



Letters of subrogation

In the course of their work, independent claims adjusters and claims adjusters employed by an insurer may be mandated to notify a third party who has been held liable for damages caused to an insured's property, or to begin the collection process on behalf of the insurer.

The Chambre de l'assurance de dommages has created form letters to assist claims adjusters who must notify a third party that they may be held legally liable, and then request that this third party reimburse the insurer for compensation paid to the insured.

A **form letter for the insured** is also available. This letter enables consumers to request reimbursement for their deductible as well as for damages not covered by their insurance (if applicable) from a third party who has been deemed liable for damages suffered.

THE CLAIMS ADJUSTER'S OBLIGATIONS

With respect to a third party involved in the claim:

- Notify the third party that he may be held liable. An **"assumption of liability" form letter** is available.
- Inform the third party of how much compensation the insurer has paid to the insured, request the reimbursement of this sum and notify the third party of the amount of the deductible that the insured has paid himself. A **"request for reimbursement from a third party" form letter** is available. This letter allows the claims adjuster to inform the third party that his file will be transferred within a prescribed period of time to the legal department or the collections department of the insurer subrogated to the insured's rights in order to obtain reimbursement of the compensation paid.

With respect to the insured:

- Inform the insured that he will have to seek reimbursement himself for the deductible as well as any damages for which he did not receive compensation from the insurer. The claims adjuster can send him the contact information of the third party who is deemed liable for the damages, refer him to the appropriate professional resources or resources that the insurer makes available to insureds, and send him the **"request for reimbursement of the deductible from a third party liable for damages" form letter**.



REMINDER REGARDING LEGAL OBLIGATIONS

Pursuant to sections 17, 18 and 19 of the **Code of ethics of claims adjusters**, adjusters must:

- While performing their professional activities, clearly identify their client.
- Notify the insured of the approach of a prescription date that concerns the insured, in particular with respect to reimbursement of the deductible and any uncompensated damages.
- Notify all parties involved of the measures the insurer intends to take regarding a claim.

Furthermore, under section 28 of the Code, adjusters may not be the mandatary of both the insurer and the insured at the same time.

This procedure also ensures compliance with certain relevant provisions of the *Act respecting the Barreau of Quebec*, in particular section 136g), in order to avoid the acts performed by a claims adjuster leading to the belief that the adjuster is fulfilling the office of an advocate [lawyer]:

136. Any person other than a member of the Bar shall be presumed to be acting in such a manner as to lead to the belief that he is authorized to fulfil the office of an advocate and to act as such, within the meaning of section 133, who:

g) solicits or obtains, directly or indirectly, from the victim of a fault or from his representatives, authorization to recover or settle on his or their account any claim resulting from such fault or, in fact, acts as intermediary for the negotiation, settlement or recovery of such claim, the whole subject to the provisions of the Act respecting the distribution of financial products and services (chapter D-9.2) applicable to insurance agents and brokers in damage insurance or insurance of persons or to claims adjusters