

# BILL

No. 11 of 1916.

An Act respecting Beneficiaries under Life Insurance Policies.

(Assented to \_\_\_\_\_, 1916.)

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

1. This Act may be cited as "*The Life Insurance Beneficiaries Act.*"

2. In this Act unless the context otherwise requires—

1. "Insurance" means life insurance;

2. "Insurer" means and includes—

(a) Any company or corporation, or any society or association, incorporated or unincorporated, or any firm or partnership, or any underwriter other than a friendly society, that undertakes, or effects for valuable consideration, or agrees or offers so to undertake or effect in the province, any contract of insurance;

(b) Any corporation, society, association, or fraternity, benevolent, mutual, provident, industrial or co-operative, or the like, which does not carry on insurance for profit, and which through mutual co-operation of its members furnishes to such members or to their families, relatives, dependents or other designated beneficiaries upon a specified contingency aid, protection or benefit;

3. "Assured" means the person entering into a contract of insurance with the insurer, whether upon his own life or upon that of any other person;

4. "Declaration" means the designation by the assured of the beneficiary under a policy of insurance or the appointment or apportionment of the insurance money whether such designation, appointment or apportionment is made by the contract of insurance itself or by any instrument in writing, including a will, attached to or endorsed on it or in any way identifying it;

5. "Preferred beneficiary" means the wife, child, grand-child or mother of the assured;

6. "Beneficiary for value" means a beneficiary for valuable consideration other than marriage;

7. "Maturity of the contract" means the happening of the event or the expiration of the term at which the benefit under the contract or policy accrues due;

8. "Nominee" means a designated person on whose life the annuity of another depends.

## INSURABLE INTEREST.

3. No contract of insurance, other than one upon the life of the assured, shall be valid unless the beneficiary shall have at the date of the contract an insurable interest in the life insured, but no contract of annuity upon life, otherwise valid, shall be deemed invalid by reason only of the fact that the annuitant had not, at the date of the contract or at any time, an insurable interest in the life of the nominee.

(2) Nothing in this section shall be deemed to affect the rights of a *bona fide* assignee, donee or grantee of the beneficiary of a policy of insurance valid under this section, or those of his legatee, next-of-kin, or other person entitled by law.

4. Without restricting the meaning which the term "insurable interest" now has at law, it is hereby declared that the following persons shall have an insurable interest, that is to say—

- (a) A parent in the life of his child under twenty-one years of age;
- (b) A husband in the life of his wife;
- (c) A married woman, in the life of her husband;
- (d) Any person who has a pecuniary interest in the duration of another person's life, in the life of such other person;
- (e) Every person, in his own life.

5. An insurance, heretofore effected by a parent upon the life of his child under twenty-one years of age, and which if effected after the passing of this Act would be valid by reason of the provisions of clause (a) of section 4 hereof, shall not be invalid by reason only of the parent's want of pecuniary interest in the life of such child.

## INSURANCE ON LIFE OF ASSURED.

6. Any person of the full age of twenty-one years may effect *bona fide* at his own charge insurance of his own person for the whole term of life or any shorter term, for the sole or partial benefit of himself or of his estate, or for the benefit of any other person; and the insurance money may be made payable to any person for his own use or as trustee for another person.

(2) If the premiums on such insurance were paid by the assured with intent to defraud his creditors they shall be entitled to receive out of the insurance money an amount not exceeding the premiums so paid and interest thereon.

(3) The assured may designate the beneficiary by any mode of "declaration" as defined in this Act and may, whether the insurance money has or has not been already appointed or apportioned, from time to time, except as against a beneficiary for value and subject to the provisions of this Act as to preferred beneficiaries, by declaration, appoint or apportion the same, or alter or revoke the benefits, or add or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate.

(4) Where the declaration is made by will, such declaration as against a subsequent declaration shall be deemed to have been made at the date of the will and not at the death of the testator.

(5) Where the declaration describes the subject of it as the insurance or the policy or policies of insurance or the insurance fund of the assured, or uses language of like import in describing it, the declaration, although there exists a declaration in favour of a member or members of the preferred class of beneficiaries, shall be valid except in so far as it purports to alter or revoke such last mentioned declaration in a manner not allowed by this Act.

(6) The assured may by the contract of insurance or by declaration or by any writing under his hand, appoint a trustee or trustees of the insurance money and may in like manner from time to time revoke such appointment and appoint a new trustee or trustees and make provision for the appointment of a new trustee or trustees, and for the investment of the insurance money, and payment made to such trustee or trustees shall discharge the insurer.

(7) Nothing in this Act shall restrict or interfere with the right to effect or assign a policy in any other manner allowed by law.

(8) Where there are several beneficiaries, if one or more of them die before the maturity of the contract and no apportionment or other disposition is subsequently made by him, the insurance shall be for the benefit of the surviving beneficiary or beneficiaries, in equal shares if more than one; and if all the beneficiaries or the sole beneficiary die before the maturity of the contract and no other disposition is made by him the insurance shall be for the benefit of the assured or his estate.

(9) Until the insurer has received the original or a copy of an instrument in writing affecting the insurance money or any part thereof, or of any appointment or revocation of an appointment of a trustee, the insurer may deal with, and obtain a valid discharge from the assured or his beneficiaries, or his trustees, executors, administrators or assigns in the same manner and with the like effect as if such instrument in writing, appointment, or revocation had not been made, but nothing in this subsection shall affect the right of any person entitled by virtue of such instrument, appointment, or revocation to recover insurance money from the person to whom it has been paid by the insurer.

(10) Except in so far as the same are inconsistent with the provisions of this Act relating to contracts made or declared to be for the benefit of a preferred beneficiary or preferred beneficiaries, the provisions of this section shall apply to all declarations and all contracts of insurance whether made before or after the passing of this Act.

#### INSURANCE OF LIVES OF INFANTS.

7. A person not of the full age of twenty-one years, but of the age of fifteen years or more, may, notwithstanding his minority, effect insurance on his own life for the benefit of himself or of his estate, or for the benefit of a preferred beneficiary, or of a father, brother or sister, and may surrender such insurance or give a valid discharge

for any benefit accruing or for any money payable under the contract, in like manner and to the same effect as if he were of full age.

(2) Such person shall so far as shall be consistent with the provisions of this section, have all the powers as to designating beneficiaries, appointing and apportioning the insurance money, altering or revoking the benefits, adding or substituting new beneficiaries or diverting the insurance to himself or his estate, which he would have if of the full age of twenty-one years, but he shall not during his minority designate, add or substitute any beneficiary not mentioned in the first subsection of this section.

8. Where under any contract of insurance the insurance money or part thereof is for the benefit, in whole or in part, of infants, the insurer may before paying the money to which they are entitled require reasonable proof of the number, names and ages of such infants.

9. No contract of insurance hereafter effected on the life of a child shall be valid unless the age of such child at the time of insurance is at least one year.

(2) No insurer shall under a contract of insurance other than one of endowment insure or pay on the death of a child under ten years of age any sum which alone or together with any sum payable on the death of such child by any other insurer exceeds respectively:

\$32 if the child dies under the age of two years.

40 if the child dies under the age of three years.

48 if the child dies under the age of four years.

56 if the child dies under the age of five years.

83 if the child dies under the age of six years.

120 if the child dies under the age of seven years.

160 if the child dies under the age of eight years.

200 if the child dies under the age of nine years.

260 if the child dies under the age of ten years.

nor in the case of endowment insurance pay on the death of a child under ten years of age an amount exceeding the actual total of premiums paid with interest thereon at three and one-half per centum per annum, compounded yearly.

(3) Nothing in this section contained shall apply to such insurances as are now in force or to any insurance on the life of a child of any age where the person effecting the insurance has a pecuniary interest in the life.

(4) Where the age of the child at the date of the contract is less than ten years and the insurer has knowingly or without sufficient enquiry entered into any contract prohibited by this section the premiums paid thereunder shall be recovered from the insurer by the person paying the same together with interest thereon.

(5) Every insurer undertaking or effecting insurance on the lives of children under ten years of age shall print the provisions of this section in conspicuous type upon every circular soliciting and upon every application for and every contract of such insurance and any insurer violating any of the provisions of this subsection shall be liable on summary conviction thereof to a penalty not exceeding two hundred dollars and costs.

## PREFERRED BENEFICIARIES.

10. Preferred beneficiaries shall constitute a class and the provisions of this and the following four sections shall apply to contracts of insurance on the life of the assured for the benefit of preferred beneficiaries.

(2) Where the contract of insurance or declaration provides that the insurance money, or part thereof, or the interest thereon, shall be for the benefit of a preferred beneficiary, or preferred beneficiaries, such contract or declaration shall subject to the right of the assured to apportion or alter as hereinafter provided, create a trust in favour of such beneficiary or beneficiaries, and so long as any object of the trust remains, the money payable under the contract shall not be subject to the control of the assured, or of his creditors, or form part of his estate.

(3) Where two or more beneficiaries are designated but no apportionment is made, all of them shall share equally.

(4) Where it is stated in the contract or declaration that the insurance money or any part of it is for the benefit of the wife, or of the future wife, of the assured, alone, or of his wife or his future wife and some other person or persons the wife or future wife so referred to shall be deemed to be the wife living at the maturity of the contract, whether she was or was not at the date of the contract or declaration the wife of the assured.

(5) Where the wife or future wife is designated by name the provisions of the last preceding subsection shall apply, except as follows:

Where at the maturity of the contract there is living a child or children of the assured, or a child or children of a deceased child of the assured, no one of whom is entitled to any benefit under the contract, the share of the deceased designated wife shall be for the benefit, in equal shares, of the wife living at the maturity of the contract, the child or children of the assured then living and the child or children of a deceased child of the assured, who shall take, in equal shares, if more than one, the share his or their parent would have taken if living.

(6) Where it is stated in the contract or declaration that the insurance money or any part of it is for the benefit of the assured's children generally, either alone or with any other person or persons, the word "children" shall include all the children of the assured living at the maturity of the contract, whether by the then or any former wife or husband of the assured, and whether or not such children or any of them, were in existence at the date of the contract or declaration, and also the children living at the maturity of the contract of any child of the assured who died before the maturity of the contract, such last mentioned children taking the share their parent would have taken if living.

(7) Where an unmarried man or a widower effects the contract of insurance or declares it to be for the benefit of his future wife, or of his future wife and children, or of his children, but at maturity of the contract the assured is still unmarried or is a widower without issue, the insurance money shall be for the benefit of the assured or form part of his estate as the case may be.

(8) Where an unmarried man or a widower effects or declares the contract to be for the benefit of his future wife, or future wife and children, and the intended wife is designated by name or is otherwise clearly ascertained in the contract, but the intended marriage does not take place, all questions arising on such contract shall be determined as in the case of a beneficiary not belonging to the preferred class.

(9) If one or more or all of the designated preferred beneficiaries or a sole preferred beneficiary die before the maturity of the contract, the assured may, whether an apportionment has been made or not, provide by declaration that the share or shares of the person or persons so dying shall be for the benefit of the assured or of his estate or of any other person or persons whether or not such person or persons belong to the class of preferred beneficiaries.

(a) In the absence of any declaration under the preceding part of this subsection, the share of such deceased beneficiary shall, if such deceased beneficiary was a child of the assured and has left a child or children of his own surviving him, be for the benefit of such last mentioned child or children who if more than one, shall take in equal shares.

(b) If there is no person entitled under clause (a) of this subsection, the share of such deceased beneficiary shall, in the absence of any declaration as aforesaid, be for the benefit of the surviving, designated preferred beneficiary or beneficiaries, who if more than one, shall take in equal shares.

(c) If there is no person entitled under either of clauses (a) and (b) of this subsection, and the wife and child or children or the wife alone or any child or children of the assured is or are living at the maturity of the contract, the share of such deceased beneficiary shall, in the absence of any declaration as aforesaid, be for the benefit of such wife, child or children, or wife and child or children in equal shares if there are more than one of such persons surviving; provided that if, in such case, any child of the assured has died before the maturity of the contract, and has left a child or children surviving at such maturity, such last mentioned child or children shall be entitled in equal shares if more than one to the share which his or their parent if living would have taken.

(d) If there is no person entitled under any of the above provisions of this subsection, the share of such deceased beneficiary shall be for the benefit of the assured, and if he be dead, such share shall form part of his estate.

**11.** The assured may by a declaration vary a contract or declaration previously made so as to restrict, extend, transfer or limit the benefits of the insurance to any one or more persons of the class of preferred beneficiaries to the exclusion of any or all others of the class or wholly or partly to one or more for life, or any other term, with remainder to any other or others of the class, but the

assured shall not except as provided by subsection 9 of section 10 revoke or alter any disposition made under the provisions of this Act in favour of any one or more of the preferred class except in favour of some one or more persons within the preferred class so long as any of the persons of the preferred class in whose favour the contract or declaration is made are living.

(2) Where it is proved to the satisfaction of the Supreme Court or a judge thereof, upon petition, that a beneficiary, being of the preferred class and not a beneficiary for value, is leading a criminal or an immoral life, and that there is no other person of the preferred class living, or such other person or persons only as are also leading a criminal or an immoral life, the court or judge may make an order annulling the right title and interest of such beneficiary under the contract or declaration, and granting such other relief as under the circumstances appears proper; and thereupon the assured may, then or thereafter by declaration dispose of the share or interest of such beneficiary in such manner as he may see fit, and in the absence of such declaration such share shall be for the benefit of the assured or his estate as the case may be.

12. If the assured is unable to continue to meet the premiums he may surrender the contract to the insurer and accept in lieu thereof a paid up contract for such sum as the premium paid would entitle him, payable as the money insured by the original contract if not surrendered would have been payable, and the insurer may accept the surrender and issue the paid up contract notwithstanding any declaration in favour of a preferred beneficiary.

(2) Notwithstanding the designation of a preferred beneficiary the assured may, from time to time, borrow from the insurer or with the consent of such beneficiary from any other person on the security of the contract such sums as may be necessary and the same shall be applied to keep it in force, and on such terms and conditions as may be agreed on; and the sums so borrowed, with such interest as may be agreed on, shall be a first lien on the contract and on all moneys payable thereunder.

(3) Nothing in this section shall authorize anything to be done to the prejudice of a beneficiary for value.

13. Notwithstanding that the insurance money may be payable to preferred beneficiaries or to a trustee for preferred beneficiaries the assured may, in writing, require the insurer to pay the bonuses or profits, or portions thereof, accruing under the contract, to the assured, or to apply the same in reduction of the annual premiums payable by him in such way as he may direct, or to add such bonuses or profits to the benefit, and the insurer shall pay or apply such bonuses or profits as the assured directs and according to the rates and rules established by the insurer, but the insurer shall not be obliged to pay or apply such bonuses or profits in any manner contrary to the stipulations in the contract or application therefor.

(2) Where a contract of insurance is made or declared to be for the benefit of one or more preferred beneficiaries

and all of them are of full age, they and the assured may surrender the contract or may assign or dispose of the same either absolutely or by way of security.

(3) Where such preferred beneficiaries include children or grandchildren it shall be sufficient so far as their interests are concerned if all then living are of full age and join in the surrender or the assignment or disposal as the case may be.

(4) Where a person is entitled to a benefit only in the event of the death of another person named as a beneficiary it shall be sufficient for the purposes of this section if such last mentioned person joins in the surrender, assignment or disposal.

**14.** A declaration changing the preferred beneficiaries or altering, apportioning or varying the benefits of the insurance, may be made notwithstanding that by the contract of insurance or a previous declaration the insurance money is payable to a trustee for preferred beneficiaries.

#### PAYMENT OF SHARES OF INFANTS.

**15.** If no trustee of the insurance money is named or appointed, shares of infants may be paid to a trust company appointed as trustee by the Supreme Court or a judge thereof under the provisions of *The Trust Companies Ordinance* upon the application of the infants or their parents or guardian, and such payment shall be a discharge to the insurer.

(2) When insurance money not exceeding two thousand dollars is payable to the wife and children, or to the children of the assured, and one or more of the children are infants, the court may, if the assured is dead and if the widow of the assured is the mother of such infants, appoint such widow as their guardian with or without security, and such insurance money may be paid to her as such guardian.

(3) A trustee, subject to the terms of the trust instrument, or a guardian may invest the money received in any security in which trust companies under the provisions of *The Trust Companies Ordinance* may invest trust funds, and may from time to time alter, vary and transpose the investments, and where the money is held for infants may also apply all or part of the annual income arising from the share or presumptive share of each of the infants in or towards his maintenance and education in such manner as the trustee or guardian thinks fit; and may also with the approval of the Supreme Court or a judge thereof advance to and for any of the infants notwithstanding his minority, the whole or any part of his share for his advancement or preferment in life or on his marriage.

**16.** If there is no person competent to receive the share of an infant in the insurance money and the insurer admits the claim or any part thereof, the insurer at any time after the expiration of two months from the date of the admission of the claim or part thereof may obtain an order from the Supreme Court or a judge thereof for the payment of the share of the infant into court; and in such case the costs of the application shall be paid out of the share, unless the court or judge otherwise directs, and

the residue shall be paid into court pursuant to the order, and such payment shall be a sufficient discharge to the insurer for the money paid; and the money shall be dealt with as the court or judge may direct.

(2) If the insurer does not within four months from the time the claim is admitted either pay the same to some person competent under this Act to receive the money, or pay the same into the Supreme Court, the said court or a judge thereof may upon application by someone competent to receive the said money or by some other person on behalf of the infant, order the insurance money or any part thereof to be paid to any person competent to receive the same or to be paid into court to be dealt with as the court or judge may direct, and any such payment shall be a sufficient discharge to the insurer.

(3) The court or judge may order the costs of the application and any costs incidental to establishing the authority of the party applying for the order to be paid out of such moneys or by the insurer or otherwise as may seem just, and the court or judge may also order the costs of and incidental to obtaining out of court moneys voluntarily paid in by the insurer to be paid out of such moneys.

#### CONSOLIDATION OF ACTIONS.

17. Where several actions are brought for the recovery of money payable under a contract of insurance, the court may consolidate such actions or otherwise deal therewith so that there shall be but one action for and in respect of all the claims made in such actions.

(2) Where an action is brought to recover the share of one or more infants all the other infants entitled, or the trustees, guardians or other persons entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

(3) In all actions where several persons are interested in the insurance money the court may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

#### REPEAL.

18. Chapter 49 of The Consolidated Ordinances of the Territories, 1898, is hereby repealed.

No. 11.

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FOURTH SESSION  
THIRD LEGISLATURE  
6 GEORGE V  
1916

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**BILL**

An Act respecting Beneficiaries under  
Life Insurance Policies.

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Received and read the

First time. . . . .

Second time. . . . .

Third time. . . . .

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HON. MR. MITCHELL.

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