

No. 66

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2nd Session, 14th Legislature, Alberta  
9 Elizabeth II

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## **BILL 66**

A Bill to Establish an Assurance Fund for the Protection  
of Persons Dealing with the Central Registry

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HON. MR. TAYLOR

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## **Explanatory Note**

General. The purpose of this Act is to create an assurance fund to enable persons to claim compensation where they have suffered loss through the omission, mistake or misfeasance of a clerk in the office of the Central Registry. The Central Registry is a part of the Department of Highways where persons can register certain documents, such as bills of sale, conditional sales agreements and garagemen's liens, with regard to motor vehicles.

**2. Definitions.**

**3. Authority for creation of assurance fund.**

**4. The assurance fund fee is in addition to the registration fee.**

**5. Procedure for recovering compensation out of the fund.**

# BILL

No. 66 of 1961

An Act to Establish an Assurance Fund for the Protection  
of Persons Dealing with the Central Registry

(Assented to \_\_\_\_\_, 1961)

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

1. This Act may be cited as "*The Central Registry Assurance Fund Act*".

2. In this Act,

- (a) "assurance fund" means the fund established pursuant to section 3;
- (b) "Minister" means the member of the Executive Council charged with the administration of *The Vehicles and Highway Traffic Act*;
- (c) "registration clerk" means the registration clerk in the Motor Vehicle Branch of the Department of the Minister.

3. (1) The Minister shall form an assurance fund and shall deposit therein the moneys received by the registration clerk pursuant to section 4.

(2) When the assurance fund reaches the sum of twenty-five thousand dollars, any sum in excess of that amount may, by direction of the Lieutenant Governor in Council, be transferred to and form part of the General Revenue Fund of the Province.

4. Before the registration clerk registers any instrument that may be registered with him under

- (a) *The Bills of Sale Act*,
- (b) *The Conditional Sales Act*, or
- (c) *The Garagemen's Lien Act*,

he shall in addition to the fee prescribed by or under that Act, demand and receive for the assurance fund a fee of twenty-five cents for each instrument required to be registered.

5. (1) Any person sustaining loss or damage through an omission, mistake or misfeasance of the registration clerk or an official in his office in the execution of his duties under

**6.** Authority for Minister to make payments out of the fund on a judgment being entered against him.

**7.** Limitations on payments from the fund.

**8.** Payment of court costs to the Minister in certain cases.

**9.** Procedure whereby payment can be made out of the fund without the necessity of commencing an action.

- (a) *The Bills of Sale Act,*
- (b) *The Conditional Sales Act, or*
- (c) *The Garagemen's Lien Act,*

and who by the operation of that Act is barred from maintaining an action against any other person for the recovery of his loss or damage, may bring an action for damages against the Minister.

(2) An action against the Minister shall be brought against him by his name of office, and it does not abate nor is it in any way affected by a vacancy occurring in the office.

(3) No action for damages under this Act shall be brought against the Minister unless it is brought within three years from the date when the cause of action arose.

**6.** The Minister shall pay the amount of any judgment recovered against him out of the assurance fund.

**7.** The assurance fund is not under any circumstances liable for compensation for loss or damages

- (a) occasioned by the plaintiff's breach of any trust, whether express, implied or constructive,
- (b) by reason of the improper use of the seal of the corporation or the want of capacity in a corporation to deal with the property or interest involved or to execute or take the benefit of the instrument registered, or
- (c) by reason of the registration of an instrument executed by a person under legal disability, unless the fact of the disability is disclosed on the instrument.

**8.** Where, in an action against the Minister, judgment is given in favour of the Minister, or the plaintiff discontinues the action, the plaintiff is liable to pay the full costs of defending the action, and the full costs when taxed shall be levied in the name of the Minister by the like process of execution as in ordinary civil cases.

**9.** The Attorney General upon being satisfied that any claim that is or might be the subject of an action for damages against the Minister under this Act is well founded may issue a certificate to that effect, and thereupon the Lieutenant Governor in Council may direct the payment of the claim out of the assurance fund, together with a reasonable sum for costs incurred in making the same.

**10.** This Act comes into force on a date to be fixed by Proclamation.

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SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. TAYLOR

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