

1983 BILL 35

First Session, 20th Legislature, 32 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 35

**HAIL AND CROP INSURANCE
AMENDMENT ACT, 1983**

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 35

1983

HAIL AND CROP INSURANCE AMENDMENT ACT, 1983

(Assented to _____, 1983)

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

1 The Hail and Crop Insurance Act is amended by this Act.

2 Section 1 is amended by renumbering it as section 1(1) and by adding the following after subsection (1):

(2) If the corporation makes accidental fire insurance available as authorized by section 12, references in Parts 1 and 2 to hail insurance, hail and hail damage shall, in so far as the circumstances require, be read as also referring to accidental fire insurance, accidental fire and accidental fire damage respectively.

3 Section 2 is amended by adding "and consisting of the members of its board of directors" after "Alberta Hail and Crop Insurance Corporation".

4 Section 4 is amended by adding the following after subsection (4):

(5) In the case of members of the corporation who are members of the Legislative Assembly, the acceptance of travelling and living expenses payable under subsection (4) must be authorized by the Lieutenant Governor in Council.

5 Section 7(2)(b) is amended by striking out "defray the current expenditures" and substituting "meet the obligations".

Explanatory Notes

1 This Bill will amend chapter H-1 of the Revised Statutes of Alberta 1980.

2 Interpretation.

3 Section 2 presently reads:

2 There is hereby created a corporation with the name "Alberta Hail and Crop Insurance Corporation".

4 Section 4(4) presently reads:

(4) The corporation may pay the directors travelling and living expenses while absent from their ordinary place of business in the course of their duties at the rates that may be determined by the corporation.

5 Section 7(2)(b) presently reads:

(2) The corporation may

(b) borrow from time to time money required to defray the current expenditures of the corporation, and for that purpose may

(i) hypothecate, pledge and mortgage its property, rights, assets and prospective revenues, and

(ii) execute bills, notes, contracts or other documents that are the evidence of or the security for money so borrowed.

6 *Section 11(d) is amended by adding “hail” before “insurance” wherever it occurs.*

7 *Section 12 is amended*

(a) in subsection (1), by striking out “as mentioned in this section”;

(b) in subsections (1) and (2), by adding “accidental” before “fire” wherever it occurs;

(c) by repealing subsection (3).

8 *Section 13(a) is amended by striking out “facilities for”.*

9 *Section 15 is amended*

(a) in subsection (2)(b)

(i) by striking out “harvested other than by the straight combine method,”

(ii) by adding “and” at the end of subclause (i) and by repealing subclause (iii);

(b) by repealing subsection (2)(c);

(c) in subsection (3), by striking out “in red ink”.

6 Section 11(d) presently reads:

11 In this Part,

(d) "policy" means the contract between the corporation and an applicant for insurance, constituted by a written application for insurance the acceptance of which by the corporation has become effective.

7 Section 12 presently reads:

12(1) This Part applies only with respect to hail and fire insurance as mentioned in this section.

(2) The corporation shall provide the means whereby insurance may be made available

(a) for insuring crops against damage by hail, and

(b) for insuring crops against damage by fire during the time they are insured by the corporation against damage by hail.

(3) If the corporation makes fire insurance available as authorized by subsection (2), references in this Part to hail insurance and to hail damage shall, in so far as the circumstances require, be read as also referring to hail and fire insurance and to fire damage.

8 Section 13(a) presently reads:

13 For the purpose of discharging the duties imposed on the corporation by this Part, the corporation may

(a) do all acts and things that are requisite and necessary for or incidental to the purpose of providing facilities for hail insurance pursuant to this Part,

9 Section 15 presently reads:

15(1) The corporation may from time to time prescribe the kinds of policy that it will issue and the terms and conditions thereof.

(2) Without restricting the generality of subsection (1), any policy may

(a) fix different expiry dates for insurance effected pursuant to this Part, having regard to the rates to be paid to the corporation,

(b) fix the amounts of the reductions in premiums which the corporation is hereby authorized to make in respect of any insured crop, or any part of it, harvested other than by the straight combine method, which reductions may differ

(i) as between different kinds of crop,

(ii) as between different hail insurance areas, and

(iii) as between different harvesting methods,

(c) fix a date on or before which applications are to be made on forms prescribed by the corporation for any reduction in premium to which an applicant claims to be entitled in respect of any crop or any part of it harvested otherwise than by the straight combine method, and

10 Section 16 is amended

(a) in subsection (1) by striking out “the corporation at its head office” and substituting “an office of the corporation in Alberta or an authorized agent of the corporation”;

(b) in subsection (2)

(i) by striking out “shall be in writing and”;

(ii) by adding “and” at the end of clause (e) and by repealing clause (f);

(c) in subsection (4)

(i) by striking out “A” and substituting “The”;

(ii) by renumbering clause (a) as clause (a.1), and

(iii) by adding the following before clause (a.1):

(a) ensure that every application received by a branch office or agent of the corporation is forwarded forthwith to the corporation’s head office,

11 Section 17(1) is amended

(a) by striking out “sending” and substituting “submitting”;

(b) by repealing clause (a) and substituting the following:

(a) to an office of the corporation in Alberta or an authorized agent of the corporation;

(c) in clause (b) by adding “personal delivery or” after “by”.

12 Section 18 is repealed and the following is substituted:

18(1) From the date of issue of the policy the corporation has a lien for unpaid premiums on that policy, interest on those premiums and charges with respect to the policy.

(d) contain a partial payment of loss clause to the effect that the corporation will pay only

(i) an agreed portion of any loss that is sustained, the portion not to exceed the amount for which the crop is insured, or

(ii) the percentage represented by the loss less a percentage specified in the policy, the percentage in both cases being a percentage of the amount for which the crop is insured.

(3) When the policy contains a provision as mentioned in subsection (2)(d), there must be printed or stamped on the face of the policy in conspicuous type in red ink the words "This policy contains a partial payment of loss clause".

10 Section 16 presently reads in part:

16(1) A person having an insurable interest in a crop growing on any parcel or parcels of land in Alberta may apply for insurance under this Part by delivering an application therefor to the corporation at its head office.

(2) The application shall be in writing and shall be signed by the applicant or his agent and shall set out

(e) the nature of the insurable interest of the applicant,

(f) the amount of any prior encumbrance by way of lien on the crops growing on the parcel or parcels of land referred to in clause (b), and

(4) A corporation shall

(a) consider every application for insurance as soon as possible after it has been received by the corporation at its head office, and

(b) proceed to accept or reject the application as the corporation in its absolute discretion decides,

but in no case shall the acceptance become effective prior to 12 noon of the day following the date on which the application was made.

11 Section 17(1) presently reads:

17(1) A person who has effected the insurance with the corporation in respect of a crop may apply to the corporation for the cancellation of his insurance in whole or in part by sending in writing an application for cancellation signed by the applicant or his authorized agent

(a) to the corporation at its head office,

(b) by fully prepaid registered post, and

(c) not later than August 1 in the year in which the insurance was effected.

12 Section 18 presently reads:

18(1) On and after the date of an application to the corporation or the date on which a premium or other amount is charged against the applicant under this Part, the corporation has, for the amount of any unpaid premium and for all amounts charged to the applicant under this Part, a lien

(2) The lien is on

(a) all crops grown by the applicant or in which the applicant has an interest in the year for which the premium is payable, and in each of the next ensuing 3 years, and

(b) all amounts payable to the applicant pursuant to any claim for loss or damage under any policy issued by the corporation.

(3) Subject to the *Crop Liens Priorities Act*, the lien created by this section has priority over all other liens, encumbrances, claims and demands and the amount of the lien may be paid by deduction from or offset against the amount payable to the applicant under any policy issued by the corporation.

(4) Payment of the premium, interest and charges due to the corporation in respect of a policy is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner (with all necessary modifications) as is provided by the *Municipal Taxation Act* for the recovery by distress of taxes owing to a municipal district.

(5) The charges chargeable in respect of the seizure and sale are those payable to a sheriff under the *Seizures Act*.

(6) A person who is the grower of or entitled to a crop that is subject to a lien under this section and who either by himself, his servant or agent directly or indirectly sells, ships or otherwise disposes of any of the crop

(a) without having made due provision for satisfying the lien, or

(b) without the consent in writing of the corporation or a person authorized by the corporation to give that consent,

is guilty of an offence and liable to a fine in an amount not less than the aggregate of all sums owing by that person to the corporation on the day the offence occurred and not more than that amount plus \$500.

(7) A person who, knowing that a crop is subject to a lien under this section, buys, sells, receives or disposes of any of that crop and does not apply the proceeds or value of it to satisfy the lien on it, is guilty of an offence and liable to a fine of not more than \$500.

(8) A fine imposed on a person under subsection (6) shall, up to the aggregate of all sums owing by the person to the corporation on the day the offence occurred, be paid to the corporation in satisfaction of sums owing to the corporation on that date, and any balance shall be applied in accordance with the *Summary Convictions Act*.

(9) A prosecution under subsection (6) or (7) does not affect any right of the corporation to recover money owing to it.

(a) on all crops grown by the applicant or in which the applicant has an interest,

(i) in the year in which the application is made, and

(ii) in each of the next ensuing 3 years, and

(b) on all amounts payable

(i) in respect of any claim for loss by damage from hail to the insured crops under the policy on or in respect of which the premium or charges are unpaid, and

(ii) in terms of any other policy issued to the applicant, or in which the applicant has an interest,

and the lien referred to in clause (a) has, subject only to the Crop Liens Priorities Act, priority over all other liens, encumbrances, claims and demands whatsoever.

(2) Payment of the premium due to the corporation in respect of an application or an amount that may be charged under this Part against the applicant is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner (with all necessary modifications) as is provided by the Municipal Taxation Act for the recovery by distress of taxes owing to a municipal district.

(3) The seizure and sale referred to in subsection (2) may be made and carried out by a person designated in writing by the chairman, the general manager or the secretary of the corporation or by an appointee of the chairman, the general manager or the secretary for the purpose.

(4) The charges chargeable in respect of the seizure and sale are those payable to a bailiff under the Seizures Act.

(5) The lien referred to in subsection (1)(b) may in the discretion of the corporation be enforced by the corporation deducting or offsetting the amount of its claim from or against any amounts payable in terms of the policy or policies referred to in subsection (1)(b), or any of them.

(6) A person who is the grower of or entitled to any crop that is subject to a lien under subsection (1)(a) and who either by himself, his servant or agent directly or indirectly sells, ships or otherwise disposes of any of the crop

(a) without having made due provision for satisfying the lien, or

(b) without the consent in writing of the corporation or of some person authorized by the corporation for that purpose,

is guilty of an offence and liable to a fine which shall not be less than the aggregate of all sums owing by that person to the corporation on the day on which the offence occurred nor more than the amount of that aggregate and the additional sum of \$100 and in default of payment to imprisonment for a term of not more than one year.

(7) A person who

(a) has knowledge that any crop is subject to a lien under subsection (1)(a), and

(b) buys, sells, receives or disposes of any of the crop and does not apply the proceeds or value of it to satisfy the lien on it,

(10) A prosecution under subsection (6) or (7) may be commenced within 1 year from the date of the commission of the alleged offence but not afterwards.

13 Section 19(1) is amended

(a) by striking out “send, by registered mail and” and substituting “submit, by personal delivery to or registered mail”, and

(b) by striking out “the corporation at its head office” and substituting “an office of the corporation in Alberta”.

14 Section 22(1) is repealed and the following is substituted:

22(1) Subject to this Part and any partial payment of loss clause, the amount payable on a claim under this Part shall be the same percentage of the amount for which the crop is insured as the percentage of damage by hail as ascertained by the corporation.

(1.1) When the percentage damage ascertained under subsection (1) exceeds 70%, an additional amount shall be paid over and above the amount ascertained under subsection (1) that is equal, as a percentage of the amount for which the crop is insured, to the difference between the percentage damage ascertained under subsection (1) and 70%, to a maximum of either 10% or such lesser percentage as will render the combined percentages under subsection (1) and this subsection 100%.

15 Section 23 is amended by striking out “No” and substituting “Except pursuant to this Part, no”.

16 Section 24 is repealed and the following is substituted:

24 All money received by the corporation with respect to hail insurance undertaken by the corporation shall be deposited into a trust account at a bank or a treasury branch and all money

is guilty of an offence and liable to a fine of not more than \$500 and in default of payment to imprisonment for a term of not more than 3 months.

(8) A fine imposed on a person under subsection (6) shall, up to the aggregate of all sums owing by the person to the corporation, be paid to the corporation and the balance shall be applied in accordance with the Summary Convictions Act.

(9) The taking of proceedings under subsections (6) and (7) or either of them does not prejudice or affect the corporation's rights to recover in any other way money owing to the corporation.

(10) A prosecution under subsection (6) or (7) may be commenced within 18 months of the commission of the alleged offence, but not thereafter.

13 Section 19(1) presently reads

19(1) When a crop insured under this Part is damaged by hail

(a) to the extent of 10% or more, if the policy contains no partial payment of loss clause, or

(b) to the extent that the percentage of damage exceeds the percentage deductible in terms of the policy, if the policy contains a partial payment of loss clause,

the applicant shall within 3 days after the date on which the damage occurs send, by registered mail and in a prepaid envelope addressed to the corporation at its head office, a notice of claim of loss in the form that may be prescribed by the corporation.

14 Section 22(1) presently reads:

22(1) The amount payable in respect of a claim shall, subject to this Part and to any partial payment of loss clause, be the same percentage of the amount for which the crop damage is insured as the ascertained percentage of damage by hail, except only that when the ascertained percentage of damage is in excess of 90%, the percentage of damage shall be deemed to be 100%.

15 Section 23 presently reads:

23 No money payable by the corporation in respect of a claim for damage to crops by hail is subject to garnishment, attachment, seizure or other legal process.

16 Section 24 presently reads:

24(1) All sums received by the corporation in respect of hail insurance undertaken by the corporation shall be deposited in a special trust account in a bank or a treasury branch.

required to be paid by the corporation pursuant to such an insurance shall be paid out of that trust account.

17 Sections 25 and 26 are repealed.

(2) *Accounts shall be maintained in the books of the corporation which designate the interest of each hail insurance area in the special trust account.*

(3) *The cost of the corporation's operations for each year*

(a) shall be apportioned to the several hail insurance areas in a manner approved by the corporation, and

(b) as so apportioned by the corporation, constitutes a first charge on the interest of each area in the special trust account.

(4) *After the payment of the cost of operations for the year into a general operating account to be kept in a bank or a treasury branch, the balance of the funds of each area in the special trust account shall be available for the payment of the claims payable by the corporation in respect of damage to crops in those areas.*

(5) *If there is at any time on or before February 28 in any year a balance in the special trust account standing to the credit of any area after providing for the payment of all sums payable thereout on account of*

(a) the cost of the operations of the corporation, and

(b) claims for crop damage,

the corporation may in its discretion transfer an amount not exceeding 50% of the balance to the credit of a general reserve account.

(6) *Funds in the general reserve account shall be available for the payment of claims or for any other expenditures of the corporation that the corporation considers proper.*

(7) *The corporation on or before February 28 in any year may in its discretion transfer a further amount not exceeding 50% of the balance referred to in subsection (5) to the credit of any areas whose share of the balance in the special trust account is insufficient to pay in full all sums payable thereout on account of the expenses of the corporation, and claims for crop damage, attributable to those areas.*

(8) *The amounts so transferred shall be credited at the discretion of the corporation and shall be regarded as additional funds available for payment of the expenses of the corporation, and claims for crop damage, attributable to those areas.*

(9) *This section does not operate when the assets of the corporation exceed its current and deferred liabilities by the sum of \$500 000 or more.*

17 Sections 25 and 26 presently read:

25(1) *Notwithstanding anything in this Part, the corporation may*

(a) issue a type of policy containing a clause or clauses

(i) limiting the amount available for the payment of claims for damage to crops insured by that type of policy in any year to the amount standing to the credit of the special account authorized by clause (d) after providing for such portion of the cost of operations of the corporation for the year as the corporation in its discretion may fix, but in no case shall the portion exceed 25% of the premiums charged on those policies issued in the year,

18 Sections 29 and 30 are repealed.

(ii) providing for distribution of the amount that is available in the year on a pro rata basis in the event of that amount being insufficient to pay in full all claims for damage to crops insured by those policies in the year, and

(iii) providing that the amount paid on the distribution is to constitute and be final settlement of all claims,

(b) fix the rates to be paid by the corporation in respect of that type of policy, which rates may vary as the corporation in its discretion decides having regard to the prevailing risk of hail damage,

(c) insure crops in any year in terms of that type of policy to the maximum amount per acre fixed by the corporation for the year notwithstanding that the crops have been insured under another type of policy issued by the corporation, and

(d) set up a special account, the funds of which shall be used for the payments provided for in clause (a) and into which shall be paid all sums received in respect of the type of policy authorized by this section.

(2) All collections made after February 28 in any year with respect to policies authorized by this section issued in previous years shall be credited to the special account but shall not be available for distribution on account of claims for losses in any previous year.

(3) If the corporation decides to discontinue the issue of the type of policy authorized by this section, any amount at the time standing to the credit of the special account shall be transferred to the credit of the general reserve account of the corporation.

(4) The right of the corporation to insure crops in the manner provided in subsection (1)(c) is without prejudice to the right of any person having an insurable interest in the crops to insure under another type of policy issued by the corporation under this Part.

26(1) The corporation may make payment of claims in full before November 1 of the year in which the claims arise.

(2) If payment of claims in any area is not made before November 1 of the year in which the claims arise the corporation shall on November 1 make payment of not less than 50% of each claim in that area and shall make payment on or before March 1 next following of the balance of each claim on a pro rata basis, if necessary, having regard to the balance of the share of the special trust account available for the area.

(3) The payments provided for in subsection (2) constitute final settlement of all claims for crop damages in the year, and no portion of future funds of any area or of the corporation shall be made available for application on claims that were settled on a pro rata basis.

18 Sections 29 and 30 presently read:

29(1) Collections made after February 28 in any year on premiums relating to the business of the previous year shall be deposited in the general reserve account to be kept at a bank or a treasury branch.

(2) The funds in the general reserve account may be used for the payment of claims or for any other expenditures of the corporation that it considers proper.

19 Section 31 is repealed and the following is substituted:

31 The Lieutenant Governor in Council may authorize the Provincial Treasurer, on terms and conditions that the Lieutenant Governor in Council may prescribe,

(a) to guarantee on behalf of the Government the payment of money borrowed by the corporation for the purpose of meeting any of its obligations, with interest and other charges on the borrowing, and

(b) to advance to the corporation out of the General Revenue Fund money required by the corporation for the purpose of meeting any of its obligations.

20 Section 39 is repealed and the following is substituted:

39 Section 18 applies with respect to insurance under this Part.

(3) This section does not operate while the assets of the corporation exceed its current and deferred liabilities by the sum of \$500 000 or more.

30 Notwithstanding section 24(9) and section 29(3), all sums received by the corporation in respect of hail insurance undertaken by the corporation shall at all times be deposited in a bank or treasury branch.

19 Section 31 presently reads:

31 The Lieutenant Governor in Council may authorize the Provincial Treasurer

(a) to guarantee on behalf of the Government, on the terms and conditions prescribed by the Lieutenant Governor in Council, the due payment of any money borrowed by the corporation for the purpose of meeting the current operating expenditures of the corporation, and

(b) to advance to the corporation from time to time out of the General Revenue Fund the sums that may be required by the corporation for the purpose of meeting the current operating expenses of the corporation

(i) on the security,

(ii) at the rate of interest, and

(iii) on the terms and conditions,

that may be prescribed by the Lieutenant Governor in Council.

20 Section 39 presently reads:

39(1) When the total premium payable to the corporation in respect of a policy is not paid, the corporation has on and after the date of the policy or the date on which the amount is charged to the applicant, as the case may be, a lien on all crops grown by the applicant, or in which he has an interest in the year for which the premium is payable, and in each of the next ensuing 3 years, for the amount of the unpaid premium, and the lien, subject only to the Crop Liens Priorities Act, has priority over all other liens, encumbrances, claims and demands whatsoever.

(2) When the total premium payable to the corporation in respect of a policy is not paid, the corporation has a lien on all amounts payable in respect of any claim for loss or damage to the insured crops under the policy in respect of which the premium is unpaid, and on all amounts payable in terms of any other policy in which the applicant has an interest, and the amount of the corporation's claim may in the discretion of the corporation be deducted from or offset against any amounts payable in terms of those policies, or any of them.

(3) Payment of the premium due to the corporation in respect of a policy is enforceable by seizure and sale of the crops and of other goods and chattels of the applicant to the same extent and in the same manner (with all necessary modifications) as is provided by the Municipal Taxation Act for the recovery by distress of taxes owing to a municipal district.

(4) The seizure and sale referred to in subsection (3) may be made and carried out by a person designated in writing by the chairman, general manager or secretary of the corporation or by an appointee of the chairman, general manager or secretary for the purpose.

21 *Section 41 is amended by striking out “No” and substituting “Except pursuant to this Part, no”.*

22 *Section 3 shall be deemed always to have been in force.*

In accordance with section 4(1) of the Interpretation Act, this Bill, except section 3, comes into force on the date it receives Royal Assent.

(5) The charges chargeable in respect of the seizure and the sale shall be those payable to a bailiff under the Seizures Act.

(6) A person who is the grower of or entitled to a crop that is subject to a lien under subsection (1) who either by himself, his servant or agent directly or indirectly sells, ships or otherwise disposes of any of the crop

(a) without having made due provision for satisfying the lien, or

(b) without the consent in writing of the corporation or a person authorized by the corporation

is guilty of an offence and liable to a penalty which shall not be less than the aggregate of all sums owing by that person to the corporation as at the day on which the offence occurred and shall not exceed the amount of that aggregate and the additional sum of \$100 and in default of payment to imprisonment for a term of not more than one year.

(7) A person who, having knowledge that a crop is subject to a lien under subsection (1), buys, sells, receives or disposes of any of that crop and does not apply the proceeds or value thereof in satisfying the lien on it, is guilty of an offence and liable to a fine of not more than \$500, and in default of payment to imprisonment for not more than 3 months.

(8) A penalty imposed on a person under subsection (6) and paid shall, up to the aggregate of all sums owing by the person to the corporation, be paid to the corporation, and the balance shall be applied in accordance with the Summary Convictions Act.

(9) The taking of proceedings under subsections (6) and (7) or either of them does not prejudice or affect in any way the corporation's rights to recover money owing to it.

(10) Proceedings under subsection (6) or (7) may be commenced within one year from the date of the commission of the alleged offence and not afterwards.

21 Section 41 presently reads:

41 No money payable by the corporation in respect to claims for crop losses is subject to garnishment, attachment, seizure or other legal process.

22 Commencement.