

INSURANCE ON PROPERTY – PART 1

STUDY 1 – FIRE INSURANCE

- Fire Insurance**
- Major peril for owners of immovable property – Buildings
 - Historically, known as fire insurance
 - Fire, Explosion of natural, coal or manufactured gas
 - Additional perils added over time

Statutory Requirements

	Common Law Provinces	Quebec
Regulation	legislated by insurance acts	the civil code of Quebec
Minimum Coverage	must equal or exceed a Statutory minimum	broader but not narrower
Perils insured	fire, explosion of natural, coal fire and or manufactured gas	explosion of fuel
Fire	direct damage/loss	Article 2485 – All damage which is an immediate consequence of fire or combustion, whatever the cause
Explosion	caused by the ignition natural, Coal or manufactured gas	explosion of fuel
Lightning	included but excluding destruction or loss to electrical devices or appliances caused by lightning or other electrical currents unless fire originates outside the article itself.	Article 2485 – Loss By Lightning is regarded as loss by fire
Terms and Conditions	regulated by the insurance act	The Civil Code Of Quebec
Statutory conditions	Mandatory	not mandatory general conditions added to the policy by the insurers.
Conditions Not Written	Have no effect	May not invoke conditions not Written in the contract

THE APPLICATION

- Optional – definitely preferable
- Obligations of insurer and insured
- No written application is required in the Province of Quebec – Article 2400 requires the insurer to include a copy of it with the policy – No specified time for rejection of a policy by a policyholder.
- Written application is helpful in resolving misunderstandings or disagreements between the parties
- Every policy should contain the following
 - Name of the insurer
 - Name of the insured
 - To whom the insurance money is payable
 - Amount or method of determining the amount of premium
 - Subject matter of the insurance
 - Indemnity for which the insurer may become liable
 - Perils insured
 - Date of inception and expiry
 - Date on which the insurance terminates or the method by which the termination dates, is fixed
 - Construction, occupancy, heating and fire protection

THE POLICY

- o Each policy is unique but have common information
- o All property policies are based on the Basic Fire policy
- o Ridings, Floaters etc are added to the basic fire policy
- o Commonly used extensions, limitations and additional perils
- o Specific policy – insuring agreement, all normal exclusions and limitations and the Statutory or General Conditions
- o Modular policy – sum of several parts or modules, declaration sheet, address, construction and occupancy along with the amount of insurance, additional pages are added to complete the policy, Standard extensions, limitations and definitions on a separate page
- o Residential policies insure private dwellings and their contents

Basic Agreement

- o Policy is a contract
- o Elements of Contract – Agreement, consideration, legally capable parties, genuine intention and legality of subject
- o Insurance Contract includes addition 3 elements – utmost good faith, indemnity and insurable interest
- o Direct loss v indirect loss
- o Indemnity – least of ACV, interest of the insured or amount of insurance
- o Exclusions – Electrical devices, uninsurable events, Riot, process involving heat, radioactive contamination, property that can be insured specifically, additional hazards, vacant or unoccupied, volatile

substance storage, operation of law, by-laws coverage, standard extensions, removal costs, debris removal etc

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STUDY 3 – FIRE INSURANCE GENERAL CONDITIONS (QUEBEC)

Civil Code of Quebec

- Became law on January 1, 1994, replacing Civil Code of Lower Canada
- Governs Insurance contracts
- No requirement that articles be reflected in a policy wording
- Article provisions apply to insurance policies whether printed or not
- Conditions developed by IBC for insurance policies governed by the Civil Code known as General Conditions
- Article 3119 applies to insurance contracts – policy will cover property in Quebec

THE GENERAL CONDITIONS

1. Statements

- Representation of Risk – Article 2408 – insured's and insurer's obligations
- Material change in risk – Articles 2466 and 2467 – written notice of material change, if it is material and if it results from events within his control and insurer has option either to cancel the policy or charge additional premium
- Misrepresentations or concealment – Articles 2410, 2411 and 2466 – applies to negotiation period, Insurer must prove bad faith
- Warranties – Article 2412 – Deals with breach of warranty by the insured and insurers prefer to qualify warranties with exclusions.

2. General Provisions

- Insurable Interest – Articles 2481 and 2484 – Seller bears risk until delivery, seller retains insurable interest
- Changes – Article 2405- exception Endorsement
- Assignment – Article 2475 and 2476 – Assigned only with the consent of the insurer exceptions death or bankruptcy where it continues in favour of a co-insured, heir, trustee in bankruptcy and transfer of interest
- Books and records
- Inspection
- Currency

3. Losses

- Notice of Loss – Article 2470 – Prompt notice, insurer must show that it sustained injury from the insured's failure to notify the insurer of the loss and insurer must have included in its policy beforehand a clause allowing it deny coverage in such a case
- Information to be provided – Article 2471
- False representation – Article 2472 – Forfeiture penalty is qualified
- Intentional Fault – Article 2464 – Excluded
- Notice to Police – insured must promptly notify the Police of any loss caused by vandalism, theft or attempted theft or other criminal act, Discourages fraud
- Safeguarding and examination of property – Article 2495 – minimize loss, no abandonment, loss must be fortuitous
- Admission of Liability and Cooperation – Insured shall not admit any liability nor settle or attempt to settle any claim except at his own risk
- Right of Action – Article 2502 – Applies to liability insurance

4. Compensation and Settlement

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STUDY 6 - THE RESIDENTIAL BASIC FORM

- A clear language form
- Groups together provisions pertaining only to dwelling buildings and provisions pertaining only to dwelling contents
- Coverage summary - details of a specific policy such as name and address of the insured, address of the property, policy period, occupancy and construction, loss payee(s) or mortgagee, amounts of insurance for each form and for each item, section, coverage, deductible amount, premium etc.
- Contains a clause that may limit the amount payable
- Insures dwelling buildings
- Personal contents
- Statutory or general conditions
- Unnamed insureds – named insured’s spouse, their relatives, and any person under 21 years of age in the care of the named insured or spouse
- Other definitions – business, civil authority, premises, domestic appliance, dwelling, ground-water, surface waters and vacant

Insurance on Buildings

- Description of dwelling building
- Certain other property on the premises – include structures attached to the house such as carports, solariums, conservatories, patio covers, decks, outdoor swimming pools and their attached equipment
- Materials and supplies on or adjacent to the premises, intended for use in construction, alteration, or repair of the dwelling or private structures
- Optional coverage extensions – building fixtures and fittings removed temporarily for repair or seasonal storage, detached private structures on the premises, rental value, prohibition of access by civil authority, causing loss of rental value
- Detached private structures – separated from the building by a clear space
- Average distribution provisions
- Fair rental value – actual income and the potential rental income of property being held by the insured for rent to prospective tenants.
- Rental value – insured would have to pay if own premises were damaged

Insurance on Personal Property

- Movable or temporary property
- Contents of the dwelling, along with everything owned, worn or used by the insured on the premises, usual to the ownership or maintenance of the dwelling
- Blanket basis
- Four options – uninsured personal property of others while in the part of the premises occupied by the insured, personal property while it is away from the premises, anywhere in Canada or the continental United States, additional living

expenses (an indirect loss), prohibition of access by a civil authority, causing Additional Living Expense.

- Uninsured personal property of others – covered while on insured premises
- Personal property away from premises
- Additional living expenses – rent, traveling to and from work or school, increase in fuel expense, restaurant meals

Special limits of Insurance

- **Restrict the insurer's liability**
- Business property
- Garden-type tractors
- Watercraft
- Computer software
- Spare automobile parts

Extensions of coverage

- debris removal, property removed
- fire department charges
- tear out
- inflation protection

Insured Perils

- fire or lightning
- explosion
- smoke
- falling objects
- impact by aircraft or land vehicle
- riot
- vandalism or malicious acts
- Theft
- Water damage – sudden and accidental escape of water subject to several exclusions such as continuous or repeated seepage or leakage
- Windstorm or hail
- Electricity

Exclusions

- Business use
- Property on exhibit
- Property illegally acquired
- Evidence of debt or title
- Money
- Lawns, trees, shrubs and plants

- Properly lawfully seized
- Vacancy
- Nuclear incident
- Radioactive contamination
- War risks
- Intentional acts
- Application of heat
- Earth movement
- Pollution

Basis of claims payment

- Limits on liability
- Actual cash value
- Replacement cost – same location, same occupancy, like, kind and quality, within a reasonable time after the loss
- No cash settlement before work is completed
- By-laws
- Encourages adequate amount of insurance
- ACV up to the limit – special limits of insurance
- Pair and set
- A part is not a set
- Indemnity only for value of part
- Deductible
- Insurance under more than one policy
- Property described specifically
- subrogation