

2022 Bill 16

Third Session, 30th Legislature, 71 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

INSURANCE AMENDMENT ACT, 2022

THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 16

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INSURANCE AMENDMENT ACT, 2022

(Assented to _____, 2022)

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

Amends RSA 2000 cl-3

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

2 Section 61 is amended

- (a) in subsection (1)(b)(ii) and (2) by striking out “50%” and substituting “10%”;
- (b) by repealing subsection (2.1).

Explanatory Notes

1 Amends chapter I-3 of the Revised Statutes of Alberta 2000.

2 Section 61 presently reads in part:

61(1) Despite section 18, an insurer that is not licensed may undertake insurance in Alberta with an insured if

(b) the insured, not later than 30 days after signing the contract of insurance or receiving any policy, interim receipt or insuring document issued by or on behalf of the insurer, whichever occurs first,

(ii) at the same time pays to the Minister a charge equal to 50% of the premium paid or payable or premium notes given or to be given in connection with the insurance.

(2) If the charge referred to in subsection (1)(b)(ii) is not paid within 30 days from the time it becomes payable, a sum equal to 50% of the charge remaining unpaid becomes a penalty that forms a part of the charge and is recoverable with the charge.

(2.1) Despite subsection (1)(b)(ii), the Minister may reduce the charge to an amount not less than 10% of the premium paid or payable or premium notes given or to be given in connection with

3 Sections 72(2) and 80(1)(d)(ii) and (2) are amended by striking out “50%” and substituting “10%”.

4 Section 219 is amended

(a) in subsection (1)

(i) in clause (a) by adding “for publicly accountable enterprises” after “the CPA Canada Handbook”;

(ii) in clause (c) by striking out “subject to subsection (2),”;

(b) by repealing subsection (2).

the insurance if the Minister is satisfied that the insurance was not available through a licensed insurer.

3 Sections 72(2) and 80(1)(d)(ii) and (2) presently read:

72(2) If the amount referred to in subsection (1) is not paid within 30 days from the time it becomes payable, a sum equal to 50% of the amount remaining unpaid becomes a penalty that forms a part of the amount referred to in subsection (1) and is recoverable with the amount.

80(1) Despite section 79, a person may, with respect to property located in Alberta, exchange a reciprocal contract that is a contract of property insurance and that is part of an unlicensed reciprocal insurance exchange if

- (d) the person who owns the property, within 30 days after signing the contract,*
- (ii) at the same time pays to the Minister a fee equal to 50% of the premium paid or payable or premium notes given or to be given or mutual liability assumed in connection with the insurance.*

(2) If the fee referred to in subsection (1)(d)(ii) is not paid within 30 days from the time when it becomes payable, a sum equal to 50% of the fee remaining unpaid becomes a penalty that forms a part of the fee and is recoverable with the fee.

4 Section 219 presently reads in part:

219(1) Where a provincial company provides its or its subsidiaries' audited financial statements to the Minister, policyholders, shareholders or the public, the company must ensure that the statements are prepared in accordance with the following:

- (a) Canadian generally accepted accounting principles, which are the accounting standards set out in the CPA Canada Handbook, as published by the Chartered Professional Accountants of Canada from time to time;*
- (c) subject to subsection (2), generally accepted actuarial practices described in the Standards of Practice of the*

5 Section 395 is amended

- (a) in subsection (1) by striking out “life”;**
- (b) by repealing subsection (2).**

6 Section 429 is amended by striking out “30%” and substituting “35%”.

Canadian Institute of Actuaries, as amended from time to time;

(2) Subsection (1)(c) does not apply to a provincial property and casualty company or its subsidiaries if the actuary of the provincial company is not a Fellow in good standing of the Canadian Institute of Actuaries but has been approved by the Minister under section 395(2)(b).

5 Section 395 presently reads in part:

395(1) A designated individual or an individual who is the actuary of a provincial life company must

(2) A designated individual or an individual who is the actuary of a provincial property and casualty company must

(a) be ordinarily resident in Canada, and

(b) be a Fellow in good standing of the Canadian Institute of Actuaries or be approved by the Minister as having the training and experience that are relevant to the duties of an actuary of a provincial company.

6 Section 429 presently reads:

429 A provincial company must not, and must not permit its prescribed subsidiaries to,

(a) purchase or otherwise acquire

(i) participating shares of a body corporate, other than those of a body corporate referred to in section 421(3) in which the company has, or by virtue of the acquisition would have, a substantial investment,

(ii) ownership interests in an unincorporated body, or

(iii) interests in real property,

or

(b) make an improvement to real property in which the company or any of its prescribed subsidiaries has an interest

7 The following is added after section 450:

**Subpart 13
Reinsurance**

Definitions

450.1 In this Subpart, “partnership agreement” means a partnership agreement between the general partner and all limited partners in a limited partnership as referred to in section 450.2.

Limited partnership

450.2(1) A provincial company that restricts its business to the business of reinsurance may participate as a general partner in a limited partnership in accordance with this Subpart.

(2) The provincial company may participate as a general partner in a limited partnership formed under the *Partnership Act* only if

- (a) there is only one general partner in the limited partnership,
- (b) the general partner enters into a partnership agreement with all limited partners in accordance with the guidelines issued under this section,
- (c) the business of the limited partnership is restricted to enabling the general partner to underwrite reinsurance, and
- (d) the general partner submits the information, documents, records, statements or other things and complies with any

if the aggregate value of

- (c) all participating shares and ownership interests referred to in clause (a)(i) and (ii) that are beneficially owned by the company and its prescribed subsidiaries, and*
- (d) all of the company's interests in real property referred to in clause (a)(iii)*

exceeds, or if the acquisition of the shares or interests or the making of the improvement would cause that aggregate value to exceed, 30% of the total assets of the company and its prescribed subsidiaries.

7 Subpart 13 Reinsurance.

other requirements contained in the guidelines established by the Superintendent.

- (3) The Superintendent may issue guidelines respecting
- (a) the contents of a partnership agreement referred to in subsection (2)(b), including the ability to specify clauses that must be incorporated into the partnership agreement, and
 - (b) the information, documents, records, statements, things or requirements referred to in subsection (2)(d),

and shall publish the guidelines in the manner the Superintendent considers appropriate.

- (4) The provincial company must provide to the Superintendent
- (a) a copy of the partnership agreement referred to in subsection (2)(b),
 - (b) the financial statements and audited annual financial statements of the limited partnership, and
 - (c) the information, documents, records, statements or other things required by the guidelines issued under subsection (3)(b).

(5) The Minister may, where the Minister is satisfied that the requirements of this section have been met, issue a licence under section 32 that restricts the business of a provincial company to the business of reinsurance, and impose such additional terms or conditions, consistent with this Act and the regulations, that the Minister considers appropriate.

Duties of provincial company

450.3(1) A provincial company shall not amend the partnership agreement referred to in section 450.2(2)(b) unless the provincial company

- (a) submits the amended agreement to the Superintendent, and
- (b) obtains the prior approval of the Superintendent.

(2) A provincial company must forthwith notify the Superintendent regarding any material change

- (a) impacting the information, documents, records, statements or other things submitted under section 450.2, and
- (b) that may affect its ability to carry on the business of reinsurance or to comply with this Act.

Application re compliance

450.4(1) The Superintendent may apply to the Court for an Order directing that one or more partners of a limited partnership comply with the following:

- (a) a partnership agreement referred to in section 450.2(2)(b) and (4)(a) or 450.3(1);
- (b) this Act.

(2) For the purposes of an application under subsection (1), except as otherwise provided by an Order of the Court, the Superintendent is subrogated as against any or all partners of the limited partnership agreement to all rights of the partners under the partnership agreement, and may enforce any or all provisions of the partnership agreement in the same manner and to the same extent as a partner of the limited partnership agreement.

8 Section 585.1(2) is repealed and the following is substituted:

(2) This section applies with any necessary modifications in respect of the following:

- (a) an automobile, the owner, operator or lessee of which is the Crown in right of Canada or in right of a province or territory, including the Crown in right of Alberta, if the Crown files with the Superintendent an undertaking to be bound by this section;
- (b) an automobile, the owner, operator or lessee of which is a corporation to which the Superintendent has issued a financial responsibility card under section 825, if the corporation or the Crown in right of Alberta on behalf of

8 Section 585.1(2) presently reads:

(2) This section applies with any necessary modifications in respect of an automobile, the owner, operator or lessee of which is a corporation to which the Superintendent has issued a financial responsibility card under section 825, if the corporation files with the Superintendent an undertaking to be bound by this section.

the corporation files with the Superintendent an undertaking to be bound by this section.

(2.1) For the purposes of subsection (2), “Crown in right of Alberta” includes the participants of the Alberta Risk Management Fund as set out in section 76(11)(a)(ii) of the *Financial Administration Act* unless otherwise prescribed in the regulations under that section.

(2.2) An entity that has filed an undertaking referred to in subsection (2) is an insurer for the purposes of this section.

9 Section 780(b) is amended by adding the following after subclause (xi):

(xii) in Subpart 13, sections 450.2(2) and (4) and 450.3;

10 Section 802 is amended by renumbering it as section 802(1) and by adding the following after subsection (1):

(2) The President of Treasury Board and Minister of Finance may waive or reduce all or a portion of a penalty or related interest.

11 Section 815 is amended by renumbering it as section 815(1) and by adding the following after subsection (1):

(2) The Superintendent may apply to seek the advice and direction of the Court respecting the application of this Act, the interpretation of this Act or the rights or obligations of a person to whom this Act applies.

12 Section 816.2(1)(b) is amended by adding “for the purpose of responding to a consumer complaint” after “business of a licensed insurer or fraternal society”.

9 Section 780(b)(xi) presently reads:

780 A person who contravenes any of the following provisions is guilty of an offence:

(b) in Part 2,

(xi) in Subpart 12, sections 437, 439(2), 442(1), (3), (4), (5) and (6), 444, 445(1), (3) and (5) and 446(1), (2) and (5);

10 Section 802 presently reads:

802 All fees imposed by this Act on an insurer or reciprocal insurance exchange become due and payable immediately on the undertaking of insurance by the insurer or reciprocal exchange and, if the fees are not paid within 30 days from the time they become due and payable, a sum equal to 50% of the fees remaining unpaid becomes a penalty that forms a part of the fees and is recoverable with the fees.

11 Section 815 presently reads:

815 An application to the Court made under this Act or the regulations must be made in accordance with the Alberta Rules of Court.

12 Section 816.2(1)(b) presently reads:

816.2(1) In this section,

13 Section 825(2)(c) is amended by striking out “Subpart 5” and substituting “Subpart 2”.

Amends SA 2021 cC-2.4

14(1) The *Captive Insurance Companies Act* is amended by this section.

(2) Section 1(1) is amended

(a) by adding the following after clause (f):

(f.1) “extra-provincial captive insurance company” means a captive insurer existing in accordance with the laws of an extra-provincial jurisdiction;

(b) by adding the following after clause (n):

(n.1) “redomesticate” means the transfer, for the purpose of undertaking or offering to undertake to provide captive insurance, of

(i) an extra-provincial captive insurance company to Alberta, or

(ii) a captive insurance company from Alberta to an extra-provincial jurisdiction;

(b) *“insurance compliance self-evaluative audit document” means a document with recommendations or evaluative or analytical information prepared by or on behalf of a licensed insurer or fraternal society or the Minister or the Superintendent directly as a result of or in connection with an insurance compliance self-evaluative audit and includes any response to the findings of an insurance compliance self-evaluative audit, but does not include documents kept or prepared in the ordinary course of business of a licensed insurer or fraternal society.*

13 Section 825(2)(c) presently reads:

(2) A corporation is entitled to a financial responsibility card that is issued by the Superintendent if

(c) in the opinion of the Superintendent, the fund is adequate to satisfy all liabilities that the corporation is likely to incur, subject, in the case of each motor vehicle registered in the name of the corporation, to the limits as to amount and the accident insurance benefits specified in Part 5, Subpart 5.

14(1) Amends chapter C-2.4 of the Statutes of Alberta, 2021.

(2) Adds definitions.

(n.2) “redomesticated captive insurance company” means

- (i) a captive insurance company named in a licence under Part 2 of this Act that is issued after redomesticating in accordance with section 13.1(1), or
- (ii) a captive insurance company named in a conditional licence issued under section 13.1(3);

(3) Section 13 is amended by adding the following after clause (d):

(d.1) redomesticate;

(4) The following is added after section 13:

Minister’s approval re eligibility to redomesticate

13.1(1) An extra-provincial captive insurance company that has applied for a licence under this Act and is otherwise eligible to be licensed as a captive insurance company under this Act and the regulations may redomesticate to Alberta by complying with this Act and the regulations and by filing the following with the Superintendent for the Minister’s approval:

- (a) its organizational documents;
- (b) documents or evidence satisfactory to the Superintendent regarding the continuance of the extra-provincial captive insurance company in Alberta in accordance with the *Business Corporations Act*;
- (c) additional information, documents, material and evidence required by the Superintendent.

(2) The Superintendent may postpone or waive, for a period not to exceed 2 years from the date of the Superintendent’s decision under this subsection, the imposition of any fees that would

(3) Section 13 presently reads in part:

13 A captive insurance company shall not take any of the following actions without first notifying and obtaining the prior approval of the Minister:

(d) materially change its organizational documents or the plan for the conduct and development of its business referred to in section 15(2)(a);

(4) Minister's approval re eligibility to redomesticate; effect of redomestication; redomestication of captive insurance company to an extra-provincial jurisdiction.

otherwise be payable by an extra-provincial captive insurance company redomesticating to Alberta under this Act.

(3) In order to facilitate the redomestication and provide notice of approval to be licensed as a captive insurance company under this Act for use in the extra-provincial jurisdiction, the Superintendent may issue a conditional licence if the Superintendent is satisfied

- (a) that the extra-provincial captive insurance company has applied for a licence under this Act and is otherwise eligible to be licensed as a captive insurance company under this Act and the regulations, and
- (b) that the extra-provincial captive insurance company has complied with subsection (1).

(4) A conditional licence issued under subsection (3) shall be issued subject to the terms and conditions, consistent with this Act and the regulations, that the Superintendent considers appropriate.

(5) A conditional licence issued under subsection (3) authorizes the extra-provincial captive insurance company to continue its business and to transact new business as a captive insurance company under this Act effective on the date when the conditional licence is issued.

(6) The Superintendent must publish a notice of a conditional licence issued under subsection (3) in The Alberta Gazette.

Effect of redomestication

13.2(1) A redomesticated captive insurance company is not required to merge, consolidate, transfer assets or engage in any other reorganization, except as prescribed.

(2) A redomesticated captive insurance company has all the rights, privileges, immunities and powers, and is subject to all applicable laws, duties and liabilities, of an Alberta captive insurance company.

(3) To the extent permitted by the laws of Alberta, a redomesticated captive insurance company has all the rights, privileges, immunities and powers that it possessed prior to the redomestication and is responsible for all the liabilities and

obligations for which it was responsible or liable prior to the redomestication.

(4) All contracts of insurance or insurance policies of an extra-provincial captive insurance company existing immediately prior to the date on which a licence under Part 2 of this Act or a conditional licence under section 13.1(3) is issued to the company are continued in full force and effect as contracts of insurance or insurance policies of the redomesticated captive insurance company named in the licence.

Redomestication of captive insurance company to an extra-provincial jurisdiction

13.3(1) A captive insurance company that has applied for redomestication to an extra-provincial jurisdiction must file the following to the satisfaction of the Superintendent for the Minister's approval:

- (a) the name, organizational form and date of formation of the redomesticating entity;
- (b) the jurisdiction to which the redomesticating entity will be transferring its domicile;
- (c) proof of acceptance of the redomesticating entity by the jurisdiction to which the captive insurance company is redomesticating;
- (d) the address of the registered office and name of the agent of the redomesticating entity following the redomestication date;
- (e) a statement that the redomestication has been approved by the appropriate vote of the shareholders or other owners of the redomesticating entity.

(2) A captive insurance company redomesticating under this section shall

- (a) comply with
 - (i) the dissolution requirements of the *Partnership Act* or the *Business Corporations Act*, as the case may be,
 - (ii) the other applicable laws of Alberta, and

(iii) the laws of the extra-provincial jurisdiction,

and

(b) file with the Superintendent the information, documents, material and evidence required by the Superintendent concerning its dissolution in Alberta and application for redomestication in the extra-provincial jurisdiction.

(3) Following the redomestication of a captive insurance company to an extra-provincial jurisdiction in accordance with this section, and on compliance with the terms and conditions imposed by the Minister and with the laws of the extra-provincial jurisdiction, this Act no longer applies to the former captive insurance company.

(5) Section 82 is amended by adding the following after clause (u):

(u.1) respecting any matter required to facilitate the redomestication of extra-provincial captive insurance companies to Alberta under section 13.1;

(u.2) respecting the prescribed reorganization of a redomesticated captive insurance company referred to in section 13.2(1);

(5) Adds regulation-making authority.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
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