

1971 Bill 109

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 109**

**An Act To Amend The Alberta Insurance Act**

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THE HON. MR. HOLOWACH

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 109

1971

## AN ACT TO AMEND THE ALBERTA INSURANCE ACT

(Assented to \_\_\_\_\_, 1971)

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

1. *The Alberta Insurance Act is hereby amended.*

2. *Section 2 is amended by adding the following clause after clause 13:*

13.1 "Commission" means the Alberta Securities Commission;

3. *Section 137 is amended by striking out subsection (2) and by substituting the following:*

(2) Notwithstanding any provision in its special Act of incorporation, a company may, with the approval of the Lieutenant Governor in Council, reorganize its share capital to create shares of \$1 each or any multiple thereof but not more than \$100.

4. *Section 166, subsection (1) is amended by striking out clause (d).*

5. *Section 216 is amended by adding the following subsection after subsection (4):*

(5) This section applies to contracts of life insurance.

6. *Section 300 is amended by adding the following subsection after subsection (4):*

(5) The premium for the insurance required under this section shall be shown separately on the motor vehicle liability policy from the premium for any additional or other benefits under the policy.

7. *The following sections are added after section 300:*

## Explanatory Notes

**1.** This Bill will amend chapter 187 of the Revised Statutes of Alberta 1970.

**2.** Definition moved from section 166(1)(d).

**3.** Section 137(2) presently reads:

(2) Notwithstanding any provision in its special Act of incorporation, a company incorporated before April 15, 1964 may, with the approval of the Lieutenant Governor in Council, reorganize its share capital to create shares of any multiple of \$5 but not less than \$10 nor more than \$100.

The amendment will permit any insurer, whenever incorporated, to reorganize its share capital by reducing the par value of its shares.

**4.** Section 166(1)(d) presently reads:

166. (1) In this section,

(d) "Commission" means the Alberta Securities Commission;

Definition moved to section 2.

**5.** Section 216 refers to the filing of various matters with the Superintendent and reports by the Superintendent to the Minister.

The amendment is made for clarification.

**6.** Section 300 presently reads:

300. (1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of at least \$35,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property.

(2) The contract shall be interpreted to mean that where, by reason of any one accident, liability results from bodily injury or death and from loss of or damage to property,

(a) claims against the insured arising out of bodily injury or death have priority to the extent of \$30,000 over claims arising out of loss of or damage to property, and

(b) claims against the insured arising out of loss of or damage to property have priority to the extent of \$5,000 over claims arising out of bodily injury or death.

(3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least \$35,000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least \$35,000, exclusive of interest and costs, against liability for loss of or damage to property.

(4) Nothing in this Part precludes an insurer, with respect to a limit or limits in excess of those specified in subsection (1) or (3), from increasing or reducing the limit or limits specified in the contract with respect to the use or operation of the automobile by a named person, but no reduction is effective for a limit less than that required under subsection (1) or (3).

**7.** Accident insurance benefits to form part of motor vehicle insurance policy.

**300.1** (1) On and after April 1, 1972 every contract evidenced by a motor vehicle liability policy (whether made or renewed before, on or after that date) insures in respect of any one accident involving an automobile, for accident insurance benefits to at least the amounts specified in this section.

(2) The insurer shall pay death benefits upon the death of an insured person based on the age and status of the deceased insured person at the date of the accident in a household where the spouse or dependent relative of the deceased survive (hereinafter called "the principal sum") in accordance with the following table:

<i>Age of Deceased at Date of Accident</i>	<i>Status of Deceased at date of Accident</i>		
	<i>Head of Household</i>	<i>Spouse in Two Parent Household</i>	<i>Dependent Relative</i>
Up to age 4 years	\$	\$	\$ 500
5 to 9 years			1,000
10 to 17 years	5,000	2,500	1,500
18 to 64 years	5,000	2,500	1,000
65 to 69 years	3,000	1,500	1,000
70 years and over	2,000	1,000	500

(3) Where the head of the household dies, in addition to the principal sums paid in accordance with subsection (1), the insurer shall pay 20 per cent of the principal sum payable for the death of the head of the household, for each survivor other than the first.

(4) In addition to subsections (2) and (3), where the head of the household dies, and

(a) there are two or more survivors, the insurer shall pay one per cent of the total of the principal sum and the sum payable under subsection (3), or

(b) where there is one survivor, the insurer shall pay one per cent of the principal sum payable for the death of the head of the household,

per week for a period of 104 weeks or until

(c) in the case of clause (a), the death of all survivors,  
or

(d) in the case of clause (b), the death of the survivor whichever occurs first.

(5) The insurer shall pay actual funeral costs up to a maximum of \$500 in respect of the death of each insured person as a result of an automobile accident.

(6) In the event of total disability of an insured person, the insurer shall pay, except for the first seven days,



- (a) \$50 per week if 80 per cent of the insured person's gross earnings are more than \$50, or
- (b) \$40 per week if 80 per cent of the insured person's gross earnings are less than \$40 per week, or
- (c) where 80 per cent of the insured person's gross earnings are between \$40 and \$50 per week, then that sum

for a period of 104 weeks or until the injury ceases to be a total disability, whichever period is the shorter, provided that

- (d) the insured person was employed at the date of the accident, and
  - (e) the total disability prevents him from performing every duty pertaining to his occupation or employment.
- (7) Section 313 applies to the accident insurance benefits under this section.

(8) The rates for the accident insurance benefits specified in this section shall be the same for every policy issued by an insurer in Alberta subject to the provisions relating to the increase of rates contained in section 321.4.

(9) The rates for the accident insurance benefits in this section shall be shown separately on the motor vehicle liability policy from the rates for any additional or other benefits under the policy.

(10) In this section "survivor" means spouse and dependent relatives.

**300.2** The Lieutenant Governor in Council may make regulations

- (a) prescribing the exclusions, conditions, restrictions and terms and conditions permitted with respect to the accident insurance benefits to be provided under section 300.1, and
- (b) defining any word or expression used in section 300.1.

*8. The following sections are added after section 321:*

**321.1** (1) The Lieutenant Governor in Council may establish a board to be known as the "Alberta Automobile Insurance Board" (hereafter called "the Board") consisting of such members as the Lieutenant Governor in Council appoints.

- (2) The Lieutenant Governor in Council may
  - (a) designate one of the members of the Board as chairman and another as vice-chairman, and
  - (b) fix the remuneration and provide for the payment of expenses to be paid to the members who are not employees of the Government.

**8. Alberta Automobile Insurance Board.**

(3) In accordance with The Public Service Act there may be appointed such staff and other persons as may be required by the Board.

(4) Subject to the approval of the Lieutenant Governor in Council, the Board may from time to time appoint one or more experts or persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board deems it necessary to have information for the proper carrying out of its duties.

(5) A person appointed by the Board pursuant to subsection (4) shall be paid such remuneration as may be prescribed by the Lieutenant Governor in Council.

(6) A majority of members constitute a quorum of the Board for the purpose of exercising its powers and performing its duties.

(7) An order, direction, approval or other instrument that the Board is permitted or required to make, may be made on its behalf by the chairman, vice-chairman or any other member of the Board.

(8) An order, direction, approval or other instrument purporting to be signed by the chairman, vice-chairman or a member of the Board on behalf of the Board shall be admitted in evidence in any proceedings as prima facie proof

(a) that the order, direction, approval or instrument is the act of the Board or a quorum thereof, and

(b) that the person signing it was authorized to do so without proof of the appointment of the person signing as a member of the Board, or his designation as chairman or vice-chairman, as the case may be, or of his signature.

(9) The Board may make rules governing its procedures.

(10) The chairman, vice-chairman and every other member of the Board has the power of a commissioner under The Public Inquiries Act.

**321.2** (1) In this section and section 321.3, 321.4, 321.5 and 321.6 "minimum insurance" means the insurance referred to in section 300, subsection (1) and section 300.1.

(2) The Board has the power

(a) to investigate any matter it thinks fit respecting automobile insurance in Alberta, including rates, benefits and availability of automobile insurance, and

(b) to prohibit any rate for the minimum insurance above the rate filed pursuant to section 321.4 and to prohibit any change which would have the effect of increasing the rate for the minimum insurance



for any insured person or class of insured persons in Alberta unless the increase or change has first been approved by the Board under section 321.4.

**321.3** (1) In this section and sections 321.2, 321.4, 321.5 and 321.6 "rates" means the price charged for a motor vehicle liability policy or any coverage under that policy.

(2) On or before July 1, 1971 every insurer of automobiles shall file with the Board its full schedule of rates in effect on April 1, 1971 applicable to every motor vehicle liability insurance policy issued by the insurer showing separately the rates charged for the minimum insurance (if any).

(3) Every insurer licensed after April 1, 1971, shall file with the Board its full schedule of rates it intends shall be applicable to every motor vehicle liability insurance policy to be issued by it, showing separately the rates proposed to be charged for the minimum insurance.

**321.4** (1) On or before January 1, 1972, or such later date as the Minister may allow, every insurer shall file with the Board the rates it proposes to charge for the minimum insurance on and after April 1, 1972, whether or not the rates are included in the rates filed under section 321.3, subsection (2).

(2) On and after April 1, 1972, no insurer shall charge the proposed rates filed under subsection (1) or the proposed rates filed under section 321.3, subsection (3) or any other rate for the minimum insurance, unless the proposed rates have been first approved by the Board in writing.

(3) Where an insurer receives approval of his proposed rates for the minimum insurance he may not increase the rates or in any manner change the rates which would have the effect of increasing the rates payable for the minimum insurance without first

- (a) applying to the Board, and
- (b) receiving its approval pursuant to subsection (5).

(4) Where the Board is not satisfied that an insurer has filed all the matters referred to in this section, or requires additional details or information, it may, by order directed to the insurer, require the additional information and details.

(5) Where an insurer wishes to increase any rates for the minimum insurance or make any change that would have the effect of increasing the rates for any insured person or class of insured persons, it shall apply to the Board for approval of the increase and the Board in its discretion by order may

- (a) approve the increase or such lesser increase as it sees fit, or



(b) prohibit the increase.

**321.5** (1) An insurer who

- (a) fails to file its rates, pursuant to section 321.3, subsection (2) or section 321.3, subsection (3), or
- (b) fails to file the rate it proposes to charge pursuant to section 321.4, subsection (1), or
- (c) charges the proposed rate prior to its approval contrary to section 321.4, subsection (2), or
- (d) increases or changes the rate payable for the minimum insurance contrary to section 321.4, subsection (3), or
- (e) in any manner fails to comply with an order or direction of the Board, or
- (f) fails to comply with the regulations

is guilty of an offence and liable on summary conviction to a fine of not more than \$5000.

(2) Where an insurer is convicted of a second or subsequent offence under this section the Minister may suspend the licence of the insurer.

(3) Where the Minister suspends the licence of an insurer the Minister shall report the suspension to the Lieutenant Governor in Council who may

- (a) remove the suspension with or without conditions, or
- (b) confirm the suspension for a stated time or until such conditions as he may impose have been met, or both, or
- (c) terminate the licence.

**321.6** (1) The Lieutenant Governor in Council may make regulations

- (a) establishing a plan for the equitable assignment of risks and empower the Board to direct an insurer to accept an assignment of risk, and
- (b) to permit rating bureaus to file on behalf of one or more insurers named by the Board, schedules of rates or an application for an increase in rates for the minimum insurance.

(2) Regulations made under subsection (1), clause (b) do not relieve an insurer on whose behalf a rating bureau is acting from ensuring that the provisions of this Part relating to filing and approval of rates are complied with.

**321.7** (1) The Board shall make and submit to the Minister an annual report on the operation of the Board.

(2) The Minister shall lay the report before the Legislative Assembly if it is then in session or if it is not, within 15 days of the opening of the next following session.



**321.8** (1) Except as provided in this section

- (a) every decision, order, approval, regulation, direction or proceeding of the Board is final, and
- (b) no decision, order, approval, regulation, direction or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, certiorari or any other process or proceeding in any court.

(2) Upon a question of jurisdiction or upon a question of law, an appeal lies from the Board to the Appellate Division of the Supreme Court of Alberta.

(3) Leave to appeal shall be obtained from a judge of the court of appeal upon application made within one month after the making of the decision, order, approval, regulation, direction or proceeding sought to be appealed from, or within such further time as the judge under special circumstances may allow and upon notice to the parties and to the Board and upon hearing such of them as appear and desire to be heard and the costs of the application are in the discretion of the judge.

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

