

No. 51

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BILL 51

A Bill to amend The Alberta Hail Insurance Act

HON. MR. HINMAN

EDMONTON, ALBERTA
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1956

Explanatory Note

2. Section 2, clause (g) presently reads:

"(g) 'policy' means the contract between the Board and an applicant for insurance constituted by an application which has been accepted by the Board."

The changed definition is required because of amendments under clause 4 (b) of this Bill.

3. Section 5, clause (f) at present reads:

"5. For the purpose of discharging the duties imposed upon the Board by this Act, the Board is hereby empowered,

"(f) with the approval of the Minister to reinsure the whole or any portion of any risk or risks for the time being carried by the Board under the provisions of this Act, with any company or corporation approved by the Minister;"

The amendment will remove the need for Ministerial approval of the policy of reinsurance and the company issuing the reinsurance policy.

4. (a) Section 12, subsection (2), clause (c), which is amended for clarification, at present reads:

"(2) The application shall be in writing and shall be signed by the applicant or his agent and shall set out,

"(c) the maximum amount per acre payable to any one applicant, his nominees or assignees, in respect of any loss subject to the maximum amount fixed by the Board for that year;"

(b) Subsection (4) presently reads:

"(4) Every application for insurance shall be considered by the Board as soon as possible after it has been received by the Board at its office in Calgary and the Board shall proceed to accept or reject it as the Board may in its absolute discretion decide, and shall cause to be indorsed upon the application the word "Accepted" or "Rejected" as the case may be."

This amendment will provide that even though accepted by the Board applications are not to become effective within the first 24 hours after the making thereof. This will affect particularly applications made in the offices of the Board or from nearby points.

BILL

No. 51 of 1956

An Act to amend The Alberta Hail Insurance Act

(Assented to _____, 1956)

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

PART I

1. *The Alberta Hail Insurance Act*, being chapter 203 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. Section 2 is amended by striking out clause (g) and by substituting the following:

“(g) “policy” means the contract between the Board and an applicant for insurance, constituted by a written application for insurance the acceptance of which by the Board has become effective.”.

3. Section 5 is amended by striking out clause (f) and by substituting the following:

“(f) to reinsure the whole or any portion of any risk or risks for the time being carried by the Board under the provisions of this Act;”.

4. Section 12 is amended

(a) as to subsection (2) by striking out clause (c) and by substituting the following:

“(c) the maximum amount per acre payable in respect of loss, subject to the maximum amount fixed by the Board for that year;”.

(b) by adding immediately at the end of subsection (4) the words “, but in no case shall the acceptance become effective within twenty-four hours of the time the application is made”.

(c) by striking out subsection (5) and by substituting the following:

“(5) When any crop in respect of which an application for insurance has been accepted is damaged by hail, the Board shall cause such inquiry to be made into the circumstances as the Board considers

(c) This amendment sets out the powers of the Board to pay or refuse to pay a claim in a case where the storm occurred more than 24 hours after the making of the application but before the acceptance thereof. It provides that insurance may be continued even though no allowance is made; or instead, that some or all of the insurance may be cancelled without charge to the applicant.

Subsection (5) presently reads:

"(5) In case damage by hail occurs to any crop in respect of which an application for insurance has been accepted the Board shall cause such inquiry to be made into the circumstances as it may consider necessary and if as a result of the inquiry the Board is satisfied that the damage occurred prior to the time the application was made or within twenty-four hours thereafter the Board shall

"(a) disallow all claims with respect to such damage or loss; and

"(b) maintain the insurance in force subject to a deduction for such damage or loss unless the applicant sends to the Board by registered mail within seventy-two hours of the time when the damage by hail occurred a notice in writing that all or a specified portion of the crops upon which the insurance was effected have been so damaged and that he desires cancellation of the insurance as to such crops or the specified portion of them;

"(c) upon receipt of the written notice referred to in the preceding paragraph forthwith cancel the acceptance of the application as to the crops or the specified portion of them as requested in the said notice and thereupon the application with respect to the crops or the specified portion of them, as the case may be, shall be deemed to have been refused by the Board in the first instance."

(d) Subsection (8) presently reads:

"(8) No application shall be deemed to have been made unless and until the applicant has delivered to the Board or to a duly authorized agent of the Board the written application for insurance required by the provisions of this Act and, in the case of a first application in any year, has paid to the Board or to an authorized agent of the Board a sum of not less than five dollars or such greater amount as may from time to time be prescribed by the Board either generally or in respect of any specified class of application or in respect of any applications or class of applications with respect to crops in any specified area or areas and no first application in any year shall be accepted by the Board unless and until the applicant has paid the prescribed sum to the Board or to an authorized agent of the Board."

The purpose of this amendment is to remove the need for the five dollar deposit with an application, so that a farmer may apply for insurance without depositing any money at that time.

5. (a) Subsection (3) of section 14 presently reads:

"(3) The lien created by subsection (1) of this section shall be enforceable by seizure and sale of the crops and of the goods and chattels of the applicant to the same extent and in the same manner mutatis mutandis as is provided by The Municipal District Act for recovery by distress of taxes owing to a municipal district and the distress and sale may be made and carried out by any person appointed in writing by the Chairman or the secretary of the Board for the purpose. The costs chargeable in respect of the seizure and sale shall be those payable to bailiffs under The Distress Act."

This amendment provides that payment of the premium, instead of the lien, is enforceable by seizure and sale and thus that seizure may be made until the debt is outlawed rather than just for the duration of the lien. It provides also that the seizure may be authorized by an appointee of the Chairman or the Secretary of the Board rather than that the warrant must be signed by the Chairman or Secretary.

(b) Subsection (4) presently reads:

"(4) Every person who is the grower of or entitled to any grain which is subject to a lien under subsection (1) who either by himself, his servant or agent directly or indirectly sells, ships or otherwise disposes of any such grain without having made due provision for the satisfying of the lien, or without the consent in writing of the Board or of some person authorized by the Board for that purpose shall be guilty of an offence and liable on summary conviction to a penalty which shall not be less than the aggregate of all sums owing by such person to the Board as at the day upon which the offence occurred and shall

necessary and if the Board is satisfied that the damage occurred before the application was accepted the Board in its absolute discretion may

- “(a) make an allowance under the policy for such loss or damage,
 - “(b) continue the insurance under the policy as from the date on which the acceptance of the application for insurance became effective, or
 - “(c) cancel the insurance as to all or certain only of the crops insured.”,
- (d) by striking out subsection (8) and by substituting the following:
- “(8) An application shall be deemed not to have been made until the applicant has delivered to the Board, or to a duly authorized agent of the Board, the written application for insurance required by this Act.”.

5. Section 14 is amended

- (a) by striking out subsection (3) and by substituting the following:
 - “(3) Payment of the premium due to the Board in respect of an application or an amount that may under this Act be charged against the applicant is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner *mutatis mutandis* as is provided by *The Municipal District Act, 1954*, for the recovery by distress of taxes owing to a municipal district.
 - “(3a) The seizure and sale referred to in subsection (3) may be made and carried out by any person designated in writing by the chairman or the secretary of the Board or by an appointee of the chairman or the secretary for the purpose.
 - “(3b) The charges chargeable in respect of such seizure and sale shall be those payable to a bailiff under *The Seizures Act*.”,

not exceed the amount of such aggregate and the additional sum of one hundred dollars, together with costs, and in default of payment to imprisonment for a term of not more than one year."

(c) Subsection (5) presently reads:

"(5) Every person who, having knowledge that any grain is subject to a lien under subsection (1), buys, sells, receives or disposes of any such grain and does not apply the proceeds or value thereof in satisfying the lien upon it, shall be guilty of an offence and liable on summary conviction to a penalty of not less than twenty-five dollars and not more than five hundred dollars and costs, and in default of payment to imprisonment for not more than three months."

6. Subsection (1) of section 15 presently reads:

"15. (1) When any crop in respect of which insurance has been effected under this Act is damaged to the extent of ten per cent or more, the applicant shall within three days after the date upon which the loss occurs send by registered mail in a prepaid cover addressed to The Alberta Hail Insurance Board, Calgary, Alberta, a notice of claim of loss in such form as may be prescribed by the Board."

Under a full cover policy allowance is made if the loss is 10% or more and heretofore it has been provided that an applicant must make claim when the damage is that great. This is not necessary, though, if a 25% deductible policy, for example, is being claimed on and the section is being amended to provide that an applicant, in such a case, shall make claim only when the damage exceeds the percentage deductible under his policy.

7. (a) Subsections (2), (3) and (4) presently read as follows:

"(2) The adjuster shall endeavour to secure the written concurrence of the claimant or his agent to the report and recommendation made by him, and in case he obtains the concurrence, he shall forward it to the Board, and if he fails to obtain the concurrence he shall report to the Board as to the reasons for his failure.

"(3) The Board shall cause a copy of every such report as to the percentage of the damage to be left with or forwarded to the claimant or his agent, and if the claimant or his agent is dissatisfied therewith he may, within five days of the receipt of the report, send by registered letter addressed to The Alberta Hail Insurance Board, Calgary, Alberta, the notice of appeal therefrom, setting out the reasons for the appeal.

"(4) In case the claimant does not send a notice of appeal within the period of five days mentioned in subsection (3) the claim shall be determined by the Board on the basis of the report made by the adjuster."

Subsection (2) covered both classes of reports—the one agreed to by the claimant and the one to which he did not agree. The new subsection (2) covers only the reports to which the claimants agree and the new provision sets out clearly that the Board does not have to accept the report of its adjuster but if it does not do so it must determine the damage and make a new submission to the claimant within 5 days of the original report.

Subsection (3) gave a claimant the right to appeal even though he had agreed to the report of the adjuster. In the new subsection (3) this right to appeal is limited to those claimants who do not agree to the adjuster's report.

(b) Subsection (5a) gives the Board a right to reopen a claim and make a further allowance.

- (b) as to subsections (4) and (5) by striking out the word "grain" wherever it occurs and by substituting the word "crop".

6. Section 15 is amended by striking out subsection (1) and by substituting the following:

"15. (1) When any crop insured under this Act is damaged by hail

"(a) to the extent of ten per cent or more, if the policy contains no partial payment of loss clause, or

"(b) to such extent that the percentage of damage exceeds the percentage deductible in terms of the policy, if the policy contains a partial payment of loss clause, the applicant shall within three days after the date upon which the damage occurs send, by registered mail and in a prepaid envelope addressed to the Board at Calgary, a notice of claim of loss in such form as may be prescribed by the Board."

7. Section 16 is amended

(a) by striking out subsections (2) and (3) and by substituting the following:

"(2) The adjuster shall endeavour to secure the written approval of the claimant or his agent to the report and recommendation to be made by the adjuster and if the adjuster obtains the written approval of the claimant or his agent the adjuster shall forward such report and recommendation as approved to the Board and deliver a copy thereof to the claimant or his agent.

"(2a) If the Board does not accept the approved report and recommendation of the adjuster it shall submit a corrected report to the claimant or his agent within five days of the receipt of the original report and recommendation.

"(3) If the adjuster fails to obtain the written approval of the claimant or his agent the adjuster shall report to the Board the reasons for his failure and in such case the Board shall cause to be left with or forwarded to the claimant or his agent a copy of the report as to the percentage of the damage incurred by the claimant.

"(3a) If the claimant or his agent has not approved the report and recommendation of the adjuster or the corrected report of the Board the claimant or his agent may, within five days of the receipt of the report, send by registered mail to the Board at Calgary, Alberta, a notice of appeal therefrom setting out the reasons for the appeal."

8. Subsection (2) of section 18 now reads as follows:

"(2) Notwithstanding anything contained in subsection (1), any assignment of sums payable by the Board in respect of any claim for damaged crops by hail shall be good and valid according to the tenor thereof, provided that notice of the assignment has been delivered to the Board at its office in Calgary, provided also that the assignment shall be ineffective to bind any moneys in the hands of the Board which are payable by the Board in the month of November, unless notice of the assignment has been delivered to the Board not later than the preceding first day of October, and in respect of payments to be made by the Board in the month of March unless the notice has been delivered to the Board on or before the preceding first day of February."

The amendments to section 20 provide for payment of the claims in full in the one payment and this amendment is designed to change section 18, subsection (2) to provide that the assignment will be valid if it reaches the office prior to the time of payment of the claim.

9. Subsections (1) and (2) of section 20 presently read:

"20. (1) The Board may with respect to claims not exceeding thirty per cent make payment in full and with respect to claims in excess of thirty per cent of their respective risks make payment of fifty per cent of each claim before the first day of November and shall make payment of the remaining fifty per cent of each claim on the first day of March next following.

"(2) If payment of claims in any area is not made in accordance with subsection (1) the Board shall on the first day of November make a payment not exceeding fifty per cent of each claim in such area and shall on the first day of March next following make payment of the balance of each claim on a pro rata basis if necessary, having regard to the balance of the share of the Special Trust Account available for that area."

The Board is being empowered to pay its claims in full in one payment prior to November 1st. Subsection (2) sets out what is to be done if the Board is unable to make payment of its claims in full before November 1st, in which case the Board shall on November 1st pay not less than 50% of each claim in such area and make further payment on or before March 1st next following.

10. Section 20a presently reads:

"20a. If in any fiscal year a surplus is realized, the Board may and is hereby empowered in its discretion to distribute such surplus or any portion thereof among applicants or classes of applicants for insurance during such fiscal year on such basis as the Board may from time to time determine."

(b) by striking out subsection (4) and by substituting the following:

“(4) If the claimant or his agent does not send a notice of appeal within the period of five days mentioned in subsection (3a), the claim shall be determined by the Board on the basis of the report made by the adjuster.”,

(c) by adding immediately after subsection (5) the following subsection:

“(5a) Notwithstanding subsections (1) to (5) a claim may be reopened by mutual consent of the claimant and the Board.”.

8. Section 18 is amended by striking out subsection (2) and by substituting the following:

“(2) Notwithstanding subsection (1) an assignment of a sum payable by the Board in respect of any claim for damage to crops by hail is good and valid according to the tenor thereof if notice of the assignment has been delivered and registered at the offices of the Board in Calgary, before the time of payment of the claim.”.

9. Section 20 is amended by striking out subsections (1) and (2) and by substituting the following:

“**20.** (1) The Board may make payment of claims in full before the first day of November of the year in which the claims arise.

“(2) If payment of claims in any area is not made before the first day of November of the year in which the claims arise, the Board shall on the first day of November make payment of not less than fifty per cent of each claim in such area and shall make payment on or before the first day of March next following of the balance of each claim on a *pro rata* basis, if necessary, having regard to the balance of the share of the Special Trust Account available for the area.”.

10. Section 20a is struck out and the following is substituted:

“**20a.** If in any fiscal year a surplus is realized, the Board may in its discretion dispose of such surplus or any portion thereof among applicants or classes of applicants for insurance in that or any subsequent fiscal year on such basis as the Board may from time to time determine.”.

11. This section will empower the Board to give cash discounts to those who pay part or all of their premiums in full with their applications and will enable the Board to make special arrangements with certain groups or classes of its policyholders as, for example, in any area where "hail suppression" may be tried.

12. Subsection (1) of section 24 presently reads:

"24. (1) The Board shall not later than the fifteenth day of May in each year appoint a chartered accountant or a firm of chartered accountants who or which shall have been first approved by the Minister as a suitable person or firm as auditor or auditors and the person or firm so appointed shall not at the time of appointment or so long as the appointment continues be employed by the Board in any other capacity."

This amendment will remove the necessity of obtaining the approval of the Minister to the appointment of the chartered accountant or firm of chartered accountants to be auditors of the Board.

Part II will relate the amendments to the revision and consolidation.

11. The following section is added immediately after section 20a:

“20b. The Board may grant reductions in premiums or give rebates to applicants or groups of applicants for insurance as in its discretion it may decide.”.

12. Section 24 is amended by striking out subsection (1) and by substituting the following:

“24. (1) Not later than the fifteenth day of May in each year, the Board shall appoint a chartered accountant or a firm of chartered accountants as auditor or auditors.

“(1a) The person or firm so appointed shall not at the time of appointment or so long as the appointment continues be employed by the Board in any other capacity.”.

PART II

13. *The Alberta Hail Insurance Act*, being chapter 137 of the Revised Statutes of Alberta, 1955, is hereby amended.

14. Section 2 is amended by striking out clause (g) and by substituting the following:

“(g) “policy” means the contract, between the Board and an applicant for insurance, constituted by a written application for insurance the acceptance of which by the Board has become effective.”.

15. Section 5 is amended by striking out clause (f) and by substituting the following:

“(f) to reinsure the whole or any portion of any risk or risks for the time being carried by the Board under the provisions of this Act,”.

16. Section 13 is amended

(a) as to subsection (2) by striking out clause (c) and by substituting the following:

“(c) the maximum amount per acre payable in respect of loss subject to the maximum amount fixed by the Board for that year,”,

(b) by adding at the end of subsection (4) the words “but in no case shall the acceptance become effective within twenty-four hours of the time the application is made.”,

(c) by striking out subsection (5) and by substituting the following:

“(5) When any crop in respect of which an application for insurance has been accepted is damaged by hail the Board shall cause such inquiry to be made into the circumstances as the Board considers necessary and if the Board is satisfied that the damage

occurred before the application was accepted the Board in its absolute discretion may

- “(a) make an allowance under the policy for such loss or damage,
 - “(b) continue the insurance under the policy as from the date on which the acceptance of the application for insurance became effective, or
 - “(c) cancel the insurance as to all or certain only of the crops insured.”,
- (d) by striking out subsections (9) and (10) and by substituting the following:
- “(9) An application shall be deemed not to have been made until the applicant has delivered to the Board, or to a duly authorized agent of the Board, the written application for insurance required by this Act.”.

17. Section 15 is amended

- (a) by striking out subsections (2), (3) and (4) and by substituting the following:
 - “(2) Payment of the premium due to the Board in respect of an application or an amount that may be charged under this Act against the applicant is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner, *mutatis mutandis*, as is provided by *The Municipal District Act* for the recovery by distress of taxes owing to a municipal district.
 - “(3) The seizure and sale referred to in subsection (2) may be made and carried out by any person designated in writing by the chairman or the secretary of the Board or by an appointee of the chairman or the secretary for the purpose.
 - “(4) The charges chargeable in respect of such seizure and sale shall be those payable to a bailiff under *The Seizures Act*.”,
- (b) as to subsections (5) and (6) by striking out the word “grain” wherever it occurs and by substituting the word “crop”.

18. Section 16 is amended

- (a) by striking out subsection (1) and by substituting the following:
 - “**16.** (1) When any crop insured under this Act is damaged by hail
 - “(a) to the extent of ten per cent or more, if the policy contains no partial payment of loss clause, or

“(b) to such extent that the percentage of damage exceeds the percentage deductible in terms of the policy, if the policy contains a partial payment of loss clause,

the applicant shall within three days after the date upon which the damage occurs send, by registered mail and in a prepaid envelope addressed to the Board at Calgary, a notice of claim of loss in such form as may be prescribed by the Board.”,

- (b) by striking out subsections (5) and (6) and by substituting the following:

“(5) The adjuster shall endeavour to obtain the written approval of the claimant or his agent to the report and recommendation to be made by the adjuster, and if the adjuster obtains the written approval of the claimant or his agent, the adjuster shall forward the report and recommendation to the Board and deliver a copy thereof to the claimant or his agent.

“(6) If the Board does not accept the approved report and recommendation of the adjuster, the Board shall submit a corrected report to the claimant or his agent within five days of the receipt of the original report and recommendation.

“(6a) If the adjuster fails to obtain the written approval of the claimant or his agent to the report and recommendation, the adjuster shall report the reasons for his failure to do so to the Board, and in such case the Board shall cause to be left with or forwarded to the claimant or his agent a copy of the adjuster’s report as to the percentage of damage incurred by the claimant.”.

19. Section 17 is amended

- (a) by striking out subsections (1), (2) and (3) and by substituting the following:

“**17.** (1) If the claimant or his agent has not approved the report and recommendation of the adjuster or the corrected report of the Board, the claimant may within five days of the receipt of such report send by registered mail to the Board at Calgary a notice of appeal therefrom setting out the reasons for the appeal.

“(2) If the claimant or his agent does not send a notice of appeal within the period of five days mentioned in subsection (1), the claim shall be determined by the Board on the basis of the report made by the adjuster.”,

- (b) by renumbering subsections (4) and (5) as subsections (3) and (4),
 (c) by adding immediately after the renumbered subsection (4) the following subsection:

“(5) Notwithstanding subsections (1) to (4), a claim may be reopened by mutual consent of the claimant and the Board.”.

20. Section 20 is amended by striking out subsections (2) and (3) and by substituting the following:

“(2) Notwithstanding subsection (1), an assignment of a sum payable by the Board in respect of any claim for damage to crops by hail is good and valid according to the tenor thereof if notice of the assignment has been delivered and registered at the offices of the Board in Calgary before the time of payment of the claim.”.

21. Section 23 is amended by striking out subsections (1) and (2) and by substituting the following:

“**23.** (1) The Board may make payment of claims in full before the first day of November of the year in which the claims arise.

“(2) If payment of claims in any area is not made before the first day of November of the year in which the claims arise the Board shall on the first day of November make payment of not less than fifty per cent of each claim in such area and shall make payment on or before the first day of March next following of the balance of each claim on a *pro rata* basis, if necessary, having regard to the balance of the share of the special trust account available for the area.”.

22. Section 24 is struck out and the following is substituted:

“**24.** If in any fiscal year a surplus is realized, the Board may in its discretion dispose of such surplus or any portion thereof among applicants or classes of applicants for insurance in that or any subsequent fiscal year on such basis as the Board may from time to time determine.”.

23. The following section is added immediately after section 24:

“**24a.** The Board may grant reductions in premiums or give rebates to applicants or groups of applicants for insurance as in its discretion it may decide.”.

24. Section 29 is amended by striking out subsections (1) and (2) and by substituting the following:

“**29.** (1) Not later than the fifteenth day of May in each year, the Board shall appoint a chartered accountant or a firm of chartered accountants as auditor or auditors.

“(2) The person or firm so appointed shall not at the time of appointment or so long as the appointment continues be employed by the Board in any other capacity.”.

25. Part I and this section come into force on the day this Act is assented to, and Part II, except this section, comes into force and Part I is repealed on the day the Revised Statutes of Alberta, 1955, come into force.

SECOND SESSION
THIRTEENTH LEGISLATURE
4 ELIZABETH II
1956

BILL

An Act to amend The Alberta Hail
Insurance Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HINMAN
