

Bill No. 73 of 1938.

AN ACT TO AMEND THE ALBERTA INSURANCE
ACT, 1926.

NOTE.

The amendment made by section 2 inserts in the Act a new provision requiring the Superintendent of Insurance to report to the Minister any violation of any of the provisions of the Act by a licensed insurer, and thereupon the Minister is empowered to cancel or refuse to renew the insurer's certificate or license, and prohibits the insurer from doing any further business or soliciting or undertaking in Alberta any insurance; any license so suspended or cancelled may be revived if the insurer remedies its default to the satisfaction of the Minister.

The amendment made by section 3 relates to the power of inspection conferred by section 109 on the Superintendent to examine the records and books of persons insured with unlicensed companies. As the section now stands such examination can only be made by the Superintendent when instructed by the Minister. The amendment removes the last mentioned restriction and extends the power of inspection to insurance contracts.

The amendment made by section 4 amends section 166 so as to make the provisions of the Act applicable to every contract of insurance other than contracts of Life Insurance to which Part VI applies. As the section now stands, the Act applies to every contract of insurance made in Alberta other than contracts of Life and Accident and Sickness insurance.

Section 5 amends section 167 of the Act and provides that every contract insuring a person domiciled or resident in the Province at the date thereof, or the subject matter of which is property within the Province, is to be deemed to be made in the Province.

Section 6 strikes out section 181 which requires the approval and countersigning of policies relating to risks within the Province by the Agent of the insurer resident within Alberta. The new section repeats the substance of subsection (1) and makes an additional requirement that the commission payable to the Agent shall not be less than one-third of the commission attributable to the risk in Alberta. Subsection (2) provides that the section is not to be construed so as to prevent the insurer from issuing policies at their principal or branch office or general agency as to risks in Alberta, provided the provisions of subsection (1) are

ii.

complied with. Subsection (3) requires the filing of a certified copy of every policy insuring any risk within the Province or with the countersigning Agent or with the insured within the Province. Subsection (4) is substantially the same as subsection (3) of the existing section. Subsection (5) excludes contracts of Life Insurance from the application of the section. Subsection (6) makes the issuance of a contract of insurance in contravention of the section an offence. Subsection (7) makes it an offence for the insurer failing to make any return and pay any tax prescribed by section 10 of *The Corporations Taxation Act* or section 26 of *The Fire Prevention Act* and makes the offender liable in addition to other penalties to the suspension or cancellation of his certificate or license. Subsection (8) provides that in any prosecution for contravention of this section the onus of proving that any policy of insurance has been made in compliance therewith shall be upon the defendant.

Section 7 amends section 183 of the Act by adding new provisions which prohibit any person who engages in the business of lending money and who has an insurance agency or any interest in or connection with an insurance agency from requiring as a condition precedent to the making of any loan that the borrower cancel any subsisting insurance with a licensed insurer, and take out other insurance with the lender or any agency in respect of which he has any such interest or connection: It further prohibits any trust company from cancelling any subsisting insurance with a licensed insurer relating to property held in trust, except where the necessity for the continuation of such insurance no longer exists and no other similar insurance is taken out in respect of such property during the term of the first mentioned policy.

Contraventions of this section by lenders, trust companies, insurance agents and insurers, are declared to be offences involving the suspension or cancellation of licenses in the case of offenders who are licensed persons.

Section 8 amends section 187 which prohibits the making of insurance contracts for time in excess of one year in the case of industrial or manufacturing risks on the cash plan by striking out the words "on the cash plan".

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 73 of 1938.

An Act to amend The Alberta Insurance Act, 1926.

(Assented to _____, 1938.)

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, 1938.*"

2. *The Alberta Insurance Act, 1926*, being chapter 31 of the Statutes of Alberta, 1926, is hereby amended by inserting therein immediately after section 44 the following new section:

"**44a.**—(1) The Superintendent of Insurance shall report to the Minister any violation of any of the provisions of this Act by a licensed insurer, and thereupon the Minister may, in his discretion, suspend or cancel or refuse to renew the insurer's certificate or license.

"(2) Such suspension or cancellation shall prohibit the insurer from doing any further business or soliciting or undertaking in Alberta any insurance; and thereafter it shall be unlawful for the insurer to undertake in Alberta or carry on business in Alberta until the suspension or cancellation is removed by the Minister.

"(3) Where the license or certificate of an insurer is suspended or cancelled it may be revived if the insurer remedies its default to the satisfaction of the Minister."

3. The said Act is further amended as to section 109 thereof,—

- (a) by striking out the words "when so instructed by the Minister" where the same occur therein; and
- (b) by striking out the words "records and books" where the same occur therein and by substituting therefor the words "records, books and insurance contracts".

4. The said Act is further amended as to section 166 thereof by striking out the words "made in Alberta other than contracts of life and accident and sickness insurance" where the same occur therein and by substituting therefor the words "other than contracts of life insurance to which Part VI applies".

5. The said Act is further amended as to section 167 by striking out subsection (1) thereof and by substituting therefor the following:

“(1) Every contract insuring a person domiciled or resident in the Province at the date thereof, or the subject matter of which is property within the Province, shall be deemed to be made in the Province and shall be construed accordingly.”

6. The said Act is further amended as to section 181 by striking out the same and by substituting therefor the following:

“~~181.~~—(1) No insurer licensed under this Act to transact insurance within the Province shall make, write, place or cause to be made, written or placed, any policy, duplicate policy or contract of insurance upon any matter or thing, real or personal, situate in Alberta or described in any policy, duplicate policy or contract of insurance as situate in Alberta, except after the said risk has been approved by an Agent of such insurer resident within Alberta, and who holds a certificate of authority from the Superintendent and who shall sign or countersign all policies so issued and make a record of same in books provided for that purpose and who shall receive the commission (or some part thereof, which shall not be less than one-third of the total commission paid covering that portion of the risk situate in Alberta) when the premium stipulated in such policy, duplicate policy or contract of insurance is paid.

“(2) Nothing herein shall be construed to prevent any insurer from issuing policies at its principal or branch office or general agency covering any matter or thing, real or personal, situate in Alberta, provided the provisions of subsection (1) are complied with.

“(3) No insurer shall issue any policy insuring upon any matter or thing, real or personal, situate in Alberta, except after a certified copy thereof has been filed in either the insurer's principal or branch office within the Province, or with the countersigning agent or with the insured within the Province.

“(4) No provision of this section shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit which is in the possession and custody of railroad corporations or other common carriers nor to moveable property of such common carriers used or employed by them in their business as common carriers.

“(5) This section shall not apply to contracts of Life Insurance.

“(6) Any insurer which issues a contract of insurance save as hereinbefore mentioned in this section shall be guilty of an offence against this Act.

“(7) Any insurer violating or failing to comply with the provisions of this section, or who fails to make a return and

pay the tax prescribed under section 10 of *The Corporations Taxation Act* and in the case of fire contracts under section 26 of *The Fire Prevention Act*, on premiums earned on insurance written on property locally situated within Alberta, shall be guilty of an offence against this Act, and shall be liable in addition to any other penalty under the Act to suspension or cancellation of certificate or license.

“(8) In any prosecution under this Act for any contravention of said section, the onus of proving that the provisions of this section have been complied with shall be upon the defendant.”

7. The said Act is further amended as to section 183 thereof by adding thereto the following new subsections:

“(5) No person who engages in the business of lending money and who has an insurance agency or any interest in or connection with an insurance agency, shall require as a condition of the making of any loan that the borrower shall cancel any subsisting policy of insurance issued by an insurer licensed to issue such a policy under this Act and shall take out other insurance through the lender or through any agency with which he has any such interest or connection.

“(6) No trust company shall cancel any subsisting policy of insurance issued by an insurer licensed to issue such a policy under this Act in respect of any property for which the trust company is a trustee, except only where the necessity for the continuation of such insurance does not exist and no other insurance of a similar description is taken out in respect of such property during the original term of the policy first hereinbefore mentioned.

“(7) Every person being a lender who contravenes subsection (5) and every trust company which contravenes the provisions of subsection (6), and every person being an insurance agent who knowingly accepts any proposal for any insurance taken out in contravention of subsection (5) and subsection (6), and any insurer who issues any contract of insurance with actual or constructive notice that the same has been negotiated in contravention of subsection (5) and subsection (6), shall in every such case be guilty of an offence against this Act and if such person is the holder of a certificate or license under this Act he shall be liable in addition to any other penalty to the suspension or cancellation of such certificate or license.

8. The said Act is further amended as to section 187 by striking out the words “on the cash plan” where the same occur in paragraph (a) of subsection (1) thereof.

9. This Act shall come into force on the day upon which it is assented to.

SIXTH SESSION
EIGHTH LEGISLATURE

1 GEORGE VI

1938

BILL

An Act to amend The Alberta Insurance Act, 1926.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING.

EDMONTON:
A Shnitka, King's Printer
1938