

POWER OF ATTORNEY AND UNDERTAKINGS (PAU)

Purpose of Repository

The movement of automobiles from a jurisdiction in which a motor vehicle liability insurance policy is issued, to another jurisdiction with higher minimum liability requirements and in which the insurer may not be licensed or authorized to do business, necessitates a scheme whereby insurance from one jurisdiction is enforceable in another. The minimum liability insurance requirement in all Canadian jurisdictions is CDN\$200,000 except Quebec where it is CDN\$50,000.

Automobile insurers whose policy holders drive their private passenger vehicles in a Canadian jurisdiction in which the insurer is not licensed or authorized to do business are required to file, with the designated repository in Canada (“Repository”), a Canada Non-Resident Inter-Province Motor Vehicle Liability Insurance Power of Attorney and Undertaking (“PAU”).

The PAU appoints the Superintendent of Insurance in the province or territory in which a motor vehicle accident has occurred to accept service of notice or process on its behalf. The PAU also includes these undertakings by the insurer: (1) to make an appearance with respect to litigation brought against it in a Canadian court and to serve the insured with notice of that action; (2) not to raise defences not permitted in the jurisdiction where action has been brought; and (3) to pay liability claims up to at least the minimum liability requirements of the Canadian jurisdiction in which the action is commenced.

The Repository maintains a file of all original PAU’s. Copies of the documents are made available

upon request to interested parties. There is no mechanism in place to enforce filing by an insurer, and, at the request of the insurer, the PAU can be revoked in a jurisdiction.

There are other financial responsibility filing requirements that must be met for commercial vehicles and insurers must contact the appropriate authorities in each jurisdiction for the necessary filing information.

Background

Since 1964, the office of the Superintendent of Financial Institutions for the Province of British Columbia has acted as the national repository for the PAU. This form is filed primarily by foreign insurers incorporated in the United States. The national PAU repository presently has on file over 1,650 PAU forms that have been filed by property and casualty insurers in Canada and the United States.

The Canadian Council of Insurance Regulators (“CCIR”) is an inter-jurisdictional association of insurance regulators that facilitates and promotes an effective regulatory system in Canada to serve the public interest. CCIR has recently adopted their first strategic plan. On May 8, 2000, CCIR announced the establishment of a permanent Secretariat to help carry out its new strategic plan. It was agreed by the members of the CCIR to transfer the responsibility for the Repository to the Secretariat.

(A sample PAU form is attached to this background.)