



### Property and Casualty - Auto Bulletins

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## Bulletin

No. G-11/93

- General

**NOTE:** The bulletins posted on this website are provided for historical reference. Information contained in the bulletins is accurate on the date published, but is subject to change and may have been superceded by a later bulletin. Users should verify the information before making decisions or acting upon it.

The bulletins posted may contain forms that are no longer current. For the current version of any FSCO form, please visit the [forms area](#) of this website.

### The Freedom of Information and Protection of Privacy Act

This bulletin informs commercial liability insurers about the impact of the *Freedom of Information and Protection of Privacy Act, 1987 (FOIPOP Act)*. Many insurers are not aware of the *FOIPOP Act* or its purpose. The act applies to the Ontario Insurance Commission and its statistical agents. Any records you give to us are subject to the *FOIPOP Act*.

If you have not already done so, you should obtain a copy of the *FOIPOP Act*, and have it reviewed by your legal counsel.

The purpose of the *FOIPOP Act* is to:

- provide the general public with access to records in the custody or control of government institutions, subject to certain specific exemptions, and
- provide for an independent review by the Information and Privacy Commissioner of decisions made by governmental institutions respecting access to records and privacy issues. The Information and Privacy Commissioner has the power to order the release of records.

We may receive access requests for any record that is within our custody or control, including information supplied by third parties. Section 17 of the *FOIPOP Act* recognizes that certain types of information supplied in confidence by third parties should be exempt from disclosure in the event of an access request.

Section 17(1) of the *FOIPOP Act* states:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where disclosure could reasonably be expected to,

- a. prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- b. result in similar information no longer being supplied to the institution where it is in the public interest that similar information continues to be so supplied;
- c. result in undue loss or gain to any person, group, committee or financial institution or agency; or
- d. reveal information supplied to, or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

The Information and Privacy Commissioner has interpreted the provision to protect only a narrow class of documents. This means Section 17 shouldn't be viewed as a blanket exemption. Documents will only be considered for exemption if they satisfy the tests outlined in Section 17(1) as interpreted by the Information and Privacy Commissioner.

You should be aware that the *FOIPOP Act* places an obligation on a government institution to disclose as much of a document as can be reasonably severed without disclosing information that falls under an exemption. Therefore only those parts of a document that meet the Section 17 tests will be protected.

I am aware of the competitive nature of the commercial liability insurance industry and the need to respect the confidentiality of certain information filed with our statistical agent.

In the event that I receive a *FOIPOP* access request involving information which might come under Section 17, you will be notified, and will be given an opportunity to make representations on whether the document should be exempted. The notice provision is set out under Section 28 of the *FOIPOP Act*.

Copies of the *FOIPOP Act* can be purchased at the Ontario Government Bookstore. The bookstore is located at 880 Bay Street, Toronto. To order by phone call (416) 326-5300 or toll-free 1 800 668-9938.

Bernard Webber

Commissioner (Acting)

June 3, 1993

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