

## All Comers Rule

Ontario's auto insurance regulator, The Financial Services Regulatory Authority of Ontario (FSRA), is taking aim at insurers who avoid issuing auto policies to people living in certain cities, or are otherwise off-side the "Take-All-Comers" rule. In an effort to improve how auto insurance serves Ontario's drivers, input was sought from industry insiders and the general public on the Take-All-Comers rule.

By law, insurers are required to provide all Ontario consumers with access to **timely auto insurance quotes** and the lowest rates available to them. As an Ontario insurance provider, if you fail to renew a client's Ontario auto policy (even if that client missed a payment,) you could attract close scrutiny from the provincial regulator. **Ontario law prohibits insurers** from declining to issue, terminating or refusing to renew an auto policy or endorsement, except on grounds filed with Financial Services Regulatory Authority of Ontario (FSRA).

Here is our breakdown of what the Take-All-Comers rule is, how it protects consumers and the possible consequences to the insurance industry if not followed.

### WHAT IS THE TAKE-ALL-COMERS RULE?

**The Insurance Companies Act** is the primary legislation governing all federally-incorporated or registered insurance companies in Canada. The purpose of the rule is to ensure no motorist can be denied coverage, requiring all auto insurers in the province to include all classes of risk in their underwriting rules and pricing. These consumer protection features comprise Ontario's "Take-All-Comers" rule.

#### Insurers, agents and brokers have legal obligations to:

Provide consumers the lowest rate available

Offer all eligible consumers a quote or a renewal

Accept all auto insurance business from consumers that meet insurers' approved rules

#### As outlined under **Ontario's Insurance Act**, the Take-All-Comers rule has three main requirements:

Section 237 prohibits insurers from declining to issue, terminating, or refusing to renew an auto policy or endorsement on any prohibited grounds set out in the regulations;

Section 238 prohibits insurers from declining to issue, terminating, or refusing to renew an auto policy or endorsement, except on grounds filed with FSRA; and

Section 2(1)(8) of Regulation 7/00 Unfair or Deceptive Acts or Practices ("UDAP") requires insurers to provide consumers with the lowest rate available when it receives a request for a quotation for automobile insurance, an application for automobile insurance made to an affiliated insurer, or an offer by an affiliated insurer to renew an existing contract of automobile insurance, in accordance with the insurer's declination grounds and approved rates and risk classification systems.

*A delay in providing a quote is effectively declining coverage, and can only be declined based on criteria listed in the insurer's approved underwriting rules on file with FSRA.*

## **WHY IS THE REVIEW AND GUIDANCE OF THE TAKE-ALL-COMERS RULE NEEDED?**

All insurers, agents and brokers have a legal obligation to offer any eligible consumer a quote or a renewal. An insurer must also accept all auto insurance business from consumers that meets that insurer's rules approved by FSRA. The guidance is aimed at examining conduct by an insurer which makes it difficult for you (the consumer) from acquiring automobile insurance.

Its main concern is "particularly where consumers are dissuaded or forced to abandon a request for a quote, which is the critical part of the contract for automobile insurance coverage, constitutes a declination to issue a contract" says FSRA. The examination of selected insurers, agents and brokers was part of a large industry review to identify any practices that are inconsistent with the rule. Following the public consultations, [FSRA said it will require many insurers to review their practices](#) to ensure compliance with the law, report any rule breaches and develop a remediation plan.

## **WHY DID FSRA UNDERTAKE THIS REVIEW OF TAKE-ALL-COMERS RULE?**

FSRA initiated its work on the "Take-All-Comers" rule in the Ontario auto insurance sector following public consultations. FSRA carried out examinations of selected insurers, agents and brokers to observe operational practices. It has now expanded the scope of its review to include the Take-All-Comers rule. They are looking to identify practices in the auto insurance system that are inconsistent with the "Take-All-Comers" rule and its intended purpose.

### **FSRA examination findings**

Whilst undergoing the examinations, instances in which insurers have avoided issuing auto quotes to several categories of people (such as claimants who experienced a prior accident benefits loss), including people who were not at fault, (such as passengers and pedestrians) was discovered.

Specific [examples of insurer non-compliance](#) identified by FSRA include (but are not limited to) avoiding issuing automobile insurance quotes to individuals who:

- Experienced a prior accident benefits loss, including individuals who were not at fault for the prior accident, such as passengers and pedestrians
- Those who were not purchasing a property policy (e.g. homeowner's insurance)
- Reside in certain Ontario municipalities
- Had less than one year of history as an insured under an automobile insurance policy in Canada
- Other examples in the regulator's email included:
- Failing to offer a renewal to qualifying customers, including customers who have missed a single premium installment payment
- Withdrawing underwriting authority of brokers and agents while failing to respond to qualifying customers' quote requests in a commercially reasonable period of time
- Requiring the completion of written applications from customers and for reasons that cannot be characterized as exceptional and warranted by the risk presented

## **WHAT COULD FSRA DO IF COMPANIES DON'T COMPLY?**

The enforcement actions taken by FSRA are varied and would be weighed in response to the nature and severity of the non-compliance. Responses could range from education and remediation to regulatory

intervention. The more serious offences could face administrative monetary penalties, as well as licenses being revoked. “Auto insurance is necessary to operate a vehicle in Ontario and FSRA is taking steps to ensure that all consumers can get the best product at the best price available when they purchase or renew their auto insurance policy,” FSRA said in a statement.

#### **WHAT DOES TAKE-ALL-COMERS COMPLIANCE MEAN TO CONSUMERS?**

The hope of the guidance is that it will lead to strengthened conduct standards, which will improve fairness in the system for you, the consumer. Compliance with the requirements of the Take-All-Comers rule will ensure a level playing field, and hopefully limit activities that can inhibit your efforts to purchase or renew their auto insurance when you otherwise qualify for a quote or a renewal. For the insurance industry, it will level the playing field for all in the industry to compete for your business.

#### **MCDOUGALL INSURANCE AND THE ALL COMER’S RULE**

In every single interaction with our insured’s regarding quoting automobile coverage, we will:

1. Always act in the best interest of the insured.
2. Quote all markets available to the insured.
3. Recommend the best fit for our insured (considering price, coverage, exposures, and individual characteristics).
4. Keep a record of the quotation in our files
5. Keep a record of the insurance carrier we have recommended to our insured and the reasons why in the file.
6. If the best option is an insurance carrier that is not offering a quotation, or is applying different rules or acceptability of the risk – this will be brought to the attention of management and recorded in the clients file.