

No. 97

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

BILL 97

A Bill respecting a Wildlife Crop Damage Insurance Plan

HON. MR. WILLMORE

Explanatory Note

General. This new Act will authorize the Minister of Lands and Forests and the Alberta Hail Insurance Board to enter into an agreement to establish a wildlife crop damage insurance plan. The form of the agreement is annexed as a Schedule to the Bill.

BILL

No. 97 of 1961

An Act respecting a Wildlife Crop Damage Insurance Plan

(Assented to _____, 1961)

HER 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 Wildlife Crop Damage Insurance Act*".

2. In this Act,

(a) "Agreement" means the agreement set out in the Schedule;

(b) "Board" means The Alberta Hail Insurance Board;

(c) "Minister" means the Minister of Lands and Forests.

3. The Minister and the Board are hereby authorized to enter into and to execute the Agreement set out in the Schedule to this Act, being an agreement to provide for a plan of insurance to protect persons against loss or damage to crops by wildlife.

4. The Minister and the Board may do all acts and things that are necessary for or incidental to the proper discharge of their obligations under the Agreement.

5. The Agreement may be amended at any time with the consent of the Minister and the Board.

6. This Act comes into force on the day upon which it is assented to.

SCHEDULE

MEMORANDUM OF AGREEMENT made this
day of _____ A.D. 1961,

BETWEEN:

HER MAJESTY THE QUEEN in Right of the
Province of Alberta, represented herein by the
MINISTER OF LANDS AND FORESTS of the
said Province, hereinafter called "the Minister"

OF THE FIRST PART

AND

THE ALBERTA HAIL INSURANCE BOARD, a
Body Corporate with Head Office in the City of
Calgary in the Province of Alberta, hereinafter
called "the Board"

OF THE SECOND PART

WHEREAS persons engaged in agriculture annually suffer loss and damage to crops caused by big game animals and game birds, and

WHEREAS the Minister desires to provide the means whereby insurance may be available for insuring crops against such loss or damage, and

WHEREAS the Minister has requested the Board to act as his General Agent and in such capacity to solicit and consider applications for insurance, to issue policies and to adjust losses and otherwise all as is hereunder set out, and

WHEREAS the Board has agreed to so act subject always to the terms, conditions and stipulations hereunder set forth,

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. That the Minister for and in consideration of the premises and the covenants, promises and agreements on the part of the Board hereunder set out, hereby appoints the Board as his General Agent to solicit and consider applications for insurance against loss or damage to crops caused by big game animals and or game birds, to issue policies and to adjust and pay losses but all subject to the restrictions, limitations and conditions hereunder set forth.

2. That the Minister hereby covenants, promises and agrees to and with the Board as follows, that is to say:

- (a) that the Board shall be entitled to all premiums paid by applicants for insurance;
- (b) that if the premium income in the year A.D. 1961 be insufficient to pay the Board's expenses of and incidental to the inauguration of the aforementioned scheme of wildlife insurance and its work as General Agent and or if in any subsequent year the said income in such year be insufficient to pay the Board's expenses of and incidental to its work as General Agent, the Minister shall pay the deficiency within thirty days of the receipt of statement of the Board's income and expenses in the year;
- (c) that he shall forthwith upon receipt of a requisition of the Board for the amount of the losses under the policies issued in any year as finally adjusted as at the 30th day of November of the year and statement setting out the numbers of the policies in terms of which losses are payable and the amount of the award under each policy, forward cheque payable to the order of the Board in such amount, and in the event that losses are adjusted subsequent to the said 30th day of the said month of November, shall upon each further requisition for the amount of such losses and a like statement, forward cheque in the amount requisitioned;

- (d) that he shall indemnify and save harmless the Board of, from and against any and every claim made or which shall or can be made against the Board with respect to its services as General Agent of the Minister for the purposes herein set out.
3. That the Board for and in consideration of the covenants on the part of the Minister herein set forth hereby covenants, promises and agrees to and with the Minister as hereunder set out, that is to say:
- (a) that it shall solicit and consider application for insurance as before referred to and shall issue policies with respect to all such applications as may be accepted or approved;
 - (b) that it shall adjust as promptly as is reasonably possible each and every claim made by an insured person;
 - (c) that it shall by not later than the 3rd day of December of each year advise the Minister of the aggregate amount payable in terms of policies with respect to loss or damage as finally adjusted as at the 30th day of November of the year, and shall at the same time forward a requisition for said amount and statement setting out the numbers of the policies in terms of which losses are payable and the amount of the award under each policy, and in the event that claims are finally adjusted after the said 30th day of the said month of November, shall forward to the Minister a further requisition or further requisitions for such further losses as may be payable and a statement or statements such as is referred to above, and further shall by not later than the 15th day of December of the year and provided that payment has been received of the amount requisitioned with respect to losses which have been finally adjusted as of the 30th day of the preceding month, make payment of said losses and with respect to losses adjusted subsequent to the said 30th day of the month mentioned, shall upon receipt of payment by the Minister of further amounts requisitioned, make prompt payment of said losses;
 - (d) that it shall pay its local Agents a commission of ten (10) per centum of the premium charged and subject to the right to be indemnified by the Minister in the event that the premium income in any year be insufficient to pay its expenses in the year, shall pay all costs of and incidental to the issue of policies and the adjustment of claims and generally all operating charges;
 - (e) that it shall retain records relating to said insurance for a period of three (3) years and that said records shall be available for inspection at the offices of the Board during ordinary business hours by the Minister or by any person authorized by him.

4. That it is mutually understood and agreed by and between the parties hereto and that each covenants, promises and agrees with the other as follows:

- (a) that in this Agreement unless the context otherwise requires,
 - “Big Game Animal” means Bear, Elk, Antelope or Deer;
 - “Game Bird” means Duck, Goose or Sandhill Crane;
 - “Insurance” means Wildlife Insurance;
 - “Policy” means Certificate or other written evidence of a contract of Insurance;
 - “Wildlife” means Big Game Animals and Game Birds;
 - “Wildlife Insurance” means insurance against loss resulting from damage to crops caused by Wildlife;
- (b) that the crops to be insured shall be Wheat, Oats, Barley, Flax, Rye, Field Peas, Buckwheat and Rape, and Grasses, Clover or Field Corn grown for seed, whether the same are standing or in swath or in sheaves either on the ground or in stooks but not crops in stack;
- (c) that unless and until otherwise agreed the maximum amount of insurance shall be Ten (\$10.00) Dollars per acre and the premium shall be five (5) per centum payable with the application for insurance;
- (d) that the application for insurance shall set forth the following particulars:
 - (i) the name and address of the applicant,
 - (ii) particulars of the crops in respect of which insurance is desired, setting out the kind of crop, the number of acres of each kind of crop, the legal description of the parcel or parcels of land upon which the crop or crops is or are grown and the amount of insurance per acre desired,
 - (iii) whether the crop has suffered damage from wildlife or any other cause prior to the time of the application,
 - (iv) the insurable interest of the applicant;
- (e) that the Board shall consider each application for insurance as soon as possible after it has been received by the Board at its offices in Calgary and shall proceed to accept or reject the application as it in its sole discretion shall deem advisable;
- (f) that if an application be accepted a policy of insurance shall be forwarded to the insured and that there shall be incorporated in or attached to the policy and made a part thereof, a copy of the conditions set out in Schedule “A” at the foot hereof;

- (g) that if an application be rejected the Board shall so advise the applicant and shall refund the premium paid with the application;
- (h) that if an application be accepted the policy of insurance shall become effective at noon on the day following the date of the mailing of the application;
- (i) that no application for insurance shall be accepted unless said application is dated and mailed on or before the 31st day of July of the year in which the application is submitted;
- (j) that any policy issued shall be null, void and of no effect if it be found that at the time of issue the person named therein as the insured had no insurable interest in the crops mentioned therein.

5. That the parties hereto further agree all as set out in Schedule "A" at the foot hereof which is hereby made a part of this Agreement.

6. That this Agreement may be terminated by either the Minister or the Board by three (3) months' notice in writing to the other party provided that the notice of termination shall not be effective unless it be given before the 31st day of January of the calendar year in which the termination is to take effect.

7. That the Board shall not assign this Agreement or any of the powers or privileges herein contained without first obtaining the written consent of the Minister.

THIS AGREEMENT shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the MINISTER OF LANDS AND FORESTS has set his hand and seal and the BOARD has caused these presents to be signed by its proper officers in such behalf thereunto duly authorized and its Corporate Seal to be hereto affixed on the day and in the year first above written.

.....
 MINISTER OF LANDS AND FORESTS

ALBERTA HAIL
 INSURANCE BOARD

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 SCHEDULE "A"
 CONDITIONS OF POLICY

The Alberta Hail Insurance Board, hereunder sometimes called "The General Agent" is the General Agent of the Minister of Lands and Forests with respect to wildlife insurance.

The Conditions hereunder set out shall apply to every policy of wildlife insurance.

1. Where an applicant in his application for insurance incorrectly describes the location or the acreage of the crop to be insured to the prejudice of the Minister or knowingly misrepresents or fails to disclose in the application any material fact to be stated therein the insurance shall be void as to the item of the application in respect to which the misdescription, misrepresentation or omission is made.

2. If the actual acreage of the crop insured under any item of a policy is found to be less than the acreage stated in the application under such item the General Agent shall refund to the applicant the premium paid on the excess acreage.

3. If the actual acreage of the crop insured under any item of a policy is found to be greater than the acreage stated in the application under such item the General Agent shall determine the average loss and make payment on the basis of the actual acreage.

4. No term or condition of the policy shall be deemed to have been waived by the Minister either in whole or in part unless the waiver is clearly expressed in writing signed by or on behalf of the General Agent.

5. No applicant shall insure less than all of one kind (including all varieties of that kind) of insurable crop or crops in any described legal quarter section.

6. No applicant shall be entitled to indemnity under the policy for any loss or damage which is found to be less than ten (10%) per centum of the crop upon the damaged acreage or any portion thereof.

If the loss or damage is found to be over ninety (90%) per centum of the crop said loss or damage will be deemed to be one hundred (100%) per centum.

7. In no event shall any sum be payable by the Minister in respect of any loss or damage:

- (a) to any crop or portion thereof that is in stack or has been threshed;
- (b) to any crop or portion thereof that has been previously so damaged by causes other than wildlife that such crop or such portion would not yield a profit over and above the actual cost of cutting, threshing and marketing provided that where causes other than wildlife have contributed to the damage the Minister shall be liable only for so much of the loss as is attributable to wildlife;
- (c) occurring subsequent to the omission of the insured for any reason whatsoever, other than weather conditions, or except as may be provided in the warranties and conditions of the policy, to harvest (stack, thresh or combine) the crop when ready or any portion thereof in respect of which a claim is **made;**

- (d) when the indemnity otherwise payable with respect to a claim is less than Ten (\$10.00) Dollars;
 - (e) occurring on or before the 30th day of November next following the date of the policy unless notice of the claim is made before the 5th day of the next following month;
 - (f) occurring after the 30th day of November next following the date of the policy; provided, however, that if the insured notifies the General Agent in writing forwarded by fully prepaid registered mail that the crop or a specified portion thereof remains uncut or unstacked by reason of weather conditions the General Agent upon being satisfied after investigation that the crop uncut or unstacked is insurable may treat the policy as continuing in effect.
8. When the crop insured is damaged by wildlife to the extent of ten (10%) per centum or more:
- (a) the insured shall within three (3) days after the date upon which the loss occurs send by registered mail in a prepaid cover addressed to:

The Alberta Hail Insurance Board,
General Agent—Wildlife Insurance,
703 - 5th Street South West,
Calgary, Alberta.

 a notice of claim of loss in such form as may be prescribed by the General Agent;
 - (b) if the insured does not reside within two (2) miles of the land upon which the crop to which the claim relates is grown he shall furnish:
 - (i) the name of a person residing within two (2) miles of said parcel who will act as his representative with respect to the claim,
 - (ii) the legal description of the land upon which such person resides;
 - (c) upon receipt of claim in conformity with subsection (a) the General Agent shall cause an adjuster to inspect the crops to which the claim relates;
 - (d) the adjuster shall proceed to inspect the crops and to interview the insured or in his absence his representative, if any, and thereafter shall report to the General Agent the percentage of the damage and shall recommend the percentage of the insurance which in his opinion should be paid in respect of the damage or may recommend that the determination of the percentage of the damage and the amount payable in respect thereof be deferred to a later date;
 - (e) if the insured fails to give to the General Agent the notice referred to in subsection (a) above within thirty (30) days after the occurrence of the damage to which the notice relates he shall furnish by statutory declaration or otherwise such proof

of the damage as the General Agent may require and shall be liable in the discretion of the General Agent to pay the costs of investigation.

9. Upon receipt of the adjuster's report:

- (a) the General Agent unless the insured has approved the adjustment shall cause a copy of the report to be left with or forwarded to the insured or his representative;
- (b) if the insured or his representative is dissatisfied with such report he may within five (5) days after the receipt of copy of the report send by registered letter addressed to:

The Alberta Hail Insurance Board,
General Agent—Wildlife Insurance,
703 - 5th Street South West,
Calgary, Alberta.

 notice of appeal setting out the reasons for the appeal and shall with said notice forward payment in the sum of Ten (\$10.00) Dollars for each quarter section the crops on which are the subject of the appeal and which payment will be refunded in the event that the amount payable to the applicant is determined at an amount in excess of that reported by the adjuster;
- (c) if the insured or his representative does not send a notice of appeal within the said period of five (5) days the claim shall be determined by the General Agent on the basis of the report made by the adjuster;
- (d) when a notice of appeal is received by The General Agent the General Agent:
 - (i) shall proceed without undue delay to consider statements contained therein,
 - (ii) shall cause such further inquiries under the circumstances as it considers proper,
 - (iii) for the purpose of such inquiry may call for further evidence which may be taken by statutory declaration or otherwise as the General Agent may direct,
 - (iv) shall thereupon either confirm the report of the adjuster or vary it in such manner as seems proper to the General Agent,
 - (v) the decision of the General Agent as regards the percentage of the damage suffered by the insured and the amount payable in respect thereto shall be final and conclusive.

10. If it be impossible to survey and examine the crop and assess the damage by wildlife by reason of weather conditions such survey and assessment may be deferred at the discretion of the General Agent to a subsequent date not later than the 1st day of May of the next following year.

11. If the insured crop has suffered damage by wildlife said crop shall not be threshed or stacked until the General Agent has surveyed and examined the crop and assessed the loss or damage provided that if the crop has been stacked or threshed the General Agent may pay to the insured on the basis of the evidence of damage then remaining an amount not exceeding the amount of the premium paid under the policy and provided further that if threshing or stacking operations are undertaken and evidence of the loss be left by way of swathes or stooks on not less than five (5%) per centum of the insured acreage and which swathes or stooks must be representative of the loss over the whole of said acreage and cover a width of six (6) feet or more of the crop the General Agent may in his sole discretion acknowledge the claim and the percentage of damage to the insured crop, the commercial value of the crop and other relevant matters may in such case be ascertained by reference to the portion of the crop remaining unstacked or unthreshed.

12. Any fraudulent or wilfully false statement in the notice or claim or proof of loss shall vitiate the claim.

13. If the insured claims for loss or damage and it be found that he is not entitled to indemnity under the terms and conditions of the policy he shall in the discretion of the General Agent be liable to pay the expense of and incidental to the survey and examination of the crop and the assessment of the damage.

14. The policy may be cancelled by the insured if and only if it has become unprofitable to harvest and market the insured crop by reason of damage from causes other than wildlife and then only by giving written notice to that effect to the General Agent and the General Agent shall upon receipt of request for cancellation and surrender of the policy cancel the policy as of the date of the mailing of said request and shall refund the excess of the premium paid over the short term rate premium for the time the policy has been in force, the percentage of the premium to be retained by the General Agent if the policy cancelled before or on the dates undermentioned being (subject to the proviso at the foot hereof) as set out hereunder:

Before August 1	nil	August 13 to 15	50%
August 1 to 3	10%	August 16 to 18	60%
August 4 to 6	20%	August 19 to 21	70%
August 7 to 9	30%	August 22 to 24	80%
August 10 to 12	40%	August 25 to 27	90%

provided that in the case of fall rye, fall wheat, field peas, buckwheat and rape and grasses and clover grown for seed the effective dates shall be fifteen (15) days earlier than the dates above mentioned.

15. The amount of indemnity payable shall be ascertained by multiplying the percentage of crop loss assessed on each parcel of land as adjusted by the lesser of:

- (i) the amount of insurance per acre,
- (ii) the commercial value of the insured crop per acre.

16. Any action or other proceeding by the insured under the policy shall be against the Minister only and shall be commenced within one (1) year next following the first day upon which the crop covered by the policy suffered loss or damage by wildlife and not thereafter.

17. If the crop insured or the interest of the insured in such crop shall be assigned without the written consent of the General Agent such assignment shall not be binding upon the Minister or the General Agent provided however that this condition shall not apply to change of title by succession or operation of law.

No. 97

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act respecting a Wildlife Crop
Damage Insurance Plan

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. WILLMORE
