

Thesis Title	Liability Insurance for Lawyers' Profession
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## ABSTRACT

The lawyers' profession is the profession in which the lawyers must rely on the legal expertise in rendering services to their clients who have problems in connection with the law such as the advice in drafting the contractual documents and the litigation in the Courts. Moreover, they must protect the interest and uphold the just according to the law for their clients with their best effort. They must also maintain the just for the society. Apart from the aforesaid qualification, they must be thoughtful and careful in their profession. They must be honest and behave themselves in the good professional manners and ethics to be in line with the trust given to them by their clients. At present, however, since the said profession has been changed from the former pattern which was the mutual assistance and hospitality to be the business competitive pattern for the survival in order to cope with the economic growth and social changes, there are a number of works accepted by the lawyers' profession. Consequently, they have no time to devote themselves for any particular assigned works or they accept the works without adequate knowledge and expertise in the particular fields. This brings about more chances to make mistakes in their profession and causes damage to their clients.

With regard to the control of the lawyers' profession, Lawyers Act, B.E. 2528 (1985) was enacted to only to provide the principle, qualification and the ethical control in lawyers' profession according to the Regulation on Conduct of Lawyers. The measure

to punish lawyers who fail to comply with the conduct of lawyers according to the said Regulation is suspension of penalty determination or prohibition from practice as a lawyer for a period not exceeding three years or removal of name from the lawyers register. This is only to bar the certain rights or benefits from the lawyers' profession, but when the damage is caused to other persons by lawyers on their profession, the said Lawyers Act does not provide any compensation and remedy for the person who suffers damage.

Under the Penal Code in which the liability of lawyers' profession is prescribed, the provisions in the said Code are only provided with the purpose to criminally punish the lawyers' profession who uses the profession to cause damage to other persons. There are no any provisions enforcing offenders to be liable for the compensation or remedy to injured persons.

Apart from this, under the Civil and Commercial Code, in order to file a lawsuit in connection with the wrongful act for damages against the lawyers' profession due to the negligence or mistakes or lack of professional precaution in the lawyers' profession, the plaintiff who suffers damage bears the burden of proof in such case according to Section 84 of the Civil Procedure Code. In this regard, it is difficult for the plaintiff to prove the fact. At present, moreover, there are neither any legal provisions nor regulations which provide the legal profession standard. In addition, although the plaintiff who suffers damage intends to file a lawsuit to claim for damages from the lawyers' profession according to the legal process, if the lawyers' profession has not enough assets for the compensation, the plaintiff will never receive the compensation for such damages at all.

Since the people nowadays are more well-realized their own individual rights, when they suffer damage which is caused by the lawyers' profession, there is likelihood to file a lawsuit to claim for damages from the lawyers' profession just like the medical or engineering profession. In other countries, it is found that a number of persons who suffer damage from the lawyers' profession always file a lawsuit to claim for damages from the lawyers' profession. In the future, the lawyers' profession in Thailand is one of

professions which may be filed a lawsuit for damages caused by using the profession as well. Therefore, in order to assist the person who suffers damage to receive compensation and remedy for the damage caused by the wrongful acts of the lawyers' profession as well as to reduce the risk of lawyers' profession from being filed a lawsuit, one measure which can be applied to lessen the damage for person who suffers damage and to reduce the risk of lawyers' profession from being filed a lawsuit is to apply the system of lawyers' profession liability insurance as the reinforced measure for the lawyers' profession in Thailand. This should be done by studying the feasibility in applying the legal principles on the profession liability insurance of other countries and the examples of policy for profession liability insurance in other countries including the insurance law according to the Civil and Commercial Code to analyze and compare that if the system of lawyers' profession liability insurance is implemented for the lawyers' profession in Thailand, how much the applicable insurance law of Thailand can be applied with the system of lawyers' profession liability insurance in Thailand in order to create benefits and fair enforcements for all related parties.