

Bill No. 42 of 1948.

A BILL TO AMEND THE ALBERTA INSURANCE ACT

NOTE.

Section 1 of this Bill amends section 26 of the Act by adding a new subsection (3) which authorizes the suspension or cancellation of the license of a company in cases where the licensee is violating the law of another Province by carrying on or soliciting business in that Province without authority.

Section 2 of the Bill incorporates a new section 97*a* in the Act. Sections 96 and 97 of the Act place restrictions on the real property which may be acquired or held in the Province by an insurance company and limit it in effect to office buildings and property acquired under foreclosure proceedings or in payment of a debt. Certain companies have indicated a desire to invest in real property in the Province as an investment and the purpose of the amendment is to enable them to do so in conformity with the Act.

Section 3 of the Bill incorporates a new section 118*a* in the Act which provides that the insured cannot be deprived of his claim for indemnity under the policy by reason only of the fact that he may have been violating some Dominion or Provincial law at the time the claim arises. Defences have been raised in some cases that it would be against public policy to allow recovery in such cases and the amendment is intended to negative this defence unless it is provided in the policy.

Section 4 of the Bill introduces definitions of "creditor's group life insurance" and "group life insurance" and a new definition of "insured", all made necessary by subsequent amendments. The definition of "insured" now in the Act included the following words in addition to the words in the amendment: "and, if the context so requires, includes the person whose life is insured". In subsequent amendments where the "person whose life is insured" is meant, those words are used instead of the word "insured".

Section 5 of the Bill amends section 203 by declaring that the section does not apply to group life insurance, which is to be specially dealt with in the next section 203*a* enacted by section 6 of the Bill. Under this proposed amendment the law of the place where the contract of group life insurance is made will apply between the insurer and insured while the law of the residence of the person whose life is insured will determine the rights and obligations and the rights and obligations of beneficiaries under the policy.

Section 8 of the Bill amends section 206 in a number of respects. That section deals with the contents of a life insurance policy and the amendments differentiate between an ordinary policy and a group life insurance policy. Otherwise the provisions are substantially unchanged but the new subsection (4a) is new. This subsection provides that in the case of group life insurance policies issued in the future certificates shall be issued to each person whose life is insured by the policy containing the particulars set out in the amendment.

Section 206a explains the meaning of the word "insured" in the life insurance part of the Act in the case of group life insurance.

In section 208 (2) as amended by section 10 of the Bill the only change made is to substitute the words "after the insurance on the person whose life is insured has been in force for two years during his lifetime" for the words "after the contract has been in force for two years during the lifetime of the person whose life is insured", the change being necessary as contracts of group insurance are often in force long before a person whose life is insured comes under the policy.

A new section 211a is inserted in the Act dealing especially with group life insurance where the contract is affected by the age of the person whose life is insured.

Section 13 of the Bill strikes out subsection (2) of section 212 and enacts a new subsection. The change is merely in language and clarifies the subsection without making any change in its meaning.

Section 15 of the Bill enacts a new section 223a dealing with third party policies on lives of minors. This section deals with the case of say, a father, who insures the life of his minor son. Under the new definition of "insured" the father and not the son is insured. The section provides that where the contract or other agreement between the company and the insured provides that on the death of the insured a person named shall have all the rights of the insured, the policy on the death of the insured shall not form part of his estate but the person named shall be deemed to be the insured.

Section 225a, as enacted by section 16 of the Bill, provides that an assignee of a policy becomes the insured except when the assignment is to secure a loan or debt.

Section 17 of the Bill introduces a new subsection (2a) to section 226 which enables a person whose life is insured under a group policy to enforce his rights in his own name.

Section 18 of the Bill amends section 237 of the Act by reason of certain provisions being inapplicable to group life policies.

Section 19 of the Bill makes amendments to section 245 of the Act for the same reason and the new subsection (2a) of the said section sets out where the insurance money is payable in the case of group life insurance.

The new section 249 enacted by section 20 of the Bill is the same as the section now in force except that the words "the person whose life is insured" replace the words "the insured", this being necessary on account of the new definition of "insured".

The amendment to section 253 made by section 21 of the Bill is solely to make it clear that the costs there fixed refer to cases of money paid into Court under subsection (2).

The amendment to section 255 is also for clarification, to make it clear that costs referred to in the section do not apply to section 253 generally but to subsection (1) only of that section. The section now in force does not contain the reference to subsection (1).

The remaining amendments of the Bill are to sections in Part VIII of the Act "Accident and Sickness Insurance".

Section 23 of the Bill enacts a new subsection (2) in section 290 in place of the existing subsection. The latter subsection referred to a "condition other than those enumerated in this section", whereas no conditions were enumerated in the section.

The new section 292 contained in section 24 of the Bill is for clarification only and is in more appropriate language.

Section 25 of the Bill amends Schedule D which contains the statutory conditions applicable to automobile insurance policies. Paragraph (a) of this section strikes out paragraph (b) of subsection (1) of Condition 2 and enacts a new paragraph. The paragraph now in force reads as follows:

"(b) whilst he is not for the time being qualified and authorized by law to drive or operate the automobile or, in case the law does not prescribe any qualification or authority whilst under the age of sixteen years; or".

The important change is that the provision now in force requires the insured to be both qualified and authorized by law to drive, etc., while the proposed amendment only requires him to be either authorized by law or qualified.

The amendment proposed by paragraph (b) of the section is similar to the above. This condition follows the words "The insured shall not permit, suffer, allow or connive at the use of the automobile,— . . .

"(b) by any person, etc."

Paragraph (c) of the section amends paragraph (a) of Condition 3 relating to the use of trailers. This condition now reads as follows:

"3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used,—

Trailer,—

"(a) with trailer attached; or".

The amendment makes the condition apply to certain trailers attached to passenger automobiles when the trailer is being used for business, passenger carrying or commercial purposes.

All the foregoing amendments, except sections 1 and 2 of the Bill have been adopted and recommended for enactment by the Provinces by the Association of Superintendents of Insurance of the Provinces of Canada.

Sections 1 and 2 of this Bill come into force on the day upon which the Bill is assented to, and the remainder of the Bill comes into force on Proclamation. The reason for this is that similar amendments are being made in the other Provinces and it is desirable that the changes should be brought into force at the same time in the different Provinces.

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. 42 of 1948.

An Act to amend The Alberta Insurance Act.

(Assented to _____, 1948.)

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 26 by adding immediately at the end thereof the following new subsection:

“(3) Where the Superintendent is satisfied that an insurer licensed under this Act is carrying on or soliciting business in any jurisdiction other than the Province of Alberta without being first authorized so to do under the laws of that other jurisdiction, the Lieutenant Governor in Council may, upon the report of the Superintendent, suspend or cancel the license of the insurer.”.

2. The said Act is further amended by adding immediately after section 97 thereof the following new section:

“**97a.**—(1) Notwithstanding any of the other provisions of this Act, any licensed insurer that is registered under the Canadian and British Insurance Companies Act, 1932, being chapter 46 of the Statutes of Canada, 1932, or under the Foreign Insurance Companies Act, 1932, being chapter 47 of the Statutes of Canada, 1932, may, when so authorized by its charter or Act of incorporation, or other enactment applicable to it, purchase or otherwise acquire and hold real estate as an investment for the production of income and improve or otherwise develop such real estate.

“(2) ‘Real estate’ in this section includes a leasehold of real estate for business or residential purposes having an unexpired term of not less than twenty years, inclusive of the term which may be provided by any enforceable option of renewal.”.

3. The said Act is further amended by adding immediately after section 118 thereof the following new section:

“**118a.** Unless the contract otherwise provides, a violation of any criminal or other law in force in the Province or elsewhere shall not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the violation is committed by the insured, or by another

person with the consent of the insured, with intent to bring about loss or damage; provided that in the case of a contract of life insurance this section shall apply only to disability insurance undertaken as part of the contract.”.

4. The said Act is further amended as to section 202,—

- (a) by adding immediately after paragraph (e) thereof the following new paragraph:

“(ee) ‘Creditor’s group life insurance’ means life insurance effected by a creditor on the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;”;

- (b) by adding immediately after paragraph (h) thereof the following new paragraph:

“(hh) ‘Group life insurance’ means life insurance, other than creditor’s group life insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;”;

- (c) by striking out paragraph (l) thereof and by substituting therefor the following:

“(l) ‘Insured’ means the person who makes a contract with an insurer;”.

5. The said Act is further amended as to section 203 by adding immediately at the end thereof the following new subsection:

“(5) This section does not apply to a contract of group life insurance.”.

6. The said Act is further amended by adding immediately after section 203 thereof the following new section:

203a. In the case of a contract of group life insurance, whether made before or after the coming into force of this section,—

“(a) the law of the place where the contract was made shall apply between the insurer and the insured;

“(b) the law of the place where the person whose life is insured was resident at the time his life became insured shall apply in determining the rights and status of beneficiaries and the rights and obligations of the person whose life is insured.”.

7. The said Act is further amended as to section 204,—

- (a) by renumbering the same as subsection (1) thereof;
- (b) by adding immediately at the end thereof the following new subsection:

“(2) This section does not apply to a contract of group life insurance.”.

8. The said Act is further amended as to section 206,—

- (a) by striking out subsection (1) thereof and by substituting therefor the following:

“**206.**—(1) Every policy issued after the first day of January, 1925, other than a group life insurance policy, shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium, and the facts that determine the maturity of the contract.”;

- (b) by adding immediately after subsection (1) thereof the following new subsection:

“(1a) Every group life insurance policy shall state the name or sufficient designation of the insured, the method of determining the amount of insurance on each life and the persons or classes of persons whose lives are insured, and the facts that determine the manner and time of payment of the insurance money and the amount of the premium.”;

- (c) by striking out subsection (2) thereof and by substituting therefor the following:

“(2) Where the amount of insurance money, exclusive of dividends and bonus, does not exceed two thousand dollars, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the person whose life is insured or any other person appearing to the insurer to be equitably entitled to the same by reason of having incurred expense for the maintenance, medical attendance or burial of the person whose life is insured or to have a claim against the estate of the person whose life is insured in relation thereto.”;

- (d) by striking out subsection (4) thereof and by substituting therefor the following:

“(4) Every policy which includes disability insurance shall further state what notice of disablement shall be given to the insurer.”;

- (e) by adding immediately after subsection (4) thereof the following new subsection:

“(4a) In the case of a contract of group life insurance made after the date of the coming into force of this subsection, the insurer shall issue, for delivery by the insured to each person whose life is insured under the policy, a certificate identifying the policy and stating the name or sufficient designation of the person whose life is insured, of his beneficiary, of the insurer, and of the insured, and stating the amount or the method of determining the amount

of insurance and indicating any right of the person whose life is insured upon termination of insurance on his life under the policy.”.

9. The said Act is further amended by adding immediately after section 206 thereof the following new section:

“206a.—(1) Except as provided in subsection (2), in the case of group life insurance the employer or other person making the contract with the insurer is the insured for the purposes of this Part.

“(2) In the case of group life insurance the term ‘insured’ shall, in the provisions of this Part relating to the designation or appointment of beneficiaries and the rights and status of beneficiaries, mean the person whose life is insured.”.

10. The said Act is further amended as to section 208 by striking out subsection (2) thereof and by substituting therefor the following:

“(2) The statements made by the insured, or the person whose life is insured, in the application, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination other than fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the insurance on the person whose life is insured has been in force for two years during his lifetime, but this provision shall not apply with respect to disability insurance or double indemnity insurance.”.

11. The said Act is further amended as to section 211 by adding immediately at the end thereof the following new subsection:

“(6) This section does not apply to a contract of group life insurance.”.

12. The said Act is further amended by adding immediately after section 211 thereof the following new section:

“211a. If a contract of group life insurance provides that the age of a person whose life is insured affects the commencement or the termination of the insurance or the amount thereof or any other right or benefit under the contract, the true age shall govern.”.

13. The said Act is further amended as to section 212 by striking out subsection (2) thereof and by substituting therefor the following:

“(2) Subject to the provisions of section 213, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of any premium, and such cheque, bill of exchange, or promissory note, or other written promise to pay, is not paid according to its tenor, the contract shall, unless otherwise provided in the policy, be void.”.

14. The said Act is further amended as to section 214 by striking out subsection (4) thereof and by substituting therefor the following:

“(4) This section does not apply to a contract of insurance made by a fraternal society or to a contract of group life insurance.”.

15. The said Act is further amended by adding immediately after section 223 thereof the following new heading and section:

“THIRD PARTY POLICIES ON LIVES OF MINORS.

“**223a.**—(1) Where a contract effected on the life of a minor by someone other than the minor, or an agreement in writing between the insurer and the insured respecting such a contract, provides that a person named in the contract or the agreement shall upon the death of the insured have all the rights and interests of the insured in the contract,—

“(a) the contract shall not, upon the death of the insured, form part of his estate; and

“(b) the person named pursuant to this section shall, upon the death of the insured, have all rights and interests of the insured in the contract and shall be deemed to be the insured.

“(2) Notwithstanding any nomination made pursuant to this section, the insured may, prior to his death, deal with the contract as if such nomination had not been made, and may alter or revoke such nomination by agreement with the insurer.”.

16. The said Act is further amended by adding immediately after section 225 thereof the following new section:

“**225a.** Where a contract is assigned, otherwise than as security for a loan or debt, to the person whose life is insured, that person shall thereupon be deemed to be the insured.”.

17. The said Act is further amended as to section 226 by adding immediately after subsection (2) thereof the following new subsection:

“(2a) A person whose life is insured under a contract of group life insurance may in his own name enforce any right stated in the policy to be given to him, subject to any defence available to the insurer against him or the insured.”.

18. The said Act is further amended as to section 237,—

(a) by adding immediately after the word “contract”, where the same occurs in the third line of subsection (1) thereof, the words “other than a contract of group life insurance”;

(b) by adding immediately after subsection (1) thereof the following new subsection:

“(1a) In the case of group life insurance, surplus, profits, dividends or bonuses shall be applied in accordance with the terms of the contract.”.

19. The said Act is further amended as to section 245,—

- (a) by adding immediately at the beginning of subsection (2) thereof, the words “Except in the case of a contract of group life insurance,”;
- (b) by adding immediately after subsection (2) thereof the following new subsection:

“(2a) In the case of a contract of group life insurance, insurance money shall be payable in the province in which the person whose life is insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, shall be payable at the head or principal office of the insurer in Canada.”.

20. The said Act is further amended as to section 249 by striking out the same and by substituting therefor the following:

“**249.** An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the person whose life is insured commits suicide shall be lawful and enforceable.”.

21. The said Act is further amended as to section 253 by striking out subsection (3) thereof and by substituting therefor the following:

“(3) The insurer may retain out of the insurance money for costs incurred upon payment into court in accordance with subsection (2) hereof ten dollars if the amount does not exceed one thousand dollars, and fifteen dollars in other cases, and payment of the remainder into court shall discharge the insurer.”.

22. The said Act is further amended as to section 255 by striking out the same and by substituting therefor the following:

“**255.** The Court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection (1) of section 253 or under section 254, and may order such costs to be paid out of the insurance money or by the insurer or the applicant or otherwise as may seem just.”.

23. The said Act is further amended as to section 290 by striking out subsection (2) thereof and by substituting therefor the following:

“(2) If, in the opinion of the Superintendent, any condition or any part of a condition is not suitable having regard to the nature of the contract, the insurer may, with the approval of the Superintendent, omit the condition or part of a condition from the policy.”.

24. The said Act is further amended as to section 292 by striking out the same and by substituting therefor the following:

"292. Where a policy of accident insurance is issued through the agency of a transportation corporation that holds a subsisting certificate of authority issued under section 423, the statutory conditions set out in Schedule E need not be printed on the policy if the policy contains the following notice printed in conspicuous type:

"Notwithstanding any other provision herein contained, this policy is subject to the statutory conditions respecting contracts of accident insurance."

25. The said Act is further amended as to Schedule D, Statutory Conditions (automobile),—

(a) by striking out paragraph (b) of subsection (1) of Condition 2 thereof, and by substituting therefor the following:

"(b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province where he resides at the time the policy is issued; or";

(b) by striking out paragraph (b) of subsection (2) of Condition 2 thereof, and by substituting therefor the following:

"(b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law; or";

(c) by striking out paragraph (a) of Condition 3 thereof, and by substituting therefor the following:

"(a) with trailer attached where,—

"(i) the automobile is of other than the private passenger type; or

"(ii) the automobile is of the private passenger type and the trailer is a cabin trailer, trailer home, or other trailer while such other trailer is being used for business, passenger-carrying or commercial purposes; or".

26. Sections 1 and 2 of this Act shall come into force on the day upon which the Act is assented to, and the remainder of this Act or any section or sections thereof shall come into force upon a day or days to be fixed by proclamation of the Lieutenant Governor in Council.

FIFTH SESSION
TENTH LEGISLATURE
12 GEORGE VI
1948

BILL

An Act to amend The Alberta
Insurance Act.

Received and read the

First time.....

Second time

Third time.....

HON. MR. HOOKE.

EDMONTON:
A. Shnitka, King's Printer
1948