

1981 BILL 59

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 59

**ALBERTA INSURANCE AMENDMENT
ACT, 1981**

THE MINISTER OF CONSUMER
AND CORPORATE AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 59

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1981

ALBERTA INSURANCE AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 *The Alberta Insurance Act is amended by this Act.*

2 *Section 2 is amended*

(a) *by adding the following after clause 2:*

2.1 “actuary” means a Fellow of the Canadian Institute of Actuaries;

(b) *in clause 31 by adding “and without limiting the generality of the foregoing, includes life insurance” after “event”;*

(c) *by repealing clause 37 and substituting the following:*

37 “life insurance” means an undertaking by an insurer to pay insurance money

(i) on death,

(ii) on the happening of an event or contingency dependent on human life,

(iii) at a fixed or determinable future time, or

(iv) for a term dependent on human life,

and without limiting the generality of the foregoing, includes

(v) accidental death insurance but not accident insurance,

(vi) disability insurance, and

(vii) an undertaking to provide an annuity, or what would

Explanatory Notes

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

2 Defines “actuary”. Clauses 31 and 37 presently read:

31. “insurance” means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance might be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;

37. “life insurance” means insurance whereby an insurer undertakes to pay insurance money

(i) on death, or

(ii) on the happening of an event or contingency dependent on human life, or

(iii) at a fixed or determinable future time, or

(iv) for a term dependent on human life,

and includes accidental death insurance but not accident insurance and in Part 6 includes disability insurance;

be an annuity except that the periodic payments may be unequal in amount, for a term dependent solely or partly on a human life, and such an undertaking shall be deemed always to have been life insurance;

3 *The following is added after section 34:*

34.1(1) In this section,

- (a) “company” means a provincial company and an extra-provincial company;
- (b) “claims ratio” means, with respect to any particular period for policies issued by a company with respect to a particular class of insurance, the ratio of the claims incurred during that period under those policies, including applicable adjustment expenses, to the premiums earned during that period in respect of those policies;
- (c) “expected claims ratio” means the claims ratio that the person signing the statement filed under subsection (8) expects the company to experience under policies issued by it with respect to a particular class of insurance during the unexpired terms of the policies;
- (d) “reinsurer” means an insurer that, at the request of another insurer, reinsures a risk or part of it that is insured by that other insurer.

(2) For the purposes of the definition “claims ratio”, the Superintendent may issue directions determining the applicable adjustment expenses for claims incurred.

(3) Subject to this section, every company transacting the business of insurance, other than the business of life insurance, shall maintain assets having a total value that is at least equal to the aggregate of the following:

- (a) an amount equal to the reserve computed in accordance with section 104 for
 - (i) non-cancellable accident and sickness policies, and
 - (ii) claims under accident and sickness policies payable in instalments;
- (b) an amount equal to 1.15 times the amount of the unearned premiums in respect of the policies other than the policies referred to in clause (a);
- (c) an amount equal to 1.15 times the amount of the provisions for claims incurred but unpaid, other than claims referred to in clause (a);

3 Minimum amount of assets to be maintained by a company carrying on business of insurance other than life insurance.

- (d) an amount equal to the total of the other liabilities of the company.
- (4) For the purpose of determining the total value of assets under subsection (3) of a company,
 - (a) the value of the assets shall be determined
 - (i) on the same basis as prescribed under this Act for the purpose of the annual statement, or
 - (ii) on the basis of the market value of the assets,whichever produces the greater value, and
 - (b) the assets included in the determination shall not include those investments of the company that
 - (i) are not authorized by this Act, or
 - (ii) were not authorized by law at the time of their acquisition.
- (5) For the purposes of subsection (3)(b),
 - (a) when a company has issued policies on the premium note system, unearned assessments levied in respect of all outstanding premium notes held by the company are considered to be unearned premiums, and
 - (b) unearned premiums shall be calculated pro rata as of the date of the annual statement except that, when the risk insured and the amount of insurance are not substantially uniform over the term of the policy, the unearned premium shall be calculated in the manner determined by the Superintendent.
- (6) Subject to subsection (8), if under the policies issued by a company with respect to a particular class of insurance the expected claims ratio is less than 0.95, the company may, by written notice filed with the Superintendent, select a claims ratio not less than the expected claims ratio.
- (7) When a claims ratio is selected under subsection (6) in respect of the policies referred to in that subsection, there shall be substituted for the figure 1.15 referred to in subsection (3)(b) the figure determined by adding .20 to the selected claims ratio.
- (8) If a company selects a claims ratio under subsection (6),
 - (a) the figure substituted for the figure referred to in subsection (3)(b) shall not be less than 1.00 nor more than 1.15,
 - (b) except with the approval of the Superintendent, the

claims ratio selected shall not be less than the claims ratio experienced under the policies with respect to the most recent calendar year, and

(c) at the time of filing with the Superintendent the written notice under subsection (6), the company shall file a statement signed by

(i) an actuary, or

(ii) an officer of the company acceptable to the Superintendent,

stating that, in the opinion of the person signing the statement, the claims ratio selected in accordance with subsection (6) is not less than the expected claims ratio.

(9) Subject to subsections (10) to (12), the aggregate of the amounts referred to in subsection (3) may be reduced in respect of a policy or group of policies issued or a claim payable by the company when the risk or part of it is reinsured in whole or in part with another insurer.

(10) The amount by which the aggregate of the amounts referred to in subsection (3) may be reduced in respect of a policy, group of policies or claim shall not exceed the portion of the amount included in the aggregate for that policy, group of policies or claim as may reasonably be considered to apply to the portion of the risk undertaken by the reinsurer.

(11) If the reinsurer is not registered under this Act and is incorporated by or under the laws of a province or under the *Canadian and British Insurance Companies Act* (Canada), the reduction authorized under this section shall not be made unless the Superintendent is satisfied that, in his opinion,

(a) the financial condition of the reinsurer is satisfactory, and

(b) the operations of the reinsurer are conducted in accordance with sound business and financial practices.

(12) If the reinsurer is not registered under the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada) and is not incorporated by or under the laws of Canada, Alberta or another province, the aggregate amount referred to in subsection (3) may be reduced

(a) in respect of a policy, group of policies or a claim in Canada reinsured with that reinsurer, only to the extent that security is maintained in Canada, and

(b) in respect of any other policy, group of policies or a

claim reinsured with that reinsurer, only to the extent that security is maintained,

in respect of the potential obligations of the reinsurer in an amount, of a nature and under arrangements satisfactory to the Superintendent.

(13) If the assets of a company include shares of a corporation transacting the business of insurance, other than the business of life insurance, the shares shall not be taken into account for the purposes of subsection (3) at a value that exceeds a proportion of the excess of the value of the assets of the corporation, as that value would be determined for the purposes of subsection (3), over the minimum value of assets that would be required to be maintained by the corporation were it subject to subsection (3), the proportion being equal to the ratio that the portion of the capital stock of the company represented by the shares bears to the total capital stock of the company.

4 *The following is added before section 229:*

228.1 For the purposes of this Part, an undertaking entered into by an insurer to provide an annuity, or what would be an annuity except that the period payments may be unequal in amount, shall be deemed to be and always to have been life insurance whether the annuity is for

- (a) a term certain,
- (b) a term dependent either solely or partly on a human life, or
- (c) a term dependent solely or partly on the happening of an event not related to a human life.

5 *Section 288(2) is amended by repealing Statutory Condition 2 and by substituting the following:*

Prohibited Use by Insured **2(1)** The insured shall not drive or operate the automobile,

- (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (b) 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
- (c) while he is under the age of 16 years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum

4 Annuity deemed to be life insurance.

5 Statutory Condition 2 presently reads:

<i>Prohibited Use by Insured</i>	<i>2(1) The insured shall not drive or operate the automobile,</i>
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*(a) while under the influence of intoxicating liquor or drugs to such
an extent as to be for the time being incapable of the proper control
of the automobile; or*

*(b) unless he is for the time being either authorized by law or
qualified to drive or operate the automobile; or*

*(c) 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*

(d) while he is under the age of 16 years or under such other age

age at which a licence or permit to drive an automobile may be issued to him; or

(d) for any illicit or prohibited trade or transportation; or

(e) in any race or speed test.

Prohibited Use by Others (2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

(a) by any person,

(i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile; or

(ii) while that person is under the age of 16 years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him;

or

(b) by any person who is a member of the household of the insured 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

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

6 *Section 299(1) is amended by repealing clauses (d) and (e).*

7 *Section 300.1 is amended by adding the following after subsection (6):*

as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or

(e) for any illicit or prohibited trade or transportation; or

(f) in any race or speed test.

Prohibited Use by Others *(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,*

(a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

(b) by any person,

(i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile; or

(ii) while that person is under the age of 16 years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him;

or

(c) by any person who is a member of the household of the insured 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

(d) for any illicit or prohibited trade or transportation; or

(e) in any race or speed test.

6 Section 299(1) presently reads in part:

299(1) The insurer may provide under a contract evidenced by a motor vehicle liability policy, in one or more of the following cases, that it shall not be liable while:

(d) where the insured vehicle is an automobile, other than a trailer, it is used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer;

(e) where the insured vehicle is a trailer, it is towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

7 Benefits paid on contracts issued after May 31, 1982. Section 300.1(6) presently reads:

(6.1) The insurer shall in respect of a contract issued or renewed after May 31, 1982,

(a) in the event of the total disability of an insured person, and

(b) except for the first 7 days,

pay a weekly benefit of 80% of the gross weekly earnings of the insured person, to a maximum of \$150 a week, for a period of 104 weeks or until the injury ceases to be a total disability, whichever period is shorter, if

(c) the insured person was employed at the date of the accident, and

(d) the total disability prevents him from performing every duty pertaining to his occupation or employment.

(6.2) All contracts that were subsisting on June 1, 1982 shall be deemed to provide for the payments referred to in subsection (6.1) in respect of an accident arising out of the use or operation of an automobile occurring after May 31, 1982.

8 *Section 321.91 is amended*

(a) *by adding the following after subsection 4:*

(4.1) When an agent or broker receives an application and binds a risk thereby effecting coverage under a plan, he shall be bound by the applicable terms and conditions of the plan in existence at that time for the duration of the coverage so placed.

(b) *in subsection (5) by adding “, except for section 321.4(2)(d),” after “Board, and”.*

9 *Section 327.1(2) is repealed and the following is substituted:*

(2) When a contract of group insurance or a benefit provision in a contract of group insurance is terminated, the insurer continues, as though the contract or benefit provision had remained in full force and effect, to be liable to or in respect of any group person insured under the contract to pay benefits under the contract relating to

(a) loss of income because of disability,

(6) In the event of the total disability of an insured person, the insurer shall pay, except for the first 7 days, a weekly benefit of 80% of the gross weekly earnings of the insured person, to a maximum of \$105 a week and a minimum of \$40 a week, for a period of 104 weeks or until the injury ceases to be a total disability, whichever period is shorter if

(a) the insured person was employed at the date of the accident, and

(b) the total disability prevents him from performing every duty pertaining to his occupation or employment.

8 Section 321.91 presently reads in part:

(4) If

(a) a change is to be made in the constitution, by-laws, rules or regulations of a plan, or

(b) a plan is to be terminated

a copy of the proposed change or a notice of the termination shall be filed with the Superintendent at least 15 days before the change or termination is proposed to be effective, and that change or termination shall not take place unless approved by the Superintendent.

(5) All rates charged for automobile insurance under the plan shall be subject to the approval of the Board, and sections 321.3, 321.4, 321.5, 321.6, 321.8 and 321.9 apply with all necessary modifications to those rates.

9 Section 327.1(2) presently reads:

(2) Where a contract of group insurance or benefit provision in a contract of group insurance is terminated, the insurer continues, as though the contract or benefit provision had remained in full force and effect, to be liable to or in respect of any group person insured under the contract to pay benefits under the contract relating to

(a) loss of income because of disability,

(b) death, or

- (b) death,
- (c) dismemberment, or
- (d) accidental damage to natural teeth,

arising from an accident or sickness that occurred before the termination of the contract or benefit provision, if the disability, death, dismemberment or accidental damage to natural teeth is reported to the insurer within the prescribed time period.

10 Section 413(a) is repealed.

11 The Alberta Insurance Amendment Act, 1975 is amended by repealing section 2.

12 Section 5 comes into force on Proclamation.

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

(c) *dismemberment,*

arising from an accident or sickness that occurred before the termination of the contract or benefit provision, if the disability, death or dismemberment is reported to the insurer within the prescribed time period.

10 Section 413(a) presently reads:

413 In this Part,

(a) “actuary” means a Fellow of the Actuarial Society of America, or of the American Institute of Actuaries, or of the Institute of Actuaries of Great Britain, or of the Faculty of Actuaries in Scotland, but an actuary who, for a period of not less than five years preceding the 8th day of April, 1926, has, as its actuary, been serving a licensed fraternal society transacting business in Alberta on that date, and who has been in active practice as an actuary for a period of not less than 25 years prior to that date, may, for the purpose of this Act and with the consent of the Superintendent, be continued as an actuary of any such society by which at that date he was employed as actuary;

11 Amends chapter 59 of the Statutes of Alberta, 1975.