation in insurance business or use of the title of financial planner or unauthorized use of a related title may be instituted by the Attorney General or by a council.

211. Where proceedings are instituted by the Attorney General, the fine levied shall be paid into the consolidated revenue fund. In all other cases, the fine shall be levied by the council which instituted the proceedings.

212. If a person repeats any of the offences under sections 202 to 207, the Attorney General or, with his authorization, the council which instituted penal proceedings, may apply to the Superior Court for an interlocutory writ of injunction enjoining that person or his directors, executive officers, officers or representatives to cease the commission of the offence charged until final judgment is pronounced in penal proceedings.

After pronouncing the judgment, the Superior Court shall itself render final judgment on the application for an injunction.

The Attorney General or the council applying for an injunction under this section shall be dispensed from the obligation to give security. In all other respects, the provisions of the Code of Civil Procedure respecting writs of injunction apply.

CHAPTER XI

MISCELLANEOUS PROVISIONS

213. The certificates issued by the Inspector General and other documents produced by the Inspector General under this Act are authentic.

214. The signature of the Inspector General on copies of documents, registers or records is proof of the existence of the documents and that they are lawfully in the possession of the Inspector General.

Any copy signed by the Inspector General is equivalent to the original itself in any court of justice and any document or copy purporting to bear his signature is deemed to do so until proof of the contrary.

215. Sections 213 and 214, adapted as required, apply to the councils and associations to which this Act applies.

216. In any proceedings, the production of the original of a book, document, order or register in the possession of the Inspector General, a council or an association is not necessary, but a copy or an extract certified by one of them is sufficient proof of the content of the original.

217. The filing of a sworn declaration of a member of the personnel of the Inspector General, a council or an association is proof, before a court of justice, of the signature and capacity of the signatory.

218. The Inspector General may, on his own initiative and without notice, intervene in any civil proceeding relating to provisions of this Act or the regulations thereunder to take part in the proof and hearing as if he were a party thereto. The same rule applies to a council or an association as regards the rules coming under their administration.

CHAPTER XII

AMENDING PROVISIONS

219. Section 93 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended

(1) by replacing the words “insurance broker or to the insurance agent” in the third and fourth lines of the first paragraph by the words “market intermediary in insurance business”;

(2) by replacing the words “broker or an agent” in the fifth line of the said paragraph by the words “market intermediary in insurance business”.

220. Section 171 of the said Act, amended by sections (*insert here the provisions corresponding to sections 5 and 6 of the tabled*

version of Bill 133 of 1989), is again amended by adding, at the end of the first paragraph, the following sentence: "The Groupement is also responsible for the qualification of persons who act as assessors."

221. Section 82 of the Crop Insurance Act (R.S.Q., chapter A-30) is amended by replacing the words "Insurance Brokers Act (chapter C-74)" by the words "Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*)".

222. Section 1 of the Act respecting insurance (R.S.Q., chapter A-32) is amended

(1) by replacing paragraph *i* by the following paragraph:

"(i) "market intermediary in insurance business": a market intermediary in insurance business within the meaning of the Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*);";

(2) by replacing paragraph *j* by the following paragraph:

"(j) "claims adjuster": a claims adjuster within the meaning of the Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*);";

(3) by repealing paragraphs *k* and *q*.

223. Section 10 of the said Act is amended by replacing the words " , insurance agent or claims adjuster" in the second line of subparagraph 1 of the first paragraph by the words "or a market intermediary in insurance business".

224. Section 57 of the said Act is amended by replacing the words "Insurance agents or claims adjusters" in the first line by the words "Market intermediaries in insurance business".

225. Section 93.79 of the said Act is amended by replacing the words "an insurance agent, a claims adjuster" in the first line of subparagraph 2 of the second paragraph by the words "a market intermediary in insurance business".

226. Section 93.86 of the said Act is amended by replacing the words "insurance agents, insurance brokers or claims adjusters" in the third line by the words "market intermediaries in insurance business".

227. Section 174.8 of the said Act is amended by replacing the words “an insurance agent, a claims adjuster” in the first line of paragraph 1 by the words “ a market intermediary in insurance business”.

228. Section 204 of the said Act is amended by replacing the words “special brokers contemplated by section 346” in the third and fourth lines by the words “a special broker contemplated by the Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*)”.

229. Section 303 of the said Act is amended by replacing the words “, insurance agent or claims adjuster” in the first and second lines of the first paragraph by the words “or a market intermediary in insurance business”.

230. Section 304 of the said Act is amended by replacing the words “insurance agent” in the sixth line by the words “a market intermediary in insurance business”.

231. Section 316 of the said Act is amended by striking out the words “or a certificate” in the second line.

232. Section 317 of the said Act is amended by striking out the words “and every special insurance broker contemplated in section 346” in the second and third lines of the first paragraph.

233. The said Act is amended by striking out Chapters VI and VII of Title IV and sections 326 to 357 which are contained therein.

234. Section 360 of the said Act is repealed.

235. Section 361 of the said Act is amended by striking out the words “or certificate” in the second line.

236. Section 362 of the said Act is amended by striking out the words “or certificate” in the second and third lines.

237. Section 364 of the said Act is amended by striking out the words “or certificate” in the first line.

238. Section 366 of the said Act is amended

(1) by striking out the words “or certificate” in the first and second lines of the first paragraph;

(2) by striking out the words “residence or” in the third line of the first paragraph;

(3) by replacing the word “person” in the fourth line of the first paragraph by the word “corporation”.

239. Section 369 of the said Act is amended by striking out the words “or certificate” in the third line.

240. Section 390 of the said Act is repealed.

241. Section 406 of the said Act is amended

(1) by striking out the words “, insurance agent or claims adjuster” in the first line of paragraph *a* and “or certificate to that effect” in the second line of the said paragraph;

(2) by striking out the words “or certificate” in the first and second lines of paragraph *b*;

(3) by striking out the words “or certificate” in the first line of paragraph *d*;

(4) by striking out paragraphs *i* to *o*.

242. The said Act is amended by inserting, after section 406, the following sections:

“406.1 Every insurer, other than a professional corporation, who accepts an insurance application or proposal from a person other than the insured, the policy holder, the participant or a market intermediary in insurance business is guilty of an offence.

“406.2 Any insurer who, directly or indirectly, grants a rebate on the premium stipulated in an insurance policy to any person insured or applying for insurance, or agrees with that person on a method of payment of the premium other than the method set forth in the policy or who makes the purchase of a financial product conditional upon the purchase of another product is guilty of an offence.

Moreover, a contract whereby a product is acquired conditionally upon the purchase of another product may be cancelled within 10 days of the day it is made by notice sent by registered or certified mail.

The payment of benefits stipulated in a policy, the rebate granted to an insured for the acquisition of two or more financial products from that insurer or from the financial group of which he is a member, or the compensation paid to an employee by an insurer for services

rendered as such, even if the employee is insured by his employer, does not constitute a rebate of premium to which the first paragraph applies.

“406.3 A creditor who requires an insurance from a debtor in connection with a contract and imposes an insurer or a market intermediary in insurance business or obtains from the debtor that the insurer or intermediary be selected by him is guilty of an offence.

An insurance effected by way of a master policy by a creditor on the life of its debtors or by a financial enterprise on the life of depositors who make deposits or investments with that enterprise is not an insurance to which the first paragraph applies.

Subject to the second paragraph, the debtor is free to make an insurance contract with the insurer or market intermediary in insurance business of his choice notwithstanding any agreement or stipulation to the contrary.

This section does not apply to hypothecary loans exceeding 50% of the cost of a new dwelling within the meaning of the Family Housing Act (R.S.Q., chapter H-1).

“406.4 In no case may the commission of an offence under any of sections 406.1 to 406.3 result in invalidating an insurance contract.”

243. Section 412 of the said Act is amended by striking out the words “or a certificate” in the second line.

244. Section 418 of the said Act is amended by striking out the words “certificate or” in the second line.

245. Section 420 of the said Act is amended

(1) by striking out the words “or certificate” in the second line of paragraph *a*;

(2) by striking out the words “and certificates” in the first line of paragraphs *b* and *c*;

(3) by striking out the words “and certificates” in the second line of paragraph *c*;

(4) by striking out paragraph *f*;

(5) by striking out the words “or a certificate” in the second and third lines of paragraph *h*;

(6) by replacing the words “, licences or certificates” in the third line of paragraph *k* by the words “or licences” and by striking out the words “and certificates” in the same line;

(7) by striking out paragraphs *n*, *o*, *v* and *ab*.

246. Section 136 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing the words “Act respecting insurance” in the sixth line of paragraph *g* by the words “Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*) applicable to insurance agents and brokers in damage insurance or insurance of persons or to claims adjusters”.

247. The Insurance Brokers Act (R.S.Q., chapter C-74) is repealed.

248. Section 77 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing the words “insurance agent” in the first line of paragraph 5 by the words “market intermediary in insurance business”.

249. Section 62 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) is amended by replacing the words “Insurance Brokers Act (chapter C-74)” in the first and second lines by the words “Act respecting market intermediaries (1989, chapter *insert here the chapter number of the said Act in the volume of statutes for 1989*)”.

250. Section 6 of the Act respecting the collection of certain debts (R.S.Q., chapter R-2.2) is amended by replacing the words “an insurance agent” in the first and second lines of paragraph 1 by the words “a market intermediary in insurance business”.

251. Section 149 of the Securities Act (R.S.Q., chapter V-1.1) is amended by adding, at the end, the following paragraph:

“Subject to such remunerated business as may be carried on under a government regulation made under this Act, the representative of a dealer acting as principal or as agent shall not concurrently carry on business as such and be employed by a financial institution, unless he is a representative specialized in group savings or scholarship plans.”

252. Section 274 of the said Act is amended by adding, at the end, the following paragraph:

“Any government regulation made under this Act has precedence over the general instructions of the Commission”.

253. Section 351 of the said Act is amended by inserting the words “, with the authorization of the Government,” after the word “Commission” in the third line.

254. In any Act, statutory instrument, contract or other document, unless the context indicates otherwise,

(1) any reference to the Insurance Brokers Act (R.S.Q., chapter C-74) is a reference to this Act;

(2) the expressions “insurance agent”, “insurance broker” or “claims adjuster” mean an “insurance agent”, an “insurance broker” or a “claims adjuster” within the meaning of this Act.

CHAPTER XIII

FINAL PROVISIONS

255. Any sum received by the Inspector General for the certificates issued by him for the year in which this Act comes into force shall be remitted to each council in proportion to the period covered by the certificates and the number of certificates in each field of activity.

[[**256.** The sums required for the carrying out of this Act shall, for the fiscal year (*insert here the two calendar years covered by the fiscal year in which this section comes into force*) and to the extent determined by the Government, be taken out of the consolidated revenue fund.]]

257. The Minister shall, on or before (*insert here the date occurring five years after the date of coming into force of this section*), make a report to the Government on the implementation of this Act and subsequently, every five years, on the advisability of maintaining it in force and, as the case may be, of amending it.

The report shall be tabled before the National Assembly within the following 15 days if it is in session or, if it is not, be filed with the President of the Assembly.

258. The Inspector General is responsible for the carrying out of this Act.

259. The Government shall designate the minister responsible for the administration of this Act.

260. Sections 49, 50, the first paragraph of section 51 and sections 53 to 57 have effect from 21 December 1988.

The second paragraph of section 51 and section 52 have effect from *(insert here the date of the day following the date of introduction of this bill)*.

261. This Act will come into force on the date or dates to be fixed by the Government, except section 260 which will come into force on *(insert here the date of assent to this Act)*.