

## What Happens in Vegas ... May be Misconduct for a RIBO Broker

April 12, 2018

On Tuesday, the Registered Insurance Brokers of Ontario (RIBO) released a notice to its members and stakeholders regarding changes to the *Registered Insurance Brokers Act* (RIB Act) and Regulation 991 under the RIB Act (the Regulation). RIBO is the self-regulatory body governing insurance brokers in Ontario. RIBO had submitted its proposed amendments to the RIB Act and the Regulation to the Ontario Ministry of Finance with the overarching goals of modernizing the legislation, increasing transparency and enhancing consumer protection. The amendments to the RIB Act came into effect on December 14, 2017, and the amendments to Regulation will be effective July 1, 2018.

The RIB Act and the Regulation regulate the activities of insurance brokers in Ontario and set out a standard of professional conduct for registered insurance brokers in Ontario. Individuals, partnerships or corporate registered under the RIB Act to carry on business as insurance brokers in Ontario are referred to as “members.”

Below are some key highlights of the amendments to the RIB Act:

- 1. Continuing Jurisdiction – Former Member:** The RIB Act now provides that a former member continues to be subject to RIBO’s jurisdiction regarding any investigation or disciplinary proceeding for that individual’s conduct as a member. The purpose of this change is to ensure that RIBO maintains jurisdiction over a member for all acts committed while that person was a member.
- 2. Establishing Fines:** To avoid inconsistency and confusion, the power of the Council of RIBO to establish maximum fines has been removed from the RIB Act and all provisions regarding fines are now found exclusively in the Regulation.
- 3. Public Hearings:** Effective December 14, 2017, all RIBO hearings (disciplinary or otherwise) are open to the public, subject to the member’s limited right to request a closed hearing.

Effective July 1, 2018, the following amendments to the Regulation will come into force:

- 1. Duty to Co-operate and Duty to Report Out of Province Findings:** Section 14 of the Regulation, which sets out the Code of Conduct for insurance brokers, contains a new requirement that members co-operate in investigations conducted by RIBO. Section 14 of the Regulation will also require members to notify RIBO of any finding of incompetence or misconduct against them by a governing authority of the profession in a

jurisdiction outside Ontario.

## 2. Additional Forms of Misconduct:

a. A failure to comply with RIBO's By-laws will constitute misconduct, in addition to non-compliance with the RIB Act or its regulations.

b. A Principal Broker must report a member under the Principal Broker's direction who the Principal Broker believes, *on reasonable and probable grounds*, has committed an act of misconduct, regardless of the member's registration class. Failure to do so will constitute misconduct by the Principal Broker.

c. If the governing authority of insurance brokers or insurance agents in a jurisdiction other than Ontario makes a finding of incompetence or misconduct against a RIBO member, the RIBO Discipline Committee may determine that the member is guilty of misconduct or incompetence under the RIB Act and/or its regulations. Pursuant to the RIB Act, the Discipline Committee may determine a member to be incompetent if the member has displayed a serious lack of knowledge, skill or judgment or serious disregard for the welfare of the public while acting as an insurance broker.

**3. Increased Minimum E&O Requirements:** Errors and Omissions Insurance requirements for members have increased from at least \$1,000,000 to at least \$3,000,000 in respect of any one occurrence.

**4. Increased Maximum Fines:** The Regulation has increased the maximum fines that may be levied against members for misconduct from \$5,000 to \$25,000 for individual insurance brokers, and from \$25,000 to \$100,000 for an insurance brokerage.

RIBO has advised that the RIBO Code of Conduct Handbook, which is intended to provide members with an interpretation of the Code of Conduct set out in Section 14 of the Regulation, will be updated to reflect the amendments in the RIB Act and the Regulation.

The revisions to the RIB Act and the Regulation signify RIBO's expectation for insurance brokers in Ontario to take heightened responsibility to safeguard consumers by reporting broker misconduct and incompetence, or suspected misconduct and incompetence.

Effective July 1, 2018, a misconduct in another jurisdiction must be self-reported to RIBO and may constitute a misconduct, which constitutes a contravention of the RIB Act. Any contravention of the RIB Act may be subject to significant fines. Therefore, an insurance broker's misconduct outside Ontario may attract fines and sanctions in Ontario commencing on July 1, 2018.

We would advise speaking with your broker to increase limits on errors and omissions insurance to \$3 million on or prior to July 1, 2018, to ensure compliance with the new requirement under the Regulation.

Copies of the amended RIB Act and Regulation 991 can be found here: [RIB Act and Reg. 991](#).

For more information regarding the changes to the RIB Act and Regulation 991, please contact a member of the Cassels Insurance & Reinsurance Group.

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*This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.*