

1988 BILL 39

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

INSURANCE AMENDMENT ACT, 1988

THE MINISTER OF CONSUMER AND
CORPORATE AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 39

1988

INSURANCE AMENDMENT ACT, 1988

(Assented to _____, 1988)

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

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

2 *The following is added after section 21.1:*

21.2(1) The following are established as insurance councils on the basis established by the regulations:

- (a) the Alberta Insurance Council;
- (b) the General Insurance Council;
- (c) the Life Insurance Council;
- (d) the Insurance Adjusters' Council.

(2) The insurance councils referred to in subsection (1) are hereby incorporated and are to consist of persons respectively appointed members of them by the Lieutenant Governor in Council in accordance with the regulations.

21.3(1) An insurance council shall make by-laws governing

- (a) the notice required for and the holding and conduct of its meetings,
- (b) the quorum for its meetings,
- (c) the remuneration and expenses of its members,
- (d) the establishment and functions of any committees of the council, and
- (e) the indemnification of members of the council for matters in respect of which a corporation may indemnify its directors pursuant to section 119 of the *Business Corporations Act*,

and may make by-laws respecting other aspects of its internal proceedings.

(2) An insurance council which has made a by-law or an amendment to a by-law shall file a copy of the by-law or amendment with the Superintendent within 30 days after making it, and the by-law or amendment has no effect unless it is approved by the Superintendent.

Explanatory Notes

- 1** This Bill will amend chapter I-5 of the Revised Statutes of Alberta 1980.
- 2** Insurance councils and appeals therefrom.

(3) The Superintendent shall, within 60 days after receiving a copy of a by-law or amendment, give written notice to the insurance council which made it that he approves or does not approve the by-law or amendment.

(4) The Superintendent shall not decline to approve a by-law or amendment unless he considers that it is unjust or prejudicial to the public interest or that it goes beyond the council's powers to make by-laws.

(5) A by-law or amendment, if approved, comes into force on the date of the approval or the date, if any, specified for commencement in the by-law or amendment, whichever date is later.

21.4(1) An insurance council shall give written notice of a decision made by it to an applicant or to any other person adversely affected by the decision, stating its reasons for the decision.

(2) Subject to the result of any appeal under this section, a decision made by an insurance council on a matter falling within its jurisdiction is binding on all persons.

(3) A person who is adversely affected by any decision of an insurance council may, within 30 days after being notified in writing of the decision, appeal the decision to the Superintendent by serving on him a written notice of appeal.

(4) The Superintendent is not required to afford the person affected the opportunity to make oral representations or to be represented by counsel if he affords that person adequate opportunity to make written representations and observes the principles of natural justice.

(5) If the appeal to the Superintendent involves a suspension or revocation referred to in section 537(1)(b), the suspension or revocation does not take effect until at least after the disposition of the appeal by the Superintendent.

(6) The Superintendent may conduct such enquiries, additional to those made by the insurance council, as he considers appropriate for the purposes of the appeal.

(7) The Superintendent may confirm, vary or quash the decision appealed against.

(8) The Superintendent shall serve on the person affected his decision in writing, with reasons.

(9) If the Superintendent's decision on an appeal involves a refusal, suspension or revocation described in section 537(1), the person given a right to appeal by section 537(2) may appeal that decision under section 537, and that section applies, as if that decision had originally been made by the Superintendent.

3 Section 22 is amended

(a) by repealing clause (a.1) and substituting the following:

(a.01) respecting the establishment of the insurance councils referred to in section 21.2;

(a.02) respecting the composition, and the term and manner of appointment of members, of each insurance council;

3 Section 22 presently reads:

22 The Lieutenant Governor in Council may make regulations

(a) prescribing fees payable under this Act;

(a.1) respecting the experience, training, education and examination of an applicant required for the issuance of a certificate of authority or an adjuster's certificate;

(a.03) authorizing the Superintendent to delegate any of his powers, duties or functions under this Act to any of the councils, establishing the restrictions on and limitations of any such delegation and otherwise respecting any such delegated powers, duties and functions;

(a.04) respecting the fixing of fees and additional special levies for services provided or to be provided by the insurance councils, and respecting the basis for such fees and levies and their collection by the councils and the means of enforcing their payment and the remittance of portions of the fees collected to the Provincial Treasurer;

(b) *in clause (a.12) by adding “and exceptions to the 183-day continuing membership” after “insurance”;*

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

(a.21) respecting educational, training, experience, examination, personal suitability and other qualification requirements for the issuing of a certificate of authority or an adjuster's certificate;

(a.22) respecting ethical, operational and trade practices for agents and adjusters;

(a.23) respecting the investigation of complaints and the adjudication or mediation of disputes respecting services provided by, and the conduct of, agents and adjusters;

(d) *by adding the following after clause (h):*

(h.1) prescribing or providing for dates for the purposes of sections 513 and 532;

(h.2) respecting the replacement of an existing life insurance contract by another contract of life insurance and the duties of insurers and agents and the forms to be used in connection with such a replacement;

4 *Section 29.1(1) is amended by adding “, unless otherwise prescribed by those regulations,” after “and”.*

5 *Section 221(3) is amended by striking out “or employee”.*

6 *Section 308(b) is repealed.*

(a.11) designating as compensation associations bodies corporate or unincorporated associations, or both, whose purposes are to provide compensation to policy-holders of and eligible claimants on insolvent insurers;

(a.12) prescribing classes of insurance for the purposes of section 29.1(1);

(a.13) designating a compensation association for 1 or more such classes of insurance;

(a.14) designating insurers as being adequately covered by a plan of compensation other than that provided by reason of membership in a compensation association;

(a.15) prescribing a maximum proportion of risks that may be reinsured with insurers that are not registered under the Canadian and British Insurance Companies Act (Canada) or the Foreign Insurance Companies Act (Canada) or are not incorporated by or under the laws of Canada, Alberta or another province, and varying the proportions for different classes of insurance;

(a.2) respecting the terms and conditions to be included in a certificate of authority or an adjuster's certificate;

(b) prescribing forms for use under this Act;

(c) extending the provisions of this Act, or any of them, to a system or class of insurance not particularly mentioned in this Act;

(d) creating a class of insurance that may include one or more classes of insurance that are defined in section 1;

(e) prescribing the method of valuation of securities owned by provincial companies for the purposes of section 99;

(f) prescribing the maximum amount that a company may invest in any class of investments for a segregated fund under section 107;

(g) respecting the form and content of an information circular for the purposes of section 161;

(h) prescribing the form and content of reports required to be filed under sections 167 and 168 and respecting any other matter necessary or advisable to carry out the intent and purpose of those sections;

(i) generally for the better administration of this Act.

4 Section 29.1(1) presently reads:

29.1(1) Where a compensation association has been designated by the regulations under section 22 for any of the classes of insurance prescribed by those regulations, then, subject to subsection (2), every insurer, while licensed to carry on that class of insurance and for 183 days after ceasing to be so licensed, is a member of that compensation association.

5 Section 221(3) presently reads:

(3) No resident agent holding a certificate of authority shall give any power of attorney to persons residing within Alberta for the purpose of counter-signing contracts pursuant to section 220, unless that person is licensed as an agent or employee under Part 16.

6 Section 308 presently reads:

308 The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability

(a) imposed by any workers' compensation law on any person insured by the contract,

7 *Section 512 is amended*

(a) *in subsection (1) by adding “, having regard to the requirements prescribed by the regulations,” after “satisfied”;*

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

(3) The Superintendent may place any or all of the terms and conditions prescribed by the regulations on a certificate of authority, and the holder shall comply with those terms and conditions.

8 *Section 513 is amended by striking out “Every certificate expires on February 15, in each year” and substituting “A certificate expires on the date in each year that is prescribed or provided for in the regulations in respect of that certificate”.*

9 *Section 516 is amended*

(a) *in subsection (4) by adding “and has passed the further examination that is prescribed by the regulations” after “years”;*

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

(4.1) The requirement in subsection (4) to pass a further examination does not apply to a person who held a certificate of authority to write life insurance at the date that section 9 of the *Insurance Amendment Act, 1988* came into force.

10 *Section 521 is amended by adding the following after clause (a):*

(a.1) in any form provided for in regulations made under section 22(h.2),

(i) makes a false or misleading statement or representation, or

(ii) makes or delivers an incomplete or inaccurate comparison between an existing life insurance contract and the life insurance contract that would replace it,

11 *Section 531 is repealed and the following is substituted:*

531(1) On receipt of an application for an adjuster's certificate and payment of the prescribed fee, the Superintendent may, if he is satisfied, having regard to the requirements prescribed by the regulations, that the applicant is a suitable person to receive an adjuster's certificate, issue to the applicant an adjuster's certificate authorizing the holder during the term thereof to carry on within Alberta the business of an adjuster.

- (b) *resulting from bodily injury to or the death of*
 - (i) *the daughter, son, wife or husband of any person insured by the contract while being carried in or on or entering or getting on to or alighting from the automobile, or*
 - (ii) *any person insured by the contract,*
- or*
- (c) *resulting from bodily injury to or the death of any employee of any person insured by the contract while engaged in the operation or repair of the automobile.*

7 Section 512 presently reads:

- 512(1) On receipt of an application for a certificate of authority and payment of the prescribed fee the Superintendent may, if he is satisfied that the applicant is a suitable person to receive a certificate of authority, issue to the applicant a certificate of authority authorizing the holder during the term thereof to carry on within Alberta the business of insurance in the class stipulated in his certificate.*
- (2) If the Superintendent, after due investigation, is of the opinion that an applicant is not for any reason a suitable person to receive a certificate of authority, he may in his discretion refuse a certificate of authority to the applicant.*

8 Section 513 presently reads:

- 513 Every certificate expires on February 15, in each year, but may be renewed on application to the Superintendent and payment of the prescribed fee, unless previously revoked or suspended by the Superintendent.*

9 Section 516(4) presently reads:

- (4) Subsections (1), (2) and (3) do not apply to a person who has held a certificate of authority to write life insurance for at least 2 years, but the certificate of authority of that person to write life insurance or any renewal of it shall state the name of the insurer who recommended the granting of the certificate of authority or renewal.*

10 Section 521 presently reads in part:

- 521 A person licensed as an agent for life insurance under this Act who*
- (a) induces, directly or indirectly, an insured to lapse, forfeit or surrender, for cash or for paid-up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer,*
- is guilty of an offence.*

11 Section 531 presently reads:

- 531(1) An adjuster's certificate may be issued to any person applying therefor on a form prescribed by the Superintendent and on payment of the prescribed fee.*
- (2) An application shall be approved by an insurer licensed under this Act and by the Superintendent.*

(2) If the Superintendent, after due investigation, is of the opinion that an applicant is not for any reason a suitable person to receive an adjuster's certificate, he may refuse an adjuster's certificate to the applicant.

(3) The Superintendent may place any or all of the terms and conditions prescribed by the regulations on an adjuster's certificate, and the holder shall comply with those terms and conditions.

12 Section 532 is amended by striking out "June 1 in each year" and substituting "the date in each year that is prescribed or provided for in the regulations in respect of that certificate,".

13 Sections 4 and 5 of the Insurance Amendment Act, 1984 are repealed.

14 This Act comes into force on Proclamation.

12 Section 532 presently reads:

532 An adjuster's certificate expires on June 1 in each year but may be renewed on application to the Superintendent and payment of the prescribed fee.

13 This section will amend chapter 23 of the Statutes of Alberta, 1984. Sections 4 and 5 of that Act amend section 512 and repeal and replace section 531 of the Insurance Act, but were never proclaimed in force.

14 Coming into force.