

1973 Bill 1

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 1

The Investment Contracts Amendment Act, 1973

THE PREMIER

First Reading

Second Reading

Third Reading

BILL 1

1973

THE INVESTMENT CONTRACTS AMENDMENT ACT, 1973

(Assented to _____, 1973)

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

1. *The Investment Contracts Act is hereby amended.*
2. *Section 2, subsection (1) is amended by adding after clause (i) the following clause:*
 - (j) "Superintendent" means the Superintendent of Insurance appointed under *The Alberta Insurance Act*.
3. *The word "Commission" is struck out wherever it appears in the following provisions and the word "Superintendent" is substituted therefor:*
 - section 4;
 - section 6, subsections (1) and (2);
 - section 8;
 - section 10, subsection (1);
 - section 11;
 - section 12, subsections (1) and (2);
 - section 13;
 - section 14;
 - section 15, clause (b);
 - section 22;
 - section 23;
 - section 24, subsections (1) and (2);
 - section 25, subsections (1) and (2);
 - section 26, subsections (1) and (2);
 - section 27, subsection (1);
 - section 28;
 - section 29, subsections (1), (2), (3) and (4);
 - section 30;
 - section 33;
 - section 36.2;
 - section 36.3, subsection (2);
 - section 36.4, subsection (1), clause (b);
 - section 39.

Explanatory Notes

1. This Bill will amend chapter 191 of the Revised Statutes of Alberta 1970.

2. This and the other amendments in this Bill will result in a change in the administration of the Act from the Alberta Securities Commission to the Superintendent of Insurance.

The Commission, however, will continue to have its powers of review under sections 16 to 20, except that it will review decisions of the Superintendent instead of its own decisions.

3. Consequential.

4. Section 7 is amended

- (a) by striking out the word "Commission" wherever it appears in the section and by substituting therefor the word "Superintendent", and
- (b) by striking out the words "it may refuse" and by substituting therefor the words "he may refuse".

5. Section 10, subsection (2) is amended

- (a) by striking out the word "Commission" and by substituting therefor the word "Superintendent", and
- (b) by striking out the words "appears to it from the statements and reports filed with it" and by substituting therefor the words "appears to him from the statements and reports filed with him".

6. Section 32 is amended

- (a) as to subsection (1) by striking out the words "The Commission or any person to whom as its representative it may" and by substituting therefor the words "The Superintendent or any person to whom as his representative he may",
- (b) as to subsection (2)
 - (i) by striking out the words "the Commission or its" and by substituting therefor the words "the Superintendent or his", and
 - (ii) by striking out the words "by the Commission" and by substituting therefor the words "by the Superintendent", and
- (c) by striking out subsection (3) and by substituting therefor the following subsection:
 - (3) The Superintendent may charge such fees as he considers proper for any inspection made under this section.

7. Section 36.1 is amended

- (a) by striking out all the words preceding clause (a) and by substituting therefor the following words:

36.1 The Superintendent may make a special report to the Minister with respect to any registered issuer where the Superintendent is satisfied, on the basis of an examination and inspection of that issuer's affairs or on the basis of any other source of information available to him, that
and

- (b) as to clause (c) by striking out the word "Commission" and by substituting therefor the word "Superintendent".

4. Section 7 presently reads:

7. The Commission may grant registration, or a renewal thereof, to a salesman or issuer, if it is satisfied that the applicant is suitable, and the proposed registration is not for any reason objectionable, but if the Commission, after investigation, is for any reason of the opinion that the applicant should not be registered, it may refuse the application.

5. Consequential.

6. Section 32 presently reads:

32. (1) The Commission or any person to whom as its representative it may in writing delegate authority may at any time make or cause to be made an inspection of the books, documents and records of any issuer and of any salesman.

(2) Upon any such inspection, the Commission or its duly authorized representative is entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the issuer or salesman, and no person shall withhold or destroy, cancel or refuse to furnish any information or thing reasonably required by the Commission for the purposes of the inspection.

(3) The Commission may charge such fees as it may deem proper for any inspection made under this section.

7. Sections 36.1 presently reads:

36.1 The Commission may make a special report to the Minister with respect to any registered issuer where the Commission is satisfied, on the basis of an examination and inspection of that issuer's affairs or on the basis of any other source of information available to it, that

- (a) the issuer has defaulted on the payment of any of its liabilities, or
- (b) the issuer is not complying with this Act or the regulations and that the failure or the continuance of the failure to so comply is or may be prejudicial to the interests of the issuer's investment contract holders or creditors, or
- (c) the issuer's unimpaired paid-in capital, paid-in surplus and earned surplus, or any one or more of them, does not amount in the aggregate to \$500,000 or such lesser amount as the Commission has approved under section 8, clause (b), or
- (d) there exists any state of affairs within the issuer of a serious nature that is or may be prejudicial to the interests of the issuer's investment contract holders or creditors, or
- (e) the issuer has failed to maintain the deposit of qualified assets as set out in section 8, clause (c), or
- (f) the issuer has failed to maintain adequate reserves as set out in section 30, or
- (g) the issuer has ceased to carry on business in Alberta.

8. *Section 38 is amended*

(a) *as to subsection (2) by striking out the word “Commission” and by substituting the word “Superintendent”, and*

(b) *by adding after subsection (2) the following subsection:*

(3) For the purpose of subsection (2) information which came to the knowledge of the Commission prior to the commencement of this subsection is deemed to have come to the knowledge of the Superintendent at the time it came to the knowledge of the Commission.

9. *Section 41 is amended by adding after the words “the Commission” the words “or the Superintendent”.*

10. *Section 42 is amended*

(a) *as to subsection (1) by striking out the words “a member of the Commission, a representative of the Commission or the Registrar,” and by substituting therefor the words “the Superintendent or a representative of the Superintendent,” and*

(b) *as to subsection (2), clause (a) by striking out the words “of the Commission or any member thereof,” and by substituting therefor the words “of the Superintendent,”.*

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

8. Section 38(2) reads:

(2) No proceedings under section 37 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission.

9. Section 41 presently reads:

41. No person or company shall make representation, written or oral, that the Commission has in any way passed upon the financial standing or solvency of any issuer registered under this Act or upon the merit of any investment contract.

10. Consequential.