

2001 BILL 17

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

INSURANCE AMENDMENT ACT, 2001

MS GRAHAM

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 17

2001

INSURANCE AMENDMENT ACT, 2001

(Assented to _____, 2001)

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

Amends SA
1999 cl-5.1

1 The *Insurance Act* (SA 1999 cl-5.1) is amended by this Act.

2 The following is added before section 460:

Insurer's
liability for
employee

459.1 Where an individual referred to in section 460(2)(c) contravenes this Act or the regulations in the course of employment as an adjuster, the contravention is deemed to have been committed by the insurer that employs the individual, and any remedy available under this Act in respect of the contravention may be pursued directly against the insurer.

3 Section 460 is amended

(a) by repealing subsection (2)(c) and substituting the following:

(c) the individual is an employee of an insurer and the contract was issued by that insurer or by an insurer that is an affiliate of that insurer, or

(b) by repealing subsection (4) and substituting the following:

(4) No insurer may enter into a contract with

(a) an individual as an independent contractor, or

Explanatory Notes

1 Amends chapter I-5.1 of the Statutes of Alberta, 1999.

2 Insurer as employer is responsible for contraventions committed by adjuster employee.

3 Section 460 presently reads in part:

460(1) No business may act or offer to act as an adjuster in respect of a contract of insurance unless

(b) the business holds a valid and subsisting insurance agent's certificate of authority for the class of insurance under which the contract of insurance falls, the certificate is not a restricted insurance agent's certificate of authority, the amount of the loss under the contract is less than the prescribed amount and the business is the business that sold the contract of insurance.

(2) No individual may act or offer to act as an adjuster in respect of a contract of insurance unless

(b) a business

to act as an adjuster unless the individual or business holds a valid and subsisting adjuster's certificate of authority or meets the requirements of subsection (1)(b) or (2)(b).

4 Section 461 is repealed.

5 Section 462(4) is repealed.

- (a) *the individual is an employee or independent contractor of a business that holds a valid and subsisting adjuster's certificate of authority and the employee or independent contractor holds a valid and subsisting adjuster's certificate of authority,*
- (b) *the individual is an employee or independent contractor of a business that holds a valid and subsisting insurance agent's certificate of authority and the individual holds a valid and subsisting insurance agent's certificate of authority for the class of insurance under which the contract of insurance falls, the amount of the loss under the contract is less than the prescribed amount and the business is the business that sold the contract of insurance,*
- (c) *the individual is an employee of the insurer that issued the contract or an insurer that is an affiliate of the insurer that issued the contract and the individual holds a valid and subsisting adjuster's certificate of authority, or*
- (d) *the contract is a reciprocal contract of indemnity or inter-insurance of a licensed reciprocal insurance exchange and the individual is the principal attorney of the exchange.*

(4) No insurer may employ an individual or enter into a contract with a business to act as an adjuster unless the individual or business

- (a) holds a valid and subsisting adjuster's certificate of authority, or*
- (b) meets the requirements of subsection (1)(b) or (2)(b).*

4 Section 461 presently reads:

461 Despite section 460, an employee of a licensed insurer who acts or offers to act as an adjuster only with respect to prescribed types of claims is not required to obtain an adjuster's certificate of authority.

5 Section 462(4) presently reads:

(4) An individual who is an employee of an insurer and holds an adjuster's certificate of authority specifying that the individual is authorized to represent that insurer must not, while that certificate of authority is subsisting, be issued another adjuster's certificate of authority to represent a different insurer or a business.

6 Section 464 is repealed and the following is substituted:

Recommendation

464(1) Every individual who holds an adjuster's certificate of authority must be an employee or independent contractor of a business that holds an adjuster's certificate of authority and be recommended by the designated representative of the business.

(2) Subsection (1) does not apply to the designated representative of a business.

7 Section 473(2) is repealed and the following is substituted:

(2) If an individual who

(a) is an employee or independent contractor of a business and acts as an insurance agent or adjuster, or

(b) is an employee of an insurer and acts as an insurance agent

ceases to be such an employee or independent contractor, the business or insurer, as the case may be, must, within 14 days from the date that the individual ceased to be such an employee or independent contractor, notify the Minister in writing of that fact.

8 The following is added after section 480:

Minister's order

480.1(1) If the Minister is satisfied that an employee referred to in section 460(2)(c) has contravened section 509 or a regulation under section 511, the Minister may, by order in writing directed to the insurer that employs the employee, order the insurer to ensure that the employee ceases to act as an adjuster on behalf of the insurer or affiliate.

(2) An order under subsection (1) may be made for a definite or indefinite period of time and may be made subject to any terms or conditions the Minister considers appropriate.

6 Section 464 presently reads:

464(1) Every individual that holds an adjuster's certificate of authority must

(a) be an employee or independent contractor of a business that holds an adjuster's certificate of authority and be recommended by the designated representative of the business, or

(b) be an employee of an insurer and be recommended by the insurer.

(2) Subsection (1)(a) does not apply to the designated representative of a business.

7 Section 473(2) presently reads:

(2) If an employee or independent contractor of a business or an employee of an insurer who acts as an insurance agent or adjuster ceases to be an employee or independent contractor of the business or insurer, the business or insurer, as the case may be, must, within 14 days from the date that the individual ceased to be an employee or independent contractor, notify the Minister in writing of this fact.

8 Minister's order re: insurer's employee.

Evidentiary provisions

9 The following is added after section 482:

482.1 Sections 3, 4, 7, 8, 9, 10 and 11 of the *Public Inquiries Act* apply where

- (a) the Minister holds a hearing for the purposes of exercising powers under section 480, or
- (b) an appeal body holds a hearing for the purposes of an appeal referred to in section 482.

10 Section 485(2) is repealed.

11 Section 511(1)(b) is amended by adding “and adjusters” after “insurers”.

12 Section 781(a) is amended by adding “480.1,” after “423,”.

13 Section 806(1) is amended by adding the following after clause (l):

- (l.1) an order of the Minister under section 480.1;

9 Evidentiary provisions of Public Inquiries Act to apply to certain hearings.

10 Consequential to change to section 460(2)(c). Section 485(2) presently reads:

(2) Every insurer that recommends an individual be issued an adjuster's certificate of authority must

(a) establish reasonable screening procedures to determine whether the individual is suitable to act as an adjuster, and

(b) use those procedures to screen an individual before making a recommendation.

11 Section 511(1)(b) presently reads:

511(1) The Lieutenant Governor in Council may make regulations

(b) respecting the claims settlement practices of insurers;

12 Section 781 presently reads in part:

781 A person who

(a) contravenes an order or direction made under section 21(4), 327(2), 423, 507, 764, 766 or 788,

is guilty of an offence.

13 Minister's order under section 480.1 reviewable by review board.