

BILL

No. 33 of 1916.

An Act respecting Hail Insurance.

(Assented to 1916.)

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

SHORT TITLE.

1. This Act may be cited as the "*Hail Insurance Act.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires:—

1. "Company" or "insurer" means and includes any company or corporation or any society or association incorporated or unincorporated, or any firm or partnership, or any underwriter, that undertakes or effects for a valuable consideration or agrees or offers so to undertake or effect in the province any contract of hail insurance;

2. "Offer to undertake" shall include the setting up of a sign or inscription containing the name of the company and the distribution or publication of any proposal circular, card, advertisement, printed form, or like document, in the name of the company, or any written or oral solicitation on its behalf;

3. "Undertake" shall include undertake, or negotiate, or solicit, or agree or offer to undertake;

4. "Registered" means registered under *The Alberta Insurance Act.*

3. The liability of a company in respect to a contract of hail insurance shall commence at noon, standard time, of the day on which the application shall have been accepted by the head or branch office or general agency in the province and shall expire at noon, standard time, on the 15th day of September of the same year or on such later date in the year as may be provided by the contract.

4. Should the crop insured be cut before the date of expiry of the contract the liability of the company under the contract shall cease at the time the grain is so cut.

5. If the application for such insurance be declined by the company it shall within forty-eight hours of the receipt of the application at its head or branch office or general agency in the province so notify the assured by registered letter directed to the address given in such application, failing which the company shall be deemed to have accepted the application.

6. On the face of every policy of hail insurance there shall appear—

1. The name of the insurer;
2. The name of the insured;

3. The name of the person or persons to whom the insurance money is payable;
4. The premium or other consideration for the insurance;
5. The subject-matter of the insurance;
6. The maximum amount or amounts which the insurer contracts to pay;
7. The event on the happening of which payment is to be made; and
8. The term of the insurance.

7. Every company registered under *The Alberta Insurance Act* to undertake hail insurance in Alberta shall cause to be printed, stamped or written in plain letters across the face of every policy, or other insuring document, covering hail loss, issued by or on behalf of such company on crops in Alberta, or which on the face of such policy or other insuring document are stated to be in Alberta, the words "Registered under *The Alberta Insurance Act*."

8. Any stipulation or term of the contract, other than those mentioned above, if held by a court or a judge before whom a question relating thereto is tried, to be not just and reasonable, shall not be binding on the assured.

9. If any company undertake hail insurance on the cash plan although such company is by name, or is registered as a mutual company, no provision as to *pro rata* assessment or payment incident to mutual insurance shall apply to such insurance issued or conducted on the cash plan.

10. The conditions set forth in schedule A to this Act shall as against the insurer be deemed to be part of every contract of hail insurance in force in Alberta, and shall be printed on every policy with the heading "Hail Insurance Conditions," and no stipulations to the contrary, or providing for any variation, addition or omission shall be binding on the assured unless evidenced in the manner prescribed by sections 11 and 12 of this Act.

11. If the insurer desires to vary the statutory conditions or to omit any of them, or to add any new condition, there shall be added immediately after such conditions words to the following effect, which with any such variation, addition or reference to omissions, shall be printed in conspicuous type and in red ink:

" VARIATIONS IN CONDITIONS.

"This policy is issued on the above statutory conditions with the following variations, omissions and additions, which are, by virtue of *The Hail Insurance Act*, in force so far only as they shall be held to be just and reasonable to be exacted by the company."

12. No such variation, omission or addition, unless the same is distinctly indicated and set forth in the manner above prescribed, shall be binding on the assured; but on the contrary the policy shall as against the insurer be subject to the statutory conditions only.

13. Any such variation, omission or addition, unless held to be just and reasonable, shall be null and void.

14. It shall be optional with the insurer to pay or allow claims, wholly or in part, which are void under any statutory condition.

15. Where the loss, if any, under any policy has with the consent of the company been made payable to some person or persons other than the assured as mortgagee or mortgagees said policy shall not be cancelled by the company upon the application of the assured nor in any case without reasonable notice to the said mortgagee or mortgagees.

16. Where, by reason of necessity, accident or mistake, any condition of a contract of insurance on crops in the province as to the proof to be given to the insurer after the occurrence of the event insured against or as to the time in which such proof shall be given has not been strictly complied with, or where after statement or proof of loss has been given in good faith by or on behalf of the assured in pursuance of any condition of such contract of insurance, the insurer, through its agent or otherwise, objects to the loss upon other grounds than for imperfect compliance with such conditions or does not within a reasonable time after receiving such statement or proof notify the assured in writing that it is objected to, stating the particulars in which the same is alleged to be defective, and so from time to time, or where, for any other reason it is held to be inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such condition, no objection to the sufficiency of such statement or proof or amended or supplemental statement or proof, as the case may be, shall be allowed as a defence by the insurer or a discharge of his liability on such contract of insurance wherever entered into.

17. Where proofs of loss are made by any person other than the assured, the insurer shall be entitled to have the assured examined under oath touching the loss or damage before the District Court judge of the judicial district in which the assured resides, and the procedure shall be the same as that upon an examination for discovery in an action.

SCHEDULE A.

HAIL INSURANCE CONDITIONS.

1. After application for insurance, the same being in writing and signed by the applicant, it shall be deemed that any policy sent or delivered to the assured is intended to be in accordance with the terms of the application, unless either the company or the assured forthwith points out in writing the particulars wherein the policy differs from the application.

2. It is agreed between the assured and the company—

(a) That this policy is issued on the statements made in the application for insurance signed by the assured, and that in case any of the statements made therein are untrue this policy shall not be binding upon the company;

(b) That the description of the land, the crops on which are hereby insured, is the same as the assured has given in his application, and this shall be taken and held to be the description of the land on which the insured crops stand on the issuance of the policy and the adjustment and payment of the loss;

(c) That the growing crops are warranted by the assured not to exceed the number of acres stated in the application;

(d) That in case of total destruction by hail of the crops herein specified, the amount insured per acre shall be paid by the company;

(e) That in case of partial damage by hail the company will pay the same percentage of the amount insured per acre as the grain destroyed bears to the crop, had no damage by hail occurred. No consideration shall be made of the cost of cutting or threshing the portion not destroyed. On the remaining portion of the insured crops so damaged the residue of the insurance shall remain in force;

(f) That the company shall not be liable for any loss which is found to be less than five per cent. of the amount herein insured on any one quarter section;

(g) That the company will not be liable for any loss to the crops herein insured caused wholly, or in part, by rust, blight, insects, wind or in any other manner than by hail, and where any or all of such causes combine with hail to cause damage, then the company shall be liable only for that part of the loss which can be directly traced to hail independent of the other causes;

(h) That if the assured in his notice of loss calls for an adjustment and it is found that the company is not liable for any loss according to the conditions of this policy, the assured shall pay all expenses incurred by the company in the investigation of such claim;

(i) That the assured will within forty-eight hours after loss so give notice in writing by registered mail, postage prepaid, addressed to the company at its office or chief agency from which the policy was issued, stating the day and hour of the storm as well as the estimated damage to each part of the crop insured.

3. Any person entitled to make a claim under this policy shall within thirty days after the adjustment of the loss, unless such time is extended in writing by the company, furnish a statutory declaration declaring the date and number of the policy, a description of the land upon which the grain was damaged by hail, the date of loss or damage and the estimated percentage of damage done to each portion of the crop insured.

4. Failure by the assured to furnish the statutory declaration as specified in condition 3 shall cause a forfeiture of any claim under this policy. No denial of liability or other act on the part of the company shall be deemed to waive or dispense with the furnishing of proof of loss hereinbefore mentioned.

5. Any fraud or false statement in any statutory declaration in relation to any of the above particulars shall vitiate the claim of the person making the declaration.

6. Subject to condition 7, proof of loss must be made by the assured although the loss is payable to a third person.

7. Proof of loss may be made by the agent of the assured in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for, or in the like case, or if the assured refuses to do so, by a person to whom any part of the insurance money is payable.

8. In the event of disagreement as to the percentage of damage by hail, the same shall, when called for by either party in writing, be ascertained by two competent and disinterested appraisers. The assured shall select one, who shall not be a neighbour having hail insurance on his own crop, municipal hail insurance excepted, and the company shall select one, and the two so chosen shall first select a competent and disinterested umpire, who shall decide matters of difference only. The appraisers together shall then estimate the percentage of damage by hail, and failing to agree, shall submit their differences to the umpire, and the award in writing of any two shall determine the amount of such loss. The parties thereto shall pay the appraiser respectively selected by them, and shall bear equally the expense of the appraisal and umpire. The choosing of an appraiser on the part of the assured, on request of the company in writing, must be made within twenty-four hours after such request, otherwise the percentage of damage by hail shall be estimated and determined by the appraiser appointed by the company.

9. If any of the crops insured shall be so injured by drought, frost or being over-ripe or from any other cause, that such portion will not result in profit over and above the actual cost of cutting, harvesting and marketing, then the company shall not be liable for any damage which may result from hail.

10. The company shall not be liable for any damage caused by the neglect of the assured to cut over-ripe grain after it has been damaged by hail.

11. In the event of damage to any portion of the insured crops from any other cause than hail, the assured may obtain a ratable proportion of the premium paid calculated as from the first day of June for the insurance on such portion of the crops, provided notice of intention to plough under the crop is mailed by the assured to the company at the address hereinbefore mentioned, by registered letter, accompanied by this policy, not later than the tenth day of July, specifying the crops to be ploughed down, which shall be done not later than the tenth day of August next following the date hereof, and a statement of the crop acreage so ploughed under furnished the company by the assured not later than the twentieth day of August in the current year, in such form as may be required by the company. The insurance on the portion specified to be ploughed under shall terminate at twelve o'clock noon on the day the first notice is mailed to the company. Failure to observe these conditions shall debar the assured from any rebate and no return premiums shall be granted on any portion of the crops that may be cut.

12. The loss shall be payable within sixty days after the completion of the proofs of loss, unless a shorter period is provided for by the contract of insurance.

13. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy shall be absolutely barred, unless commenced within one year next after the loss or damage occurs.

14. If the crop insured or the interest of the assured in such crop is assigned without a written permission endorsed hereon by the office or chief agency from which the policy was issued, such assignment shall be void; but this condition does not apply to change of title by succession or by operation of the law, or by reason of death.

No. 33.

FOURTH SESSION
THIRD LEGISLATURE
6 GEORGE V
1916

BILL

An Act respecting Hail Insurance.

Received and read the

First time

Second time

Third time

EDMONTON:
J. W. JEFFERY, GOVERNMENT PRINTER,
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