

No. 35

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7 Elizabeth II, 1959

BILL 35

A Bill to amend The Alberta Insurance Act

HON. MR. HOOKE

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Edmonton, Alberta, 1959

Explanatory Note

2. This merely corrects a misspelling in the Revision.

3. This merely corrects a misspelling.

4. This amendment will enable Alberta insurance companies to invest their funds in a similar manner to insurance companies elsewhere incorporated, for example by Canada or Ontario. Section 91 presently reads:

"91. (1) A provincial insurer, whenever incorporated, may invest its surplus funds and reserve in the following securities and no other,

(a) the stock funds or Government securities of Canada, or of any province in Canada, or guaranteed by Canada or any province in Canada, or the public stock funds or Government securities of, or securities guaranteed by, the United Kingdom or the United States of America, or the bonds or debentures of any municipality or school district or school division in Canada, or bonds or debentures secured by rates or taxes levied under the authority of the Government of any province of Canada on property situated in the province and collectible by the municipalities in which the property is situated,

(b) first mortgages on improved farm lands in Canada up to sixty per cent of their cash value, if the total amount invested does not exceed twenty per cent of the total amount of the insurer's investment,

BILL

No. 35 of 1959

An Act to amend The Alberta Insurance Act

(Assented to _____, 1959)

HER 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 159 of the Revised Statutes, is hereby amended.

2. Section 2, clause 62 is amended by striking out the word "soli-it" and by substituting the word "solicit".

3. Section 52, subsection (2) is amended by striking out the word "fire" and by substituting the word "fire".

4. Section 91 is struck out and the following is substituted:

91. (1) In this section, "company" means an insurer incorporated under the laws of the Province.

(2) A company may only invest its funds or any portion thereof in

- (a) the bonds, debentures, stocks or other evidences of indebtedness of or guaranteed by the Government of
 - (i) Canada, Australia, Ceylon, India, New Zealand, Pakistan, the Union of South Africa, or the United Kingdom or any province or state thereof, or Southern Rhodesia and the Republic of Ireland,
 - (ii) a colony of the United Kingdom,
 - (iii) the United States of America or a state thereof, or
 - (iv) a country in which the company is carrying on business or a province or state thereof, or a colony, dependency, territory or possession thereof in which the company is carrying on business;
- (b) the bonds, debentures or other evidences of indebtedness of or guaranteed by a municipal corporation in Canada or elsewhere where the company is carrying on business, or of a school corporation in Canada or elsewhere where the company is carrying on business, or secured by rates or

- (c) subject to the approval of the Lieutenant Governor in Council, terminating debentures of
 - (i) incorporated companies that have in Canada, for the last preceding five consecutive years, been actually supplying gas, water, heat, light, power or electricity to the public or to any municipal corporation, or
 - (ii) steam, electric or street railway or telegraph or telephone companies in actual operation in Canada,
 if loans on the security of, or the investment in debentures of any of the companies mentioned in this clause do not in the aggregate exceed one-fifth of the paid up capital of the insurer,
 - (d) in the case of a life insurer, life or endowment policies or contracts issued by the insurer, but not in excess of the loan values of such policies or contracts, and
 - (e) generally in security in which trust funds may be invested under the provisions of The Trustee Act.
- (2) Uninvested funds of the insurer shall be kept on deposit in the name of the insurer in a post office savings bank, in a chartered bank of Canada or in a Provincial Treasury Branch."

taxes levied under the authority of the government of a province of Canada on property situate in such province and collectible by the municipalities in which such property is situate;

- (c) the bonds or debentures of a corporation that are secured by the assignment to a trust corporation in Canada of an annual payment that the Government of Canada has agreed to make, where such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;
- (d) the bonds or debentures issued by a charitable, educational or philanthropic corporation where annual subsidies, sufficient to meet the interest as it falls due on the bonds or debentures and to meet the principal amount of the bonds or debentures on maturity, are by virtue of a general or private Act of a province of Canada heretofore passed, payable by or under the authority of the province to a trust corporation as trustee for the holders of the bonds or debentures;
- (e) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in such bonds, debentures or other evidences of indebtedness upon the securities of that class of the corporation then outstanding;
- (f) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of a country in which the company is carrying on business, or of a province or state thereof, or of a colony, dependency, territory or possession thereof in which the company is carrying on business, to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or make taxes, rates, fees or other charges that
 - (i) may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges, or
 - (ii) in the case of an authority constituted by an Act of a national government, are fixed or authorized by law or subject to the approval

of the government or a minister or ministry thereof or of a body responsible to the government or the minister or ministry;

- (g) the bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada, the United Kingdom, any member of the Commonwealth or the United States of America;
- (h) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by a mortgage, charge or hypothec to a trustee upon any, or upon any combination, of the following assets,
 - (i) real estate,
 - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or shares of a class or classes authorized by this subsection as investments, and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;
- (i) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a railway company incorporated in Canada or in the United States of America, if the obligations or certificates are fully secured by
 - (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and
 - (ii) a lease or conditional sale thereof by the trustee to the railway company;
- (j) the bonds, debentures or other evidences of indebtedness
 - (i) of a corporation that has paid
 - (A) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
 - (B) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least four per cent of the average value at which the shares were

carried in the capital stock account of the corporation during the year in which the dividend was paid,

or

- (ii) of or guaranteed by a corporation where the earnings of the corporation in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it other than indebtedness classified as a current liability in the balance sheet of the corporation, and if the corporation at the date of investment owns directly or indirectly more than fifty per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporations shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and for the purpose of this subclause earnings mean earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;
- (k) the preferred shares of a corporation that has paid
 - (i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or
 - (ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least four per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;
- (l) the fully paid common shares of a corporation that, in each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least four per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;
- (m) ground rents, mortgages or hypothecs on real estate in Alberta or elsewhere where the company is carrying on business, but the amount paid for

the mortgage or hypothec together with the amount of indebtedness under any mortgage or hypothec on the real estate ranking superior to the mortgage or hypothec in which the investment is made shall not exceed sixty per cent of the value of the real estate covered thereby;

- (n) mortgages or hypothecs on real estate or leaseholds in Alberta or elsewhere where the company is carrying on business or bonds or notes secured by such mortgages or hypothecs, notwithstanding that the mortgage or hypothec exceeds the amount that the company is otherwise authorized to invest, if the excess is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country; or
- (o) real estate or leaseholds for the production of income in Alberta or elsewhere where the company is carrying on business, either alone or jointly with any other company, if
 - (i) a lease of the real estate or leasehold is made to, or guaranteed by, a corporation that has met the dividend requirements specified in subclause (i) of clause (j),
 - (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent of the amount invested by the company in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and
 - (iii) the total investment of a company in any one parcel of real estate or in any one leasehold does not exceed one-half of one per cent of the book value of the total assets of the company,
 and the company may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold.
- (3) A company may lend its funds or any portion thereof on the security of
 - (a) any of the bonds, debentures or other evidences of indebtedness, shares or other securities in which the company may invest its funds under subsection (2), but the amount of the loan together with the amount invested therein, if any, shall not exceed in the aggregate the amount that might be invested therein under this section,
 - (b) real estate or leaseholds for a term of years or other estate or interest in real estate in Alberta or elsewhere where the company is carrying on

business, but the amount of the loan together with the amount of the indebtedness under any mortgage or hypothec on the real estate or interest therein ranking superior to the loan shall not exceed sixty per cent of the value of the real estate or interest therein, subject to the exception that a company may accept as part payment for real estate sold by it a mortgage or hypothec for more than sixty per cent of the sale price of the real estate, or

- (c) real estate or leaseholds in Alberta or elsewhere where the company is carrying on business, notwithstanding that the loan exceeds the amount that the company is otherwise authorized to lend, if, to the extent of the excess, the mortgage or hypothec thereon securing the loan is guaranteed or insured by the government or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country.

(4) Where a company owns securities of a corporation and as a result of a *bona fide* arrangement for the reorganization of the corporation or for the amalgamation of the corporation with another corporation, such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not eligible as investments under the foregoing provisions of this section, the company may accept such bonds, debentures or other evidences of indebtedness or shares, but they shall be allowed as an asset of the company, in the annual report prepared by the Superintendent for the Minister, only for a period of five years after their acceptance, or such further period as the Lieutenant Governor in Council may from time to time determine, unless it is shown to the satisfaction of the Lieutenant Governor in Council that such bonds, debentures or other evidences of indebtedness or shares are not inferior in status or value to the securities for which they have been substituted or unless they become eligible as investments under the foregoing provisions of this section.

(5) A company may make investments or loans not hereinbefore authorized by this section, including investments in real estate or leaseholds, subject to the following provisions:

- (a) investments in real estate or leaseholds pursuant to this subsection shall be made only for the production of income, and may be made by the company in Alberta or elsewhere where the company is carrying on business, either alone or jointly with any other company, and the company may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a company pursuant to this subsection in any one parcel of real estate or in any one leasehold shall not exceed one-half of one per cent of the book value of the total assets of the company;

- (b) this subsection shall be deemed not to enlarge the authority conferred by subsections (2) and (3) to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds;
- (c) the total book value of the investments and loans made under this subsection and held by the company, excluding those that are or at any time since acquisition have been eligible apart from this subsection, shall not exceed three per cent of the book value of the total assets of the company.

(6) A company licensed to transact the business of life insurance may invest or lend its life insurance funds or any portion thereof in the purchase of, or on the security of, policies of life insurance issued by the company or by any other company licensed to transact the business of life insurance in Alberta.

(7) Notwithstanding the foregoing provisions of this section, a company may lend its funds, or any portion thereof, on the security of real estate pursuant to the *National Housing Act* (Canada) or the *National Housing Act, 1954* (Canada).

(8) The total book value of the investments of a company in common shares shall not exceed fifteen per cent of the book value of the total assets of the company.

(9) The total book value of the investments of a company in real estate or leaseholds for the production of income pursuant to this section shall not exceed five per cent of the book value of the total assets of the company.

(10) A company shall not lend any of its funds to a director or officer of the company or to the wife or a child of a director or officer except on the security of the company's own policies; nor shall a company lend any of its funds to a corporation if more than one-half of the shares of the capital stock of the corporation are owned by a director or officer of the company or the wife or a child of a director or officer, or by any combination of such persons.

(11) A company shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default.

(12) A company may take any additional securities of any nature further to secure the repayment to the company of any loan or investment, or further to secure the sufficiency of any of the securities in or upon which such company is by this Act authorized to invest or lend any of its funds.

(13) All investments and deposits of the funds of a company shall be made in its corporate name, and no director or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other considerations for or on account of any loan, deposit, pur-

5. Because of the new section 91, subsection (10), this section is no longer applicable and is repealed. Section 158 presently reads:

"158. The company shall not lend any of its funds to any director or officer thereof, except that a life insurance company may lend to any director or officer thereof on the security of the company's own policies."

chase, sale, payment or exchange made by or in behalf of the company, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that if he is a policyholder he is entitled to all the benefits accruing under the terms of his contract.

(14) Where the laws of any state or country in which a company transacts, or is about to transact, business, require that the deposits made or to be made by the company in such state or country shall be made in the name of or transferred or assigned to, any person or corporation other than the company, subsection (13) does not prohibit the company from making in the name of, or transferring or assigning to, such other person or corporation, the investments and deposits necessary to comply with the said laws.

(15) No company shall

- (a) invest in or loan its funds upon the security of its own shares or the shares of any corporation transacting the business of insurance,
- (b) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Canada, invest money in any one security or make a total investment in any one corporation including the purchase of its shares or other securities, the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of more than ten per cent of its funds,
- (c) except as to securities of or guaranteed by the Government of Canada, or the government of any province of Canada, or a municipal corporation in Canada, make any investment the effect of which will be that such insurer will hold more than ten per cent of the total issue of shares of any one company, or
- (d) subscribe to or participate in or employ the funds of the company in any underwriting for the purchase or sale of securities or property of any kind, nor shall any director or officer, except for the *bona fide* purpose of protecting investments already made by the company, enter into any transaction for such purchase or sale on account of such company, jointly with any other person, firm or corporation, but this clause shall not be deemed to prohibit the subscription for bonds or securities permitted by this section as a *bona fide* permanent investment on behalf of any such company.

5. Section 158 is repealed.

6. The Fire Insurance Part is here made inapplicable to nuclear risks insured by a pool of insurers or by an insurer as a nuclear risk. Section 206, subsection (1) presently reads:

"206. (1) This Part applies to insurance against loss of or damage to property arising from the peril of fire in any contract made in the Province except,

- (a) insurance falling within the classes of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance,
- (b) where the subject matter of the insurance is rents, charges or loss of profits, or
- (c) where the peril of fire is an incidental peril to the coverage provided."

7. Section 206a, subsection (2) is removed because the first part of the provision is redundant; see section 206a, subsection (1); while the last part is an exclusion not now considered necessary. Also, there is the possibility of conflict between subsections (2) and (2a). These subsections presently read:

"(2) A contract to which this Part applies covers the insured property against loss or damage caused by fire or explosion within the meaning of subsection (1) and resulting from nuclear reaction or nuclear radiation, but, unless the contract otherwise specifically provides, the insured property is not covered against loss or damage caused by heat or energy alone that was created by nuclear reaction or nuclear radiation.

(2a) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection (1)."

8. Section 211 presents difficulty in construing its extent. The new section will more clearly set out its scope. Section 211 presently reads:

"211. A contract containing a co-insurance, average, average distribution or other clause that requires or may require the insured to contribute to any loss shall have printed or stamped upon its face in red ink the words:

"This policy contains a clause which may limit the amount payable", and unless those words are so printed or stamped the clause is not binding upon the insured."

9. Some doubts have arisen as to the position of an insurer without a deductible clause in his contract on a pro rata contribution of insurers to a loss. The new subsection (4a) is intended to clarify the position. Section 213, subsection (4) presently reads:

"(4) Nothing in subsection (1) affects the operation of any deductible clause and

- (a) where one contract contains a deductible the pro rata proportion of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and
- (b) where more than one contract contains a deductible the pro rata proportion of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts."

6. Section 206, subsection (1) is amended

- (a) by adding at the end of clause (c) the word "or",
- (b) by adding immediately after clause (c) the following:
- (d) where the subject matter of the insurance is property that is insured by an insurer or group of insurers primarily as a nuclear risk under a policy covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils.

7. Section 206a is amended

- (a) by striking out subsection (2),
- (b) by renumbering subsection (2a) as (2).

8. Section 211 is struck out and the following is substituted:

211. A contract containing

- (a) a deductible clause,
- (b) a co-insurance, average or similar clause, or
- (c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,

shall have printed or stamped upon the face of the policy in red ink the words:

"This policy contains a clause which may limit the amount payable." and unless these words are so printed or stamped the clause shall not be binding upon the insured.

9. Section 213 is amended by adding immediately after subsection (4) the following:

(4a) Nothing in subsection (4) shall be construed to have the effect of increasing the *pro rata* contributions of an insurer under a contract that is not subject to a deductible clause.

10. Section 216 presently reads:

"216. (1) Forms for proof of loss, furnished by an insurer under section 189, shall, for the purposes of this Part, be in Form A in Schedule C.

(2) In furnishing the form the insurer shall attach, for the information of the claimant, a copy of the policy wording giving the description and location of the property insured."

Section 189 requires insurers to provide proof of loss forms whenever a loss occurs. This form has to be in accordance with the statutory conditions applicable to the type of loss insured against. The Act prescribes a proof of loss form only in the case of fire insurance. However, in 1957 the Act was amended to replace the statutory conditions relating to fire insurance and the prescribed proof of loss form, Form A of Schedule C, is in conflict with and does not meet all the requirements of the new statutory conditions. It is proposed to remove the form and the section that authorizes it.

11. Section 376, clause (b) reads, as relevant:

"376. No fraternal society shall be licensed

.....
(b) if it insures or indemnifies against contingencies other than sickness, accident, disability, death or funeral expenses, or if the sum or sums payable on the death of any one person other than a funeral benefit, exceeds five thousand dollars,"

12. Section 377, clause (d) reads, as relevant:

"377. The following shall not be deemed to be fraternal societies within the meaning of this Part nor shall they be required nor are they entitled to be licensed as such:

(d) a corporation that undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than five thousand dollars payable on the death of any one member other than a funeral benefit, or any contracts of insurance with its members other than

(i) life insurance,

(ii) contracts for the payment of mortuary or funeral benefits, or

(iii) old age insurance;"

13. See note to clause 10.

14. (a) This amendment will extend the statutory conditions relating to prohibited uses. Statutory condition 2(1) begins:

"2. (1) The insured shall not drive or operate the automobile"

(b) See note to clause 12(a) above. Statutory condition 2(2) begins:

"(2) The insured shall not permit, suffer, allow or connive at the use of the automobile"

15. Amendments to be made by clauses 6, 7, 8, 9 and 14 are amendments recommended by the Conference of Superintendents of Insurance for the Provinces of Canada, but of them only clause 14 need come into force uniformly in the Provinces.

10. Section 216 is repealed.

11. Section 376, clause (b) is amended by striking out the word "five" and by substituting the word "ten".

12. Section 377, clause (d) is amended by striking out the word "five" and by substituting the word "ten".

13. Schedule C is amended by striking out Form A.

14. Schedule D is amended

- (a) by adding immediately after clause (b) in subsection (1) of statutory condition 2 the following:
 - (bb) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile, or
- (b) by adding immediately after clause (b) in subsection (2) of statutory condition 2 the following:
 - (bb) by any person while that person's licence to drive or operate an automobile is suspended, or while his right to obtain a licence is suspended, or while that person is prohibited under order of any court from driving or operating an automobile, or

15. This Act comes into force on the day upon which it is assented to, except section 14 which comes into force on a date to be fixed by proclamation.

No. 35

FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

BILL

**An Act to amend The Alberta
Insurance Act**

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
