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# NATIONAL ASSEMBLY

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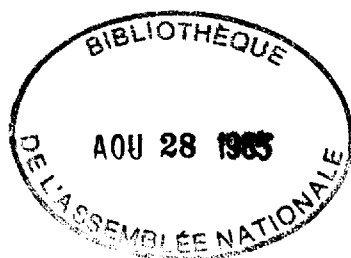
FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Draft bill

## **An Act to amend the Insurance Brokers Act and the Act respecting insurance**

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**Introduced by  
Mr Yves L. Duhaime  
Minister of Finance**

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## EXPLANATORY NOTES

*This draft bill amends the Insurance Brokers Act to provide for the establishment of five committees:*

*— a committee on admission to the profession, to be responsible for verifying the requirements for becoming a broker, with appeal from its decisions to a board of arbitration;*

*— a committee on inspection, responsible for seeing that brokers comply with the standards established by the by-laws regarding the management of their business;*

*— a committee on discipline, responsible for hearing disciplinary cases, with appeal from its decisions to a judge of the Provincial Court;*

*— a committee on professional supervision, responsible for inquiring into any matter relating to the honour and dignity of the profession and the conduct of its members;*

*— an executive committee, responsible for the day-to-day business of the Association and empowered to take measures against a member so as to enable him to continue to act as a broker.*

*The draft bill enables the Insurance Brokers' Association of the Province of Québec to establish a fund, by by-law, to indemnify persons who may be injured as a result of the commission by a member of an act derogatory to the honour and dignity of the profession, as described in the by-laws of the Association.*

*The draft bill introduces new provisions to enable corporations to become members of the Association. For that purpose, it suggests that the rule presently in force which provides that the majority of the voting shares of a corporation acting as a broker be owned by natural persons or persons related to them be set aside in order to allow all the interested parties to make representations in parliamentary committee.*

*The draft bill provides that the Association be subject to the supervision of the Inspector General of Financial Institutions. The Inspector General*

*will be required to see to the inspection of the affairs of the Association at least once a year. The Inspector General or another person designated by the Minister may act as temporary administrator of the Association if there is reason to believe in the existence of fraud or that the members' rights are in jeopardy. A report must be made to the Minister and sent to the Government for decision if the suspicion is confirmed.*

*Provisions of the Act respecting insurance have also been amended for concordance purposes, since the Inspector General will not be bound to issue any insurance agent's certificate to a corporation acting as a broker.*

#### **ACTS AMENDED BY THE BILL**

- the Act respecting insurance (R.S.Q., chapter A-32);
- the Insurance Brokers Act (R.S.Q., chapter C-74).



## Draft bill

### An Act to amend the Insurance Brokers Act and the Act respecting insurance

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 1 of the Insurance Brokers Act (R.S.Q., chapter C-74) is replaced by the following section:

**“1.** In this Act,

(a) **“Association”** means the Insurance Brokers’ Association of the Province of Québec;

(b) **“Board”** means the Board of Directors of the Association;

(c) **“manager”** means the manager of the Association;

(d) **“member in good standing”** means any member of the Association who is not under suspension and is not indebted to the Association for any contribution, costs or outlay, and who is not in default of repayment to the Association, for the purposes of the indemnity fund, of sums paid out of that fund;

(e) **“insurance broker”** means an agent within the meaning of subsection *i* of section 1 of the Act respecting insurance (R.S.Q., chapter A-32) who does not transact exclusively in insurance of the person and who, with respect to other categories of insurance, does not transact with only one insurer or only one group of insurers under joint management;

(f) **“by-laws”** means the by-laws of the Association;

(g) “**representative**” means a member in good standing designated by a member corporation for the purposes of the service of complaints made against it for violations of this Act or the by-laws thereunder and to reply to requests of the Association.”

**2.** Section 33 of the said Act is replaced by the following section:

**“3.** The Association is a corporation having perpetual succession and the full enjoyment of civil rights in Québec and outside Québec, except those which are peculiar to the human person. Notwithstanding the provisions of the Civil Code, it may hypothecate, mortgage or pledge, while retaining possession thereof, its movable or immovable property, present or future, to secure the payment of the bonds or securities it issues, give a part only of such guarantees for the same purposes and constitute such hypothec, mortgage or pledge by trust deed in accordance with the Special Corporate Powers Act (R.S.Q., chapter P-16).

The Association shall also dispose within a reasonable time of immovables which for seven consecutive years have not been used for the pursuit of its objects.”

**3.** Section 4 of the said Act is replaced by the following section:

**“4.** The Association may make by-laws respecting

- (1) its internal management;
- (2) the upholding of the honour and dignity of the profession and the discipline of its members;
- (3) the definition of acts deemed derogatory to honour, dignity or discipline and the penalties which may be imposed;
- (4) the determination of the conditions of admission, suspension, expulsion and readmission of members and the formalities of resignation of members;
- (5) the conditions of practice of the profession and the restrictions on members’ activities;
- (6) the obligation of the members or of certain classes of them to furnish, by insurance contract, security or any other means, a guarantee against any liability they may incur through their fault or neglect in carrying on their activities;
- (7) the determination of cases giving rise to measures enabling any member to retain his status and the determination, in each case, of the measures to be taken and their conditions of application;

(8) the determination of conditions relating to the training required to be an insurance broker;

(9) the determination of corporate names for member corporations;

(10) any other matter this Act empowers it to regulate.”

**4. Section 5 of the said Act is amended**

(1) by adding, after the word “special” in the second line of subparagraph *a* of the first paragraph, the word “general”;

(2) by replacing subparagraph *b* of the first paragraph by the following subparagraph:

“(b) approval by the Government, with or without amendment, and”;

(3) by adding, after subparagraph *c* of the first paragraph, the following paragraph:

“Where the Government intends to approve, with amendments, any by-laws or any amendment to or repeal of by-laws, it shall, before approving them, publish in the *Gazette officielle du Québec* the texts of the by-laws, amendments or repeals it intends to approve, with a notice indicating that it may approve them at the expiry of thirty days from the publication.”

**5. Section 6 of the said Act is replaced by the following section:**

**“6.** It shall be an act derogatory to the honour and dignity of the profession and to the discipline of the members, punishable in accordance with the procedure enacted in section 25, for a member

(1) to commit an offence against this Act or the Act respecting insurance or the regulations under those Acts;

(2) to allow a person who is not a member in good standing of the Association to carry on the activities of an insurance broker;

(3) to be found guilty of an indictable offence related to the carrying on of his activities as a broker by final judgment of a court of competent jurisdiction.”

**6.** The said Act is amended by inserting, after section 6, the following sections:

**“6.1** The Association shall establish by by-law an indemnity fund for persons who have been injured by a member who has used sums of money for other purposes than those for which he had received them, and rules governing the administration of the fund.

The by-law shall prescribe the terms and conditions of full or partial repayment of sums of money remitted in the carrying out of a mandate but used for other purposes by a member.

The by-law shall also prescribe the terms and conditions of full or partial indemnification of a person who, having mandated a member to obtain insurance for him, has been injured as a result of the non-existence or insufficiency of the insurance following the member's commission of an act derogatory to the honour and dignity of the profession and to the discipline of the members and equivalent to fraud, provided that the member has been found guilty by final decision on a complaint made according to section 25 and that the injured person has not otherwise been indemnified.

No insurer may exercise his right of subrogation with regard to the indemnity fund.

**“6.2** The Association is subrogated to the rights of the injured person against the guilty member up to the amount it has paid. Any sum so recovered shall be recovered for the exclusive benefit of the indemnity fund.

**“6.3** The amount, time and place of payment of any contribution to the indemnity fund shall be fixed by resolution of the Board.

**“6.4** The Association shall not be liable for the obligations of the indemnity fund exceeding the property in the fund, and the performance of the obligations may be prosecuted only against that property.”

**7.** Section 7 of the said Act is replaced by the following section:

**“7.** The Association shall have the exclusive right, in damage insurance, to confer on those of its members who have fulfilled the conditions established for such purpose in its by-laws the title of “insurance broker”, in abridged form “I.B.”, “chartered insurance broker”, in abridged form “C.I.B.”, or “associate insurance broker”, in abridged form “A.I.B.”.”

**8.** Section 8 of the said Act is replaced by the following section:

**“8.** The members of the Association on whom one of such titles has been conferred before *(insert here the date of coming into force of*



*this Act*) shall retain the right to use it so long as they remain members in good standing after that date.”

**9.** The said Act is amended by inserting, after section 8, the following section:

**“8.1** Any former member of the Association, with the authorization of the Board and on the conditions it fixes, may use the title that had been conferred on him by the Association without contravening this Act.

The privilege may be revoked at any time by the Board.”

**10.** Section 9 of the said Act is amended

(1) by replacing that part which precedes paragraph *a*, in the French text, by the following:

**“9.** Est membre de l’Association:”;

(2) by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) every natural person who, on (*insert here the date of coming into force of this Act*), was a member of the Association;

“(b) every natural person who is admitted as a member of the Association, provided he fulfils the following conditions:

(1) he is of full age;

(2) he is not bankrupt;

(3) he has received the required training on the conditions prescribed by the by-laws;

(4) he has passed the membership examination and received a favourable report from the committee on admission;

(5) he has paid the exigible contributions;

(6) he has fulfilled all other conditions prescribed by the by-laws;

“(b.1) every corporation admitted as a member of the Association, provided it fulfils the following conditions:

(1) it has a permanent business office in Québec;

(2) it acts as an insurance broker or carries on any other activity determined by by-law of the Association;

(3) it acts as an insurance broker only through the intermediary of natural persons who are members in good standing;

(4) it has a board of directors composed in the majority of members in good standing or of persons duly authorized to act as insurance brokers in accordance with the laws of the place where they practise their profession;

(5) it has designated a representative to the Association from among its senior officers in Québec who are members in good standing;”.

**11.** Section 10 of the said Act is replaced by the following section:

“**10.** In addition to the cases provided for in this Act and in the regulations, a member against whom a receiving order has been made under the Bankruptcy Act (Revised Statutes of Canada, 1970, chapter B-3) or who has made an assignment of his property within the meaning of that Act is expelled by operation of law from the Association.”

**12.** Section 11 of the said Act is replaced by the following sections:

“**11.** A corporation applying for membership of the Association shall designate a representative according to the form prescribed by the by-laws. The form shall be sent to the Association with the application for membership.

“**11.1** A member corporation shall immediately notify the Association if its representative

- (1) dies;
- (2) becomes interdicted or provided with a judicial adviser;
- (3) ceases to be one of its senior officers in Québec;
- (4) is replaced;
- (5) becomes bankrupt or insolvent;
- (6) ceases to be a member in good standing.

“**11.2** A member corporation may be expelled from the Association if, within thirty days of service of a notice of the manager advising it to designate a new representative, it fails to do so and to forward the designation according to the form prescribed by the by-laws.

The notice shall be sent to the member by registered or certified mail.”

**13.** The said Act is amended by replacing sections 12, 13, 14 and 15 by the following sections:

**"12.** The members of the Association shall hold a general meeting at least once a year, within the time limit fixed by the by-laws, on the date and at the place fixed by resolution of the Board.

They shall also hold a special general meeting whenever the business of the Association so requires, at the call of the manager sent in accordance with the by-laws, at the request of the president or a vice-president, upon a resolution of the Board or of the executive committee, or upon the written requisition of at least one-third of the members of the Board or fifty members in good standing, addressed to the manager and stating the object of such meeting.

On failure by the manager to call the special general meeting within fifteen days of receipt of such a request, resolution or requisition, the meeting may be called by a member of the Board or of the executive committee if it is required by one or the other, or by the petitioners in all other cases.

Any special general meeting shall be held in the cities of Montréal and Québec, except where such a meeting is held at the same time as the annual general meeting.

**"13.** Fifty members in good standing shall constitute a quorum at general meetings.

Only members in good standing shall vote at any meeting of the Association and no vote by proxy shall be valid. Every member corporation shall vote through its representative.

**"14.** Every member shall pay to the Association the contributions fixed by the annual general meeting or a special general meeting on the recommendation of the Board and the contributions to the indemnity fund fixed by the Board; the contributions shall form part of the general funds of the Association or of the indemnity fund, as the case may be.

Any member who or which fails to pay a contribution thirty days or less after being sent a notice from the manager demanding payment shall be suspended of right by the Association.

The notice shall be sent to the member by registered or certified mail.

**"15.** The affairs of the Association shall be managed by a Board of Directors of at least fifteen and not more than thirty-five members in good standing."

**14.** The said Act is amended by replacing sections 17 and 18 by the following sections:

**“17.** The Association, by by-law, may provide for the election of the members of the Board for three years, one-third of the Board to be replaced each year at the annual general meeting.

The Association may also provide by by-law that the Board be composed in whole or in part of delegates elected by region, before the annual general meeting, by the members in good standing from the determined regions.

Where the members in good standing of a region fail to elect their delegate in accordance with the by-law, the members in good standing present at the annual general meeting shall elect him.

**“18.** Only a natural person who is a member in good standing may be elected a member of the Board.”

**15.** Section 19 of the said Act is amended

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

“(c) is suspended or expelled;”;

(2) by adding, after paragraph *f*, the following paragraph:

“(g) ceases to act as a broker in the region he represents as a delegate.”

**16.** The said Act is amended by replacing section 24 by the following sections:

**“24.** The following committees shall be established:

- (1) a committee on admission to the profession;
- (2) a committee on inspection;
- (3) a committee on discipline;
- (4) a committee on professional supervision;
- (5) an executive committee.

**“24.1** The members of the committees contemplated in paragraphs 1 to 4 of section 24, except the chairman of the committee on discipline, shall be appointed each year by the Board from among the members of the Association in good standing.

The members of the executive committee shall be elected from among the members of the Board.

**“24.2** The chairmanship of each committee shall be assigned each year to a member of the Board.

Notwithstanding the first paragraph, the chairman of the committee on discipline shall be appointed by the Board for two years. He shall be elected from among the advocates having over ten years' practice, after consultation with the Barreau du Québec.

**“24.3** The committee on admission shall be composed of not fewer than five members, and three members shall be a quorum.

**“24.4** The committee on admission shall examine each candidate's record, ascertain that he meets the conditions of admission and decide whether he is eligible. For that purpose, the committee may summon and hear the candidate.

**“24.5** Any candidate who believes that he has been injured by a decision of the committee on admission may, within thirty days of the decision, appeal to a board of arbitration by sending a notice to that effect to the Association by registered or certified mail.

The board of arbitration shall be composed of three members. The Association and the candidate shall each designate one member and the third member shall be elected by agreement between the parties.

Upon the failure of one of the parties to appoint a member to the board of arbitration within seven clear days of receipt of the notice of appeal or to agree on the election of the third member within fifteen days of the appointment of the two members, or if one of the arbitrators refuses to act or is unavailable, a judge of the Provincial Court having jurisdiction in the judicial district in which the board of arbitration shall sit may appoint an arbitrator on the motion of one of the parties.

**“24.6** The arbitration award shall be decided by a majority vote, and shall be substantiated and in writing.

**“24.7** Each party shall bear the cost of the expenses and fees of its representative on the board of arbitration and one-half of the expenses and fees of the third member of the board unless the arbitration award decides otherwise.

**“24.8** The committee on inspection shall see that all the members of the Association comply with the standards established by the by-laws respecting the carrying on of their business. For that purpose, the committee shall, in particular, examine the records, books and trust accounts of the members.

**“24.9** The committee on inspection may, with the authorization of the executive committee, appoint experts and investigators to assist it in the performance of its duties.

Members of the committee, experts and investigators shall make the oath of discretion contained in Schedule I.

**“24.10** It is forbidden to hinder a member of the committee on inspection, an expert or an investigator in any way in the performance of his duties, to mislead him by concealment or false declarations, to refuse to provide him with information or documents relating to his investigations or to refuse to allow him to make a copy of such a document.

Every person who contravenes the first paragraph is guilty of an offence.

**“24.11** On the recommendation of the committee on inspection, the executive committee may take appropriate measures prescribed in the by-laws against a member to enable him to retain his status.

**“24.12** In the case of the suspension, expulsion, death or incapacity of a member, the executive committee, on the recommendation of the committee on inspection, may request that the insurance portfolio of the member be entrusted to an administrator for a determinate period to enable the member or his assigns to dispose of it or to take back the management of it at the expiry of that period. The request shall be made by a petition submitted to the Inspector General of Financial Institutions with a list of retired insurance brokers.

**“24.13** The Inspector General shall have full and complete jurisdiction in the matter. He shall fix the term of the administration, which shall not exceed one year, and the manner in which the administrator shall dispose of the records in his custody.

Subject to the restrictions imposed by the Inspector General, the administrator appointed to the insurance portfolio of a member may continue the insurance business of the member, particularly by entrusting or transferring the records or risks to other members in good standing.

**“24.14** Every person in possession of documents relating to the insurance portfolio to which an administrator is appointed shall hand them over to him.

**“24.15** In case of refusal to hand over the documents or to allow the administrator to take possession of them, the administrator may,

by a motion to the Superior Court or to one of its judges, with an affidavit in support of the facts set forth therein, apply for the issue of an order enjoining the handing over of the documents.

The motion shall be served on the opposite party at least one clear day before the day it is made or, in his absence, in the manner determined by the court or the judge. The motion may be made and heard at any time in term or in vacation.

**“24.16** In addition to his outlays, the administrator shall be entitled to the honoraria fixed by the executive committee; these expenses shall be charged to the member whose insurance portfolio is entrusted to the administrator.

At the conclusion of his mandate, the administrator shall make a report to the executive committee. A copy of his report and the documents still in his possession shall be transmitted to the member or former member whose insurance portfolio was entrusted to the administrator.”

**17.** Section 25 of the said Act is amended

(1) by replacing the word “bureau”, wherever it appears in the French text, by the word “comité”;

(2) by replacing the last sentence of subsection 2 by the following sentence: “Otherwise, the rules of the Code of Civil Procedure apply, adapted as required.”;

(3) by replacing the last sentence of subsection 3 by the following sentence: “Every person cognizant of such testimony is bound to secrecy, saving the right of the officers of the Association to be informed thereof in the performance of their duties.”;

(4) by replacing the word “fifteen” in the second line of subsection 6 by the word “thirty”;

(5) by replacing subsections 7 to 11 by the following subsections:

“(7) The accused or the complainant, as the case may be, may appeal from the decision of the committee on discipline before a judge of the Provincial Court. The appeal shall be brought by a motion served on the manager of the Association, on the complainant or on the accused, as the case may be. The motion shall be filed in the office of the Provincial Court in the chief place of the judicial district of the residence or corporate seat of the member being a party to the case or, in the case of a corporation having its corporate seat outside Québec, of the district

of its main business office in Québec, within thirty days of service of the decision of the committee on discipline.

“(8) Upon receipt of the notice of appeal, the manager or the secretary of the committee on discipline shall transmit to the clerk of the Provincial Court the record relating to the decision being appealed.

“(9) Sections 368 to 374 of the Act respecting insurance apply, adapted as required, to the appeal.

“(10) The judge may confirm, amend or quash any decision submitted to him and render the decision which, in his opinion, should have been rendered in the first instance. The judge’s decision is final.

“(11) The judgment shall be recorded in writing and signed by the judge who rendered it. In addition to the conclusions, it shall contain the reasons on which the decision is based.

“(12) A certified copy of the judgment shall be sent by the clerk of the Provincial Court by registered or certified mail to each party. The original shall be kept in the office of the Provincial Court.”

**18.** Section 26 of the said Act is amended

(1) by replacing the word “bureau”, wherever it appears in the French text, by the word “comité”;

(2) by replacing the words “is made against a member because he has failed to render account or to remit premiums collected for an insurer” in the first paragraph by the words “made against a member concerns sums of money collected in carrying on his activities or his failure to render account of his mandate”.

**19.** Section 27 of the said Act is replaced by the following sections:

“**27.** The committee on discipline shall be composed of nine members, including the chairman.

“**27.1** The Board shall appoint a secretary to the committee on discipline who shall, in particular, see to the preparation and keeping of the records of the committee.

“**27.2** The members and the secretary shall make the oath of discretion contained in Schedule I.

“**27.3** Five members, including the chairman, shall sit on the committee on discipline.



**“27.4** Notice of at least five clear days of the date, time and place of the hearing shall be given to the parties by the secretary of the committee on discipline. The notice shall be sent by registered or certified mail.

**“27.5** The committee on discipline may proceed to the hearing in the absence of the accused if he fails to appear on the date and at the time and place fixed therefor.

**“27.6** The decision of the committee on discipline shall be recorded in writing and signed by the five members who sat at the hearing. In addition to the conclusions, the decision shall contain the reasons on which it is based.

The secretary of the committee on discipline shall send the decision to the parties by registered or certified mail.”

**20.** Section 28 of the said Act is repealed.

**21.** Section 29 of the said Act is replaced by the following section:

**“29.** (1) The duties of the committee on supervision shall be to investigate and report to the Board on any question pertaining to the honour and dignity of the profession and to the discipline of its members; it shall also be its duty to examine the conduct of the members of the Association and, if necessary, to instruct one of its members to lodge a complaint before the committee on discipline.

(2) The committee on supervision shall be composed of not fewer than five members, a majority of whom shall constitute a quorum.”

**22.** Section 30 of the said Act is replaced by the following section:

**“30.** Any person shall be guilty of an offence who

(a) acts as an insurance broker without being a member in good standing of the Association; or

(b) without the authorization of the Association, assumes any of the titles mentioned in section 7 or advertises himself as the holder of such a title.”

**23.** The said Act is amended by replacing sections 31, 32 and 33 by the following sections:

**“31.** Any person acts as an insurance broker who, dealing with more than one insurer or more than one group of insurers under joint management, transacts damage insurance business for another or others, for a commission or remuneration other than a salary, by negotiating or placing risks, by delivering policies or collecting premiums or by providing assistance at the time of a loss, and who, for that purpose,

- (1) solicits an insurance contract;
- (2) examines, appraises, advises and makes recommendations regarding insurance policies, plans, portfolios or risks;
- (3) informs the victim of a loss of the terms relating to the indemnity provided in his insurance contract and of the procedures to be followed to claim the indemnity.

This section shall not affect the right of an insurance company or insurer to transact business in its or his own name or to effect reinsurance.

**“32.** Paragraph *a* of section 30 shall not apply

- (1) to an advocate, notary, accountant or actuary acting in the practice of his profession;
- (2) to a person holding an insurance agent's certificate issued by the Inspector General and acting under that certificate;
- (3) to a claims adjuster holding a certificate issued by the Inspector General and acting under that certificate;
- (4) to any person entitled to become a member of the Association under paragraph *c* of section 9 so long as he retains such right;
- (5) to any regular employee of the insured, of a subsidiary or of an affiliated corporation whose duties consist, in whole or in part, in negotiating or providing insurance or in providing other services on behalf of the insured with respect to obtaining or maintaining insurance on the property or against risks of the insured, if the employee does not receive any compensation, commission or other price from the insurance agent, the broker or the insurer for or in return for such services;
- (6) to an administrator of the insurance portfolio of a member appointed by the Inspector General.

**“33.** The acts mentioned in section 31 and defined by regulation as regards their scope and terms and conditions may be performed by any person employed by a member in good standing provided that such acts are performed for the account of the member and not for the personal account of the employee.”

**24.** Section 34 of the said Act is repealed.

**25.** Section 36 of the said Act is amended by replacing the word and figure “section 30” in the first line by the words and figures “sections 24.10 and 30”.

**26.** The said Act is amended by replacing section 41 by the following section:

**“41.** The Association shall publish each year a roll of its members in good standing and notify the Inspector General of every change in such roll.

The Association shall also allow the roll to be consulted at its corporate seat during office hours by any person applying therefor.”

**27.** The said Act is amended by replacing section 43 by the following section:

**“43.** Ninety days or less after the end of the financial year, the Association shall transmit an annual report to the Inspector General, prepared in the form prescribed by him.

The report shall include

(1) the financial statements of the Association together with the auditor’s report;

(2) a summary of the complaints made against the members, indicating their nature and outcome;

(3) a summary of the disciplinary measures taken against the members, indicating their nature and outcome;

(4) a summary of the applications for membership and their results;

(5) a summary of the policies or programs established by the Association and of the proposed changes to those policies or programs;

(6) any other information required by the Inspector General concerning the affairs of the Association.

**“43.1** The Inspector General shall inspect or cause others to inspect the affairs of the Association at least once a year or whenever he considers it necessary for the safeguard of the interests of the members.

**“43.2** Every person who inspects the affairs of the Association shall have access at all times to its books, registers, accounts and other records, and every person having custody of them shall facilitate his examination of them. He may make copies from any of such documents.

The person may also require the directors and employees to furnish any information and explanations necessary for the performance of his duties.

**“43.3** The Inspector General may at any time require the Association to produce any report or statement.

**“43.4** The Inspector General or, at his request, in his absence or where he is unable to act, any person designated by the Minister may, following an inspection made in accordance with this Act or the production of any report or statement or following an application made by one-third of the members of the Association, temporarily assume the administration of the Association for a period of seven working days, if he has reason to believe

(1) that the assets of the indemnity fund administered by the Association have been misappropriated or if he finds that some of the assets are unaccountably missing;

(2) that there has been serious fault, in particular, embezzlement or breach of trust on the part of one or several directors or that the Board has seriously neglected its obligations under this Act or is engaging in financial or administrative practices which jeopardize the rights of the members;

(3) that the Association has been negligent in the exercise of its powers and duties of supervision and control over its members.

The temporary administrator may authorize such persons as he may designate to perform any duties he determines.

**“43.5** The Minister may extend the period determined in the first paragraph of section 43.4.

**“43.6** Where the temporary administrator assumes the administration of the Association, the powers of the members of the Board shall be suspended and the temporary administrator shall assume their powers and those of the general meeting.

In no case may the temporary administrator be prosecuted by reason of acts performed in good faith in the performance of his duties.

**“43.7** The temporary administrator of the Association shall present a detailed report of his findings to the Minister, together with his recommendations, as soon as possible.

The expenses, honoraria and outlays of the temporary administrator shall be payable by the Association unless the Minister orders otherwise.

**“43.8** The report of the temporary administrator confirming the existence of a situation described in section 43.4 shall be transmitted to the Government by the Minister.

**“43.9** Before submitting the report to the Government, the Minister shall give the Association an opportunity to make representations; he may also order any inquiry he considers expedient.

**“43.10** The Minister shall attach to the report of the temporary administrator a summary of the representations of the Association and his own recommendations.

**“43.11** On the Minister’s recommendation, the Government may decide

- (1) to lift the suspension of the directors;
- (2) to order the holding of a special general meeting to replace the directors;
- (3) to order, on the conditions it determines, the winding-up of the Association, and to appoint a liquidator;
- (4) to order the temporary administrator to extend his administration for the period determined by the Minister;
- (5) to end the temporary administration.

Notice of every order made under this section shall be published as soon as possible in the *Gazette officielle du Québec*.

**“43.12** The decision of the Government to wind up the Association shall have the same effect as an order made by a judge of the Superior Court under section 25 of the Winding-up Act (R.S.Q., chapter L-4).

The Government’s decision is final.

Notwithstanding the foregoing, the Minister may terminate the winding-up if the interests of the members of the Association justify it.”

**28.** Section 44 of the said Act is amended by adding the following paragraph:

“Notwithstanding the first paragraph, section 337 of the Act respecting insurance does not apply to a member in good standing.”

**29.** Section 45 of the said Act is amended by replacing the word “agences” in the third line of the French text by the work “agence”.

**30.** Section 326 of the Act respecting insurance (R.S.Q., chapter A-32) is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) to members of the Insurance Brokers’ Association of the Province of Québec;”.

**31.** Section 330 of the said Act is amended by striking out the words “or members of the Insurance Brokers’ Association of the Province of Québec” in the third, fourth and fifth lines of the first paragraph.

**32.** Every complaint filed before (*insert here the date of coming into force of this Act*) against a member of the Insurance Brokers’ Association of the Province of Québec for violation of its by-laws or of the Insurance Brokers Act shall be proceeded with in accordance with the said Act as it read on (*insert here the date of coming into force of this Act*).

**33.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

**34.** This Act comes into force on the date fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on the later dates fixed by proclamation of the Government.

## SCHEDULE I

(Sections 24.9 and 27.2)

### OATH (OR SOLEMN AFFIRMATION) OF DISCRETION

I, A.B., swear (*or solemnly declare*) that I will not reveal nor disclose, without being duly authorized to do so by law, any matter brought to my knowledge in the performance of my duties.