

BILL

No. 114 of 1938.

An Act to provide for Insurance Against Damage to
Certain Crops by Hail.

(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 Hail Insurance Act*."

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

- (a) "Adjuster" means any adjuster appointed pursuant to this Act;
- (b) "Alberta Hail Insurance Board" means The Alberta Hail Insurance Board appointed pursuant to this Act and "Board" shall have a similar meaning;
- (c) "Chairman" means the Chairman of the Alberta Hail Insurance Board;
- (d) "Crop" means any crop of wheat, oats, barley, flax, rye or speltz;
- (e) "Hail Insurance Area" means any hail insurance area established pursuant to this Act;
- (f) "Minister" means the Minister of Municipal Affairs;
- (g) "Parcel of land" means any quarter section or smaller parcel of land.

3. There shall be constituted a Board to be known as "The Alberta Hail Insurance Board" which shall be a body corporate with its office in the city of Calgary and shall consist of a Chairman and four other members, of whom the Chairman and three of such members shall be appointed by the Lieutenant Governor in Council and the fourth shall be appointed by the Lieutenant Governor in Council upon the nomination of the Association of Municipal Districts, and all the persons so appointed shall hold office during the pleasure of the Lieutenant Governor in Council and shall receive such remuneration and devote so much of their time to the discharge of their duties as may be prescribed by the Lieutenant Governor in Council.

4. It shall be the duty of the Board to administer the provisions of this Act and subject to the provisions of this Act

to provide the means whereby insurance shall be made available for insuring crops against damage by hail.

5. For the purpose of discharging the duties imposed upon the Board by this Act, the Board is hereby empowered,—

- (a) to do all acts and things which are requisite or necessary for the purpose of providing facilities for hail insurance pursuant to this Act or which are incidental thereto;
- (b) to borrow from time to time moneys required for the purpose of defraying the current expenditures of the Board and for that purpose to hypothecate, pledge and mortgage its property, rights, assets and prospective revenues, and to execute any bills, notes, contracts or other documents which are the evidence of or the security for any money so borrowed;
- (c) to keep and invest any funds from time to time in the hands of the Board in such manner as may be approved by the Lieutenant Governor in Council;
- (d) with the approval of the Minister to reinsure the whole or any portion of any risk or risks for the time being carried by the Board under the provisions of this Act, with any company or corporation approved by the Minister;
- (e) to employ such officers, adjusters, agents and servants as the Board deems necessary for the transaction of its business and affairs, and to fix their remuneration and to prescribe their duties and the terms and conditions of their employment;
- (f) to make such rules and regulations as to the conduct of its meetings, the transaction of its business and the conduct of its affairs, as it may consider necessary or convenient.

6.—(1) The Board shall hold such meetings as may be requisite for transacting the business of the Board and for that purpose shall meet upon the call of the Chairman at such time and place as he may appoint and the Chairman shall call a meeting of the Board at any time when required so to do by at least three members thereof.

(2) A quorum of the Board shall be a majority of the members thereof including the Chairman.

(3) Questions arising at any meeting of the Board shall be decided by a majority of votes and the Chairman shall be entitled to vote upon any such question.

7. The Board shall appoint one of the members of the Board as the Vice-Chairman of the Board and in the absence of the Chairman the Vice-Chairman shall have all the powers and functions which are by this Act conferred upon the Chairman.

8. The Chairman shall be the chief executive officer of the Board and shall have power to sign on behalf of the Board all orders made by the Board and to perform and do all acts and things authorized by the Board.

9. The Board shall keep at its office,—

- (a) full and complete minutes of all business transacted by the Board at the meetings thereof; and
- (b) full and complete accounts and records of all the financial business of the Board.

10.—(1) Not later than the first day of June in each year, the Board shall by order,—

- (a) designate as hail insurance areas such areas as the Board deems expedient as hail insurance areas;
- (b) fix the maximum amount which will be payable in respect to loss of any designated crop, which amount may be different for different kinds of crops and for different hail insurance areas;
- (c) fix the rates to be paid to the Board by applicants for insurance under this Act, having regard to the prevailing risk of hail damage, which may differ as between different areas;
- (d) make an estimate of the amount of the expenditures to be incurred by the Board in the current year and distribute such amount amongst the areas so designated and apportion to each such area so much of such amount as the Board deems to be the rateable proportion of the said amount.

(2) Every order made pursuant to this section shall be published in *The Alberta Gazette* and shall come into effect upon the date of publication or upon such later date mentioned in the order for that purpose.

11.—(1) Any person having an insurable interest in crop grown upon any parcel of land in the Province may apply for insurance under this Act by delivering an application therefor to the Board at its office.

(2) The application shall be in writing and shall be signed by the applicant or his agent authorized in writing for the purpose and shall set out,—

- (a) the name and address of the applicant;
- (b) particulars of the crop in respect of which hail insurance is desired, setting out the kind of crop, the number of acres of crop and the legal description of the parcel of land upon which the crop is grown;
- (c) subject to the amount of the maximum payment fixed by the Board for the current year, the maximum amount to be payable per acre in respect of loss;

- (d) the name of the person to whom the payment is to be made payable in the event of a loss, and in the event of there being more than one person, the share to be paid to each of them;
- (e) the nature of the insurable interest of the applicant;
- (f) the amount of any prior encumbrance by way of lien on the crops grown upon the parcel of land referred to in paragraph (b).

(3) Any person who has effected any insurance with the Board in respect of any crop, if the amount payable is less than the maximum amount fixed by the Board, may apply to the Board in writing at any time before any damage is done to such crop by hail, to increase the maximum amount payable to an amount not in excess of the maximum amount prescribed by the Board.

(4) Every application for insurance shall be considered by the Board as soon as possible after the same has been received by the Board, and the Board shall proceed to accept or reject the same as the Board may in its absolute discretion decide, and shall cause to be endorsed upon the application the word "Accepted" or "Rejected" as the case may be.

(5) In case any damage by hail occurs to any crop in respect of which any application for insurance has been made at any time before the application for such insurance is received, the Board shall cause such inquiry to be made into the circumstances as it considers necessary, and if as a result of such inquiry the Board is satisfied that the application was not made in good faith and before the occurrence of the loss, the Board shall cancel any acceptance of the application and thereupon the application shall be deemed to have been refused by the Board in the first instance.

(6) The acceptance of any application for insurance by the Board shall constitute a contract between the applicant and the Board, and the rights and liabilities of the applicant and the Board under such contract shall be such rights and liabilities as are set out in this Act and no contract or agreement shall be effective to alter, increase or diminish any such right or liability.

(7) No application shall be accepted by the Board unless there is paid to the Board a sum of not less than five dollars for each parcel to which the application relates or such greater sum as the Board may prescribe either generally or in respect of any specified class of application or in respect of any applications or class of applications with respect to crops in any specified area or areas.

12. Any person who has effected insurance with the Board in respect of any crop may, in case the same is destroyed from any cause other than hail, make application to the Board for the cancellation of such insurance, by sending to the Board at its office in Calgary not later than the first day of August in the year the insurance was effected, an

application in writing signed by the applicant or his authorized agent, in such form as may be prescribed by the Board; and upon the receipt of any such application the Board upon being satisfied that the crop has been so destroyed, may cancel such insurance and thereupon the Board shall fix such amount as the amount to be rebated to the applicant as the Board may consider fair, having regard to the amount of the crop destroyed and the time during which such crop was insured.

13.—(1) In case the total amount payable to the Board in respect of any application is not paid, the Board shall, as and from the date of the application, have a lien upon all crops grown by the applicant on the parcel to which the application relates, in the year in which the application is made and in each of the next ensuing three years, and such lien shall have priority over all other liens, charges, encumbrances, claims and demands whatsoever, except only charges upon such crop to secure the repayment of advances for seed and irrigation rates and taxes; provided always that such lien shall cease and determine in the event of the foreclosure or sale of the parcel by the owner of a mortgage upon the parcel which was registered in the proper Land Titles Office before the date upon which the application was accepted by the Board.

(2) The lien created by this section shall be enforceable by the Board and by any person authorized by the Board for that purpose.

(3) Every such lien shall be enforceable by seizure and sale thereof in the same manner as if the same were taxes leviable by the municipal district or improvement district in which the parcel is situate, and the Board and every person authorized by the Board for that purpose shall have the same powers as are provided for the collection of taxes which are not a charge upon land by *The Municipal District Act, 1927*, in the case of a parcel in a municipal district or under *The Improvement Districts Act* in the case of a parcel in an improvement district, to the same extent and in the same manner as if such provisions had *mutatis mutandis* been enacted as a part of this Act.

14.—(1) In case loss occurs to any crop in respect of which insurance has been effected pursuant to this Act at any time after the effecting of such insurance and the ensuing first day of October, the applicant shall within three days after the day upon which such loss occurred, send by registered mail in a prepaid cover addressed to The Alberta Hail Insurance Board, Calgary, Alberta, in such form as may be prescribed by the Board, setting out the following particulars,—

- (a) the name and address of the claimant;
- (b) the nature of the crop in respect of which the claim is made and the legal description of the land upon which the crop was grown;

- (c) the number of acres of crop damaged and the extent of such damage;
- (d) in case the claimant does not reside within two miles of the parcel of land upon which the crop to which the claim relates was grown, the name of a person residing within two miles of such parcel who will act as the agent of the claimant together with the legal description of the land upon which such person resides.

(2) In case of failure to give the notice referred to in subsection (1) within the time fixed therein, the Board may in its discretion charge the claimant with such sum as the Board considers to be the reasonable costs and expenses of making the adjustment.

(3) In case default is made in sending to the Board the notice referred to in subsection (1) within thirty days of the occurrence of the crop damage to which the same relates, the claimant shall furnish such proof as to the damage by statutory declaration or otherwise as the Board may direct.

(4) The Board shall not pay any claim in respect to any insurance effected by the Board unless notice of such claim is made before the first day of November in the year in which the damage occurs to which the claim relates.

15.—(1) Upon receipt of any claim in conformity with the last foregoing section, the Board shall cause an adjuster to inspect the crop to which the claim relates and the adjuster shall proceed to inspect the crop and to interview the claimant or in the absence of the claimant, his agent, and thereafter shall report to the Board in writing the amount and extent of the damage and shall recommend to the Board the amount which in his opinion should be payable in respect of the damage.

(2) The adjuster shall endeavour to secure the written concurrence of the claimant or his agent to the report and recommendation made by him, and in case he obtains such concurrence, shall forward the same to the Board, and if he fails to obtain such concurrence he shall report to the Board as to the reasons for such failure.

(3) The Board shall cause a copy of every such report to be forwarded to the claimant or his agent, and if the claimant or his agent is dissatisfied therewith he may, within five days of the receipt of such report, send by registered letter addressed to The Alberta Hail Insurance Board, Calgary, Alberta, the notice of appeal therefrom, setting out the reasons for such appeal.

(4) Upon the receipt of any such notice of appeal the Board shall proceed without undue delay to consider the statements contained therein and shall cause such further

inquiry to be made into the circumstances as it considers proper and for that purpose may call for further evidence which may be taken by way of statutory declaration or otherwise as the Board may direct and thereupon shall either confirm the report of the adjuster or vary it in such manner as seems proper to the Board.

16. The amount payable in respect of any claim shall in no case exceed the amount set out in the accepted application as the maximum amount payable, nor shall such amount exceed an amount which represents the actual amount of the damage done by hail to the crop to which the application relates, and in no case shall any sum be payable in respect of any crop,—

- (a) which has not been damaged to the extent of at least ten percent of the value of such part; or
- (b) which has been so damaged by causes other than hail that in the opinion of the adjuster the price likely to be obtained for the produce of such part would not exceed the actual cost of cutting, threshing and marketing the same, and provided that where other causes than hail have contributed to the damage, the insurer shall be liable only for so much of the loss as is directly attributable to hail;
- (c) where the damage by hail has taken place after the crop has been cut;
- (d) in the case of over-ripe grain, loss arising from neglect of the insured to cut after it has been damaged by hail any part of the insured crop which is fully matured;

Provided, however, that where no part of the insured crop has sustained a loss of ten percent, the cost of inspection may, at the discretion of the Board, be charged to the claimant.

17. All sums payable by the Board in respect of any claim for damage to crops by hail shall be exempt from garnishment, attachment and execution of every description.

18. In case any dispute arises between the Board and any claimant as to the liability of the Board in respect to any claim for insurance or the extent of any such liability, such dispute shall be referred to arbitration under the provisions of *The Arbitration Act*, upon the claimant depositing with the Board the sum of twenty-five dollars as security for the costs of the arbitration, and the award made on such reference shall be final and conclusive and there shall be no appeal therefrom, and no action shall lie against the Board in respect of any such dispute save and except only for the purpose of enforcing an award upon a reference made pursuant to this section.

19.—(1) All sums received by the Board in respect of hail insurance undertaken by the Board in any area in any year, shall be kept in a Special Trust Fund for that area for that year.

(2) The amount of the estimated share of the cost of the operations for the current year attributable to the area shall constitute a first charge upon the Special Trust Fund for such area for such year, and after payment of such amount, the remainder of such fund shall be available for the payment of the claims payable by the Board in respect of damage to crops in such area.

(3) In case the total amount of claims in any year in any area exceeds the total amount of the Special Trust Fund for that year available for the payment of such claims, the amount payable in respect of any claim shall be that proportion of the amount so available which the amount of that claim bears to the total amount of all such claims.

(4) In case there is at any time any sum standing to the credit of the Special Trust Fund for any area for any year which represents a surplus after providing for the payment of all sums payable thereout on account of the expenses of the Board and claims for crop damage, the Board may in its discretion transfer an amount not exceeding one-half of such surplus to the Special Trust Fund of any area or areas in any case where that fund is insufficient to pay in full all sums payable thereout on account of expenses of the Board and claims for crop damage.

(5) If at any time the amount to the credit of any Special Trust Fund for any area or areas for any year is in excess of the amount required for the payment of the sums payable thereout on account of the expenses of the Board and claims for crop damage, the Board may transfer from such fund an amount not in excess of ten percent of the amount of such credit to a General Reserve Fund and may use such fund for the purpose of supplying any deficiency occurring at any time in any Special Trust Fund of any area for any year and for the purpose of meeting any expenditures of the Board, as the Board may consider proper.

20. On the first day of November in each year the Board shall make payment of all claims for crop damage payable in that year, and in case the amount of money then to the credit of the Special Trust Fund for any area for that year is not sufficient to pay all the claims for crop damage occurring in that area, the Board shall on the said day make a payment on account of all such claims which shall be such percentage of the amount of such claims as the Board may determine, having regard to the amount then to the credit of the Special Trust Fund; and thereafter the Board shall pay the balance of such claims by such further *pro rata* payments out of such moneys as may subsequently be to the credit of the Special Trust Fund and available for the payment of claims for that year.

21. Subject to the provisions of the last preceding section in the case of claims for damage to crops in extent of thirty percent thereof, the amount of the claim shall be paid by the Board in two equal instalments, on the first day of November and the first day of April next after the occurrence of the loss.

22. The Lieutenant Governor in Council may from time to time authorize the Provincial Treasurer from time to time to lend out of the General Revenue Fund such sums as may be required by the Board for the purpose of meeting the current operating expenses of the Board, upon such security and upon such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

23. The Board shall as soon as possible after the thirty-first day of January in each year, cause to be prepared by its auditors, a statement and balance sheet of all the financial transactions and business of the Board for the year ending on the preceding thirty-first day of January.

24.—(1) The Board shall, not later than the fifteenth of May in each year, appoint two persons as auditors who shall have been first approved by the Minister as suitable persons, and the persons so appointed shall not at the time of appointment or so long as such appointment continues be employed by the Board in any other capacity.

(2) The auditors shall proceed as soon as possible after the thirty-first day of January in each year to make a full and complete audit of the books, records and accounts of the Board for the year ending on the thirty-first day of January, and prepare and deliver to the Board a full and complete report of such audit.

25. None of the provisions of *The Alberta Insurance Act, 1926*, shall apply to the Board or any of the activities or operations of the Board or to any of the business of hail insurance carried on by the Board in pursuance of this Act.

26. 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 provide for Insurance
Against Damage to Certain
Crops by Hail.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LOW.

EDMONTON:
A. Shnitka, King's Printer
1938