

BILL

No. 35 of 1927.

An Act to amend The Alberta Insurance Act, 1926.

(Assented to _____, 1927.)

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 Alberta Insurance Act, 1926, Amendment Act, 1927.*"

2. *The Alberta Insurance Act, 1926*, being chapter 31 of the Statutes of Alberta, 1926, is amended as to section 2, by adding as paragraph (*bbb*) immediately after paragraph (*aaa*), the following:

"(*bbb*) 'Offer to undertake' shall include the setting up or keeping up of a sign or inscription referring to insurance, and the distribution or publication of any proposal, circular, card, advertisement, printed form, or like document, referring to insurance, or any written or oral solicitation for insurance."

3. Section 16 of the said Act is amended by inserting after the words "of an insurer" the words "or any agent."

4. Section 33 of the said Act is amended as to subsection (3), by striking out the words "company or society" where they occur therein, and substituting therefor the word "insurer."

5. Section 49 of the said Act is amended as to subsection (1), by adding at the end of paragraph (*b*) thereof, the following proviso:

"Provided, however, that no fraternal society need maintain any deposit with the Minister, if such society files a declaration of the character described in section 402, but the Minister may, nevertheless, require the deposit to be made, if for any reason he is not satisfied with the declaration so filed."

6. Section 83 of the said Act is amended as to subsection (5) thereof, by striking out the word "January" where it first occurs and inserting in lieu thereof the word "February"; and by striking out the words "first day of January" and inserting in lieu thereof the words "fifteenth day of February."

7. Section 105 of the said Act is amended by striking out subsection (2) thereof.

8. Section 186 of the said Act is amended by adding as subsections (3), (4), (5) and (6), the following:

“(3) No agent, licensed or unlicensed, shall knowingly issue any contract for fire insurance upon property situated in the Province for an amount which with any existing contracts exceeds the fair value of the property, or of the interest of the insured therein.”

“(4) Any insurer and any agent who knowingly effects, and any insured person who knowingly procures, insurance on any building, or property, or interest therein against loss or damage by fire in excess of the insurable value thereof, shall be deemed to be guilty of an offence against this Act, and liable upon summary conviction before a justice of the peace to a penalty of not less than one hundred dollars or more than two hundred dollars and costs for each such contravention.

“(5) Every adjuster licensed under this Act who adjusts any loss by fire to property situated in the Province shall ascertain whether there is any over-insurance upon such property, and the facts and circumstances (so far as practicable) pertaining to the origin and the cause of the fire, and shall report his findings in writing, together with any circumstances which, in his belief, indicate any offence against the law of this Province or the Dominion of Canada, to the Fire Commissioner and to the Superintendent of Insurance.

“(6) In the event of the total destruction of any insured property with respect to which the total amount of insurance money payable is less than the total amount of insurance thereon, the insurer or insurers shall return to the insured person the total amount of insurance premium paid for the excess of the insurance over the appraised value of the property at the time of the loss, which amount shall be paid to the insured at the same time and in the same manner as the loss shall be paid:

“Provided, however, that this subsection shall not apply where an insured person has knowingly placed insurance in excess of the insurable value of any building, or property, or interest therein contrary to subsection (3) or to insurance on stocks or merchandise:

“Provided, further, that no prosecution shall be instituted under subsection (4) without the consent of the Attorney General.”

9. Section 187 of the said Act is amended by adding as subsections (2) and (3) thereof, the following:

“(2) No insurer shall make a contract covering property situate outside of the limits of an incorporated city, town or village, for a term exceeding twelve months, without a written application therefor, signed by the applicant, or, in case of the absence of the applicant, or his inability to make the application, by his agent or by a person having an insurable interest in the property.

“(3) Every aforesaid written application shall set forth the name, address and occupation of the applicant, the description, location and occupancy of the property to be insured, its value, particulars of any mortgage, lien or other incumbrance thereon, the purpose for which and the location in which any moveable property is deposited or used, particulars of all previous fire claims made by the applicant, together with the name of the company or companies against whom such claims were made, whether any insurer has cancelled any fire policy or refused fire insurance to the applicant, and such other information as the insurer may require.”

10. Section 191 is hereby struck out and the following substituted therefor:

“**191.** A policy may contain a limitation of liability clause (or clauses) to the effect that the insurer shall only be liable for a specified proportion of any loss, which may be sustained to any of the property covered by the policy, or to the effect that the insurer shall not be liable for more than a specified percentage of the value of any of the said property at the time of such loss, or, in the event of there being any other insurance covering any of the said property, to the effect that the insurer shall only be liable for a rateable proportion of a specified percentage or proportion of any loss to any of the said property or to the effect that the insurer shall not be liable for more than a rateable proportion of a specified percentage of the value of any of the property at time of such loss, in which case there shall be printed or stamped on the face of the policy, in conspicuous type, and in red ink, the words: ‘This policy contains a limitation of liability clause.’ Such clause (or clauses) shall not be deemed to be a variation of any statutory condition.”

11. Section 249 of the said Act is amended by adding as subsection (2) thereof, the following:

“(2) In the preceding subsection, the expression ‘agent’ shall be deemed to exclude an automobile finance or acceptance corporation, an automobile dealer, an insurance agent or broker, and any officer or employee of such corporation, dealer, agent or broker.”

12. Section 253 of the said Act is amended—

(a) by striking out the words “or other consideration” where they occur therein; and by inserting after the words “and the term of” the word “the”;

(b) by adding as subsection (2) thereof, the following:

“(2) Where it is proposed to change the subject matter of the insurance by substitution or by addition of one or more automobiles, the contract may be amended by an endorsement to that effect on the existing policy, but no contract shall be so amended without a written application con-

taining such particulars in reference to the new subject matter as would be required by section 250 in an application for a contract, and signed in accordance with section 249."

13. Section 284 of the said Act is amended by striking out paragraph (a) thereof, and substituting therefor the following:

- "(a) The contract shall be void if, at the time at which it would otherwise take effect, the insured has no insurable interest in the crop insured.
- "(b) Where the insured has at the time at which the contract takes effect an insurable interest in the crop insured, it shall not be necessary for the validity of the contract that any person to whom the insurance is payable, whether by the terms of the contract or by assignment, have an insurable interest in the crop insured.
- "(c) Each insurer shall before the first day of May in each year, file with the superintendent the rates of premium to be charged in each township in the Province in respect of its contracts of hail insurance and such rates shall be effective until the first day of May in the succeeding year unless changed in the meantime and notification of any such change made to the superintendent at least ten days before being put into operation. Any person undertaking insurance except at the rate aforesaid, shall be guilty of an offence against this Act.
- "(d) Where a rate has been reduced, after notification to the superintendent, the new rate shall be applicable to all other contracts issued by the insurer covering property within the township, and the insurer shall return to each person insured within the area under any existing contract, the amount by which the premium charged on such contract exceeds the premium at the lower rate.
- "(e) Each insurer or its general agent shall before the first day of June in every year, file with the superintendent the rates of commissions payable in respect of its contracts in Alberta during the year."

14. Section 285 of the said Act is amended by striking out subsection (2) thereof, and substituting therefor the following:

"(2) A copy of the application or of such part thereof as is material to the contract, shall be endorsed upon or attached to the policy when issued by the insurer and shall form part thereof."

15. Section 400 of the said Act is amended by striking out the word "friendly" where it occurs in the first line thereof, and substituting therefor the word "fraternal."

16. Section 430 of the said Act is hereby struck out and the following substituted therefor:

“**430.** Upon any exchange complying with the provisions of this Part, and paying such fee as may be prescribed by the Lieutenant Governor in Council, the Superintendent may issue a license in form B in schedule C hereto.”

17. Section 443 of the said Act is hereby struck out and the following substituted therefor:

“**443.**—(1) No person shall act as attorney, or for or on behalf of any attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, or exchange a reciprocal contract of indemnity or inter-insurance with any other person unless and until a license has been issued and unless such license is in force.

“(2) Any person who contravenes the provisions of subsection (1) hereof, shall be guilty of an offence against this Act.”

18. Section 447 of the said Act is amended—

(a) as to subsection (1) thereof, by adding thereto the following proviso:

“Provided, however, that a member of a duly licensed fraternal society, other than a member who receives a salary or commission for such purpose, may without a license solicit members of the society or corporation to insure with such society or corporation.”

(b) as to subsection (3) thereof, by striking out the word “of” where it occurs in the tenth line, and substituting therefor the word “or.”

19. Section 457 of the said Act is amended by adding thereto as subsections (4), (5) and (6) thereof, the following:

“(4) On the written complaint of any insurer or any general agent or any agent licensed under this Act, that there has been any violation of the provisions of subsection (3) or when the superintendent deems it necessary without such complaint, the superintendent shall inquire whether or not there has been unfair discrimination in the commissions paid or payable on risks of essentially the same hazard and the provisions of section 17 shall apply to the inquiry.

“(5) In case any insurer is convicted of a violation of subsection (3) of this section, every duly appointed agent of the insurer in the Province shall be entitled to the same commission or compensation for business done during the calendar year in which the discrimination took place, for the insurer, on risks of the same kind or class, taking into consideration the location of the risk and the hazard thereof, and any agent may recover from the insurer in any Court of competent jurisdiction, the amount of increase of compensation, if any, to which he may become entitled under

the provisions of this subsection. Risks on which like rates are charged shall be deemed to be of the same kind or class.

“(6) Any agent who knowingly receives any commission or compensation paid or allowed in violation of this section shall be guilty of an offence and liable upon summary conviction before a justice of the peace to a penalty of not less than one hundred dollars, nor more than two hundred dollars, and costs for each offence.”

20. Section 460 of the said Act is amended by striking out the words “at the end of one year from its date” and substituting therefor the words “on the thirty-first day of December in the year in which it is issued.”

21. Schedule B is amended as to paragraph 18, by striking out the word “should” where it occurs in the first line, and substituting therefor the word “shall.”

22. This Act shall come into force.....

No. 35.

FIRST SESSION
SIXTH LEGISLATURE
17 GEORGE V
1927

BILL

An Act to amend The Alberta
Insurance Act, 1926.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. BROWNLEE.

EDMONTON:
W. D. McLEAN, ACTING KING'S PRINTER
A.D. 1927