

**Canadian Institute of Actuaries' Proposed
Amendment to Bill S-201,
*An Act to prohibit and prevent genetic discrimination***

November 21, 2016

Context

The Canadian Institute of Actuaries (CIA) is the national organization of the actuarial profession. Driven by its 4,900+ members, the CIA is dedicated to serving the public interest through the provision of actuarial services and advice of the highest quality. The Institute specifically holds the duty of the profession to the public above the needs of the profession and its members.

With its mandate of independence and objectivity in mind, the CIA has applied actuaries' unique and robust skill set to genetic testing and its potential impacts on both the Canadian public and the life insurance industry. In fact, the CIA has dedicated significant resources to researching this topic since 2004, including the following research papers:

- [Genetic Testing Model – If Underwriters Had No Access to Known Results \(2014\)](#)
- [Genetic Testing Model for CI – If Underwriters of Individual Critical Illness Insurance Had No Access to Known Results of Genetic Tests \(2016\)](#)

Following this thorough examination, and building on international actuarial research, the CIA has the following concerns with the current version of Bill S-201:

1. **It is itself discriminatory.**

Consider two Canadians who have an equal decrease in life expectancy. The first is due to persistent high blood pressure as revealed by medical exams. The second is due to the presence of a gene as revealed by a genetic test. In both cases, the decrease in life expectancy is assessed by the experience of many individuals with the same condition. Neither is currently ill.

If the first individual fails to disclose the condition when asked on an insurance application, it would be considered fraud, and the contract would be void. If the second is asked about the condition, it would be a criminal act by the one asking the question. The difference between the two is not rational but discriminatory.

2. **It confers a benefit to those who test positive for certain genes.**

Those with a material genetic predisposition to develop a serious health issue would have an incentive to buy more insurance, because they would know that since they need not report this predisposition to a prospective insurer, their insurance premiums would be

below cost and thus a very good deal. The incentive is even stronger if they have access to a secondary insurance market, which already exists in four provinces.

3. All else being equal, it will result in significantly higher premiums, especially for women.

That is, the vast majority of those who buy insurance are likely to pay substantially more, so that less than 1 percent of the population (those with a genetic predisposition) can benefit. Insurance companies will increase premiums to provide for the unintended benefits paid as mentioned in point 2 above. As per CIA research, premiums could go up by 30 percent for males and 50 percent for females, regardless of their genes or whether they have been tested or not. Note that insurance companies have always had the ability to set premiums to reflect the anticipated claims. The public can choose only to pay more, to buy less, or to go uninsured.

4. The contention that those who carry certain genes cannot get life insurance is simply not true.

Insurance purchased before the tests cannot be terminated by the insurance company. Furthermore, group life insurance and creditor's life insurance will still be available after a positive test. There are individual life insurance products available that ask no medical questions. If they previously bought guaranteed insurability insurance, they have a right to buy individual life insurance at standard rates in spite of a positive test.

CIA's Proposed Amendment

In the public interest, the CIA has developed an amendment to Bill S-201 which would significantly mitigate unintended negative impacts, while not impeding Canadians from having genetic tests that could help them improve their long-term health prospects.

The proposed amendment would take the form of adding a subsection 4(3) to the current version of the bill, which would highlight exceptions to the prohibitions identified under subsections 4(1) and 4(2):

Exception for some insurance contracts

4(3) The prohibitions under subsections 4(1) and 4(2) related to disclosure of the results of a genetic test do not apply in the case of a contract of life, sickness, or disability insurance which is subject to the satisfactory evidence of insurability of the life insured, provided that

- (a) There are reasonable and bona fide grounds for a differentiation in premiums because of a genetic condition; and
- (b) The amount of insurance,
 - i. if life insurance, exceeds 200 times the Average Weekly Earnings (AWE) as published by Statistics Canada for January of the year prior to the year in which the application for insurance is signed.
 - ii. if critical illness insurance, exceeds 60 times the AWE as published by Statistics Canada for January of the year prior to the year in which the application for insurance is signed.
 - iii. if disability or long-term care insurance (adjusted to the appropriate frequency), exceeds 0.5 times the AWE as published by Statistics Canada for January of the year prior to the year in which the application for insurance is signed.

The principles described in 4(3)(b) are illustrated in table 1 below.

Table 1 – Insurance thresholds for prohibitions under subsections 4(1) and 4(2) to be lifted

Type of insurance	January 2015 Average Weekly Earnings (AWE) as published by Statistics Canada ¹	Disclosure of genetic tests required if asked for amounts over
Life	\$ 949.49	200 x AWE = \$189,898 (lump sum)
Critical illness		60 x AWE = \$56,969 (lump sum)
Disability or long-term care		0.5 x AWE = \$475 (per week)

¹ Source: [Table 281-0063 Statistics Canada](#)

The CIA sees many benefits to adding this clause to the current version of Bill S-201, including the following:

- 1. Canadians would not be deterred from getting a genetic test out of fear for their insurability.**
- 2. It would avoid discriminating against Canadians who learn about their decrease in life expectancy through medical examinations versus those who learn through a genetic test.**
- 3. It would avoid conferring a significant benefit on those who test positive for certain genes.**
- 4. It would avoid generating significantly higher premiums for Canadians purchasing insurance in the future.**

Conclusion

We understand that policymakers see Bill S-201 as a unique opportunity to help Canadians harnessing technological advances in genetic testing to improve their long-term health prospects. The CIA is, however, concerned with some aspects of the current version of the bill which would carry unintended negative consequences.

The CIA sees the suggested amendment described above as an effective way to address these concerns, and remains available to collaborate with policymakers on any future versions of Bill S-201.