

Bill No. 32 of 1945.

A BILL TO AMEND THE ALBERTA INSURANCE ACT

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NOTE.

Sections 1 and 2 of this Bill correct printers' or proof-readers' errors in the Revised Statutes.

Section 4 of the Bill strikes out subsection (2) of section 226 and replaces it by the new subsections. The new subsection (2) of section 4 deals with the rights of ordinary beneficiaries under a life insurance policy. The rights of beneficiaries for value and preferred beneficiaries such as husband, wife, children, grandchildren, etc., as defined in section 224 are defined in the Act but it has been held in a recent case in Ontario that an ordinary beneficiary named in a policy has no right of action against an Insurance Company. The intention of subsection (2) is to give an ordinary beneficiary or a trustee of an ordinary beneficiary such right of action, subject to any defences which the company might have against the person insured. The new subsection (3) is a revision of the former subsection (2) and extends the application of that subsection to a designation of a beneficiary in other instruments in writing as well as a will and fixes the time from which a declaration shall take effect. The rights of beneficiaries for value and assignees for value of a policy are protected unless the declaration has been filed at the head office in Canada of the company before the beneficiary for value or the assignee for value acquired his interest. Subsection (4) provides for a copy or the material part of a will to be filed with the company.

Section 5 of the Bill amends section 258 of the Act which is in Part VII of the Act dealing with automobile insurance. The definition of "automobile" in this Part includes all self-propelled vehicles and would thus include tractors used in the bush, vehicles operated within a manufacturing plant or business, and certain types of contractors' equipment. It is considered desirable that such vehicles should be insured along with other equipment of the owner and the effect of the amendment is to remove them from the application of the Part of the Act relating to automobiles except the provisions of section 278 which continues to apply to these vehicles and which deals with the rights of persons having claims against the holder of the policy.

Section 6 of the Bill introduces a new section 263a into the Part of the Act dealing with automobile insurance and requires forms of policies or endorsements on policies to be filed with the Superintendent for thirty days before issue and prohibits their issue if the forms have been disapproved within that time.

Section 7 of the Bill enacts a new subsection (7) to section 278 in substitution for the former subsection, which gave an insurer the right upon application to the Court to be made a third party where it denies liability under a motor vehicle liability policy. This right is continued in the new subsection, and under it the insurer, when added as a third party, is given the right to contest its liability of the insured to any party claiming against the insured and the amount of the claim, and is given generally the rights of a defendant, irrespective of whether the actual defendant files a defence or not.

Section 8 of the Bill introduces a new section 283a into Part VIII of the Act dealing with accident and sickness insurance. This section places the same restrictions on forms of policies, etc., as section 6 of the Bill applies to automobile policies.

W. S. GRAY,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 32 of 1945.

An Act to amend The Alberta Insurance Act.

(Assented to \_\_\_\_\_, 1945.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Alberta Insurance Act*, being chapter 201 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 80 by striking out the words "that province and its contracts in this and any other province where it is or may become" where the same occur in the seventh and eighth lines of subsection (1) thereof.

**2.** The said Act is further amended as to section 197 by striking out the word "insurer", where the same occurs in the twelfth line of paragraph (d) of subsection (1) thereof, and by substituting therefor the word "insured".

**3.** The said Act is further amended as to section 202 by adding immediately at the end thereof the following new paragraph:

"(r) 'Will' includes a codicil."

**4.** The said Act is further amended as to section 226,—

(a) by striking out subsection (2) thereof, and by substituting therefor the following:

"(2) Subject to subsection (1), a beneficiary or a trustee appointed pursuant to section 251, may at the maturity of the contract, enforce for his own benefit or as such trustee the payment of insurance money appointed, appropriated or apportioned to him by the contract or a declaration and in accordance with the terms thereof, but the insurer shall be entitled to set up any defence which it could have set up against the insured or his personal representatives; and payment made to the beneficiary or trustee shall discharge the insurer.

"(3) A declaration, whether contained in a will or other instrument in writing, shall, subject to subsection (1), have effect from the time of its execution, but a declaration shall not affect the interest or rights of a beneficiary for value or assignee for value unless the declaration has been filed with the insurer at its head or principal office in Canada

prior to the time when the beneficiary for value or assignee for value acquired such interest or rights and if not so filed the interest or rights of the beneficiary for value or assignee for value shall be as if the declaration had not been made.

“(4) In the case of a declaration contained in a will it shall be sufficient for the purposes of subsection (3) to file a copy thereof or of the material part thereof verified by statutory declaration.”

(b) by renumbering subsection (3) as subsection (5).

**5.** The said Act is further amended as to section 258 by adding immediately at the end thereof the following new subsection:

“(4) This Part, other than section 278, shall not apply to insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part.”

**6.** The said Act is further amended by adding immediately after section 263 thereof the following new section:

“**263a.**—(1) No insurer shall issue or deliver a policy or endorsement to a policy in the Province until a copy of the form of policy or endorsement has been on file with the Superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that the said form of policy or endorsement is not approved.

“(2) The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof.

“(3) When approval has been given by the Superintendent pursuant to this section the approval may be revoked by him at any time upon giving written notice to the insurer specifying the reasons for revocation of the approval.”

**7.** The said Act is further amended as to section 278 by striking out subsection (7) thereof and by substituting therefor the following:

“(7) Where an insurer denies liability under a motor vehicle liability policy, it shall have the right upon application to the court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action for which it is or might be asserted that indemnity is provided by the said policy, whether or not the insured files a defence or a demand of notice of proceedings, and upon being made a third party such insurer shall have the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured to the same extent as if a defendant in the action, including for such purpose the right to deliver a statement of defence to the claim of any party against the

insured and to deliver other pleadings and to have production and discovery from any party adverse in interest and the right to examine and cross-examine witnesses at the trial.”

**8.** The said Act is further amended by adding immediately after section 283 thereof the following new section:

“**283a.**—(1) No insurer shall issue or deliver a policy or endorsement or rider to a policy in the Province until a copy of the form of policy or endorsement or rider together with a copy of all advertising material related to the policy proposed to be used by the insurer has been on file with the Superintendent for at least thirty days unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that the said form of policy or endorsement or rider or advertising matter, as the case may be, is not approved.

“(2) The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof.

“(3) When approval has been given to the form of policy or endorsement or rider by the Superintendent pursuant to this section, the approval may be revoked by him at any time upon giving a written notice to the insurer specifying the reasons for revocation of the approval.”

**9.** The said Act is further amended as to section 437 by striking out the word “insurance”, where the same first occurs in the second last line of subsection (1) thereof, and by substituting therefor the word “insurers”.

**10.** This Act shall come into force on the day upon which it is assented to, except sections 4, 6 and 8, which shall come into force on the first day of July, 1945.

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FIRST SESSION  
**TENTH LEGISLATURE**  
9 GEORGE VI  
1945

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**BILL**

An Act to amend The Alberta  
Insurance Act.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HOOKE.

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EDMONTON:  
A. Shnitka, King's Printer  
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