

Bill No. 14 of 1942.

A BILL TO AMEND THE ALBERTA HAIL
INSURANCE ACT.

NOTE.

This Bill amends *The Alberta Hail Insurance Act*. For the most part the amendments relate to details in connection with the contract made by the Board, and the rights and liabilities of the Board and the insured.

The amendment to section 5 empowers the Board to acquire, hold and dispose of real property. Section 5 is further amended to allow the Board to charge interest on unpaid premiums.

The amendment to section 10 enables the Board in each year to designate the crops which it will insure. The Board is also permitted to fix different maximum amounts payable in respect of different crops, and particularly to differentiate between crops grown on irrigated lands as distinguished from dry lands. The Board is further empowered to fix the amount which will be paid to any one applicant.

The new section 10*a* enables the Board to prescribe different kinds of policies with varying rates of premium. Premiums may vary according to the method of harvesting. A policy may be issued containing a partial payment of loss clause.

The amendment to subsection (5) of section 11 clarifies the rights of the Board and the insured in the case where an application has been accepted by the Board, and the Board ascertains that damage occurred prior to the time the application was made or within twenty-four hours thereafter.

The new subsection (6*a*) to section 11 protects a policyholder in the case where more than one policy has been issued, and the total insurance exceeds the maximum amount allowed on the crop by the Board. So long as the Board has accepted the applications both policies are valid and enforceable.

The amendment to subsection (7) of section 11 sets out what must be done and how much must be paid by an applicant to make a binding contract.

The new section 12 provides for cancellation of policies prior to August the first, and refunds of the unearned portion of the premium.

Section 13 is amended. It now provides for a lien on the applicant's crops for unpaid premium and other charges and a lien on any money owing to the applicant by the Board under the policy on which the premium is due or other policies. Procedure is provided for the enforcement of this lien, and provision is also made for the application of penalties in prosecutions for selling or buying grain by a person with knowledge of the lien, who does not pay the amount secured by the lien.

The amendment to section 14 defines the period covered by the policy.

The amendment to section 15 provides that the costs and adjustment in connection with an appeal which fails, may be charged to the insured.

The amendments to sections 18 and 21 provide for transferring certain funds to the General Reserve Account and for the use of the funds in the reserve by the Board for payment of claims and other proper expenditures.

W. S. GRAY,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 14 of 1942.

An Act to amend The Alberta Hail Insurance Act.

(Assented to _____, 1942.)

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 Amendment Act, 1942.*"

2. *The Alberta Hail Insurance Act*, being chapter 16 of the Statutes of Alberta, 1938, is hereby amended as to section 2,—

(a) by striking out paragraph (d) thereof and by substituting therefor the following:

"(d) 'Crop' means any crop which in any year is designated by order of the Board as an insurable crop;"

(b) by inserting after paragraph (f) the following new paragraph:

"(g) 'Policy' means the contract between the Board and an applicant for insurance constituted by an application which has been accepted by the Board."

3. The said Act is further amended as to section 3 by striking out the words "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 where the same occur therein, and by substituting therefor the following: "all of whom shall be appointed by the Lieutenant Governor in Council."

4. The said Act is further amended as to section 5,—

(a) by inserting immediately after paragraph (a) the following new paragraph:

"(aa) to acquire and hold real property, and to improve, sell, exchange, lease, or otherwise dispose of it;"

(b) by inserting immediately after paragraph (b) the following new paragraph:

“(bb) to charge interest on unpaid premiums at such rate and from such date as the Board may from time to time fix;”.

5. The said Act is further amended as to section 10 by striking out paragraphs (b) and (c) of subsection (1) thereof and by substituting therefor the following:

- “(b) designate as insurable crops for that year such crops as the Board deems it expedient to insure;
- “(c) fix the maximum amount which will be payable in respect of loss of any designated crop which maximum amount may differ as between different kinds of crop, as between different hail insurance areas, and as between crops growing on irrigated lands and crops growing on non-irrigated or dry lands;
- “(d) fix the maximum amount which will be payable to any one applicant, his nominees or assignees, in respect of loss of any designated crop which maximum amount may differ as between different kinds of crop, as between different hail insurance areas, and as between crops growing on irrigated lands and crops growing on non-irrigated or dry lands;
- “(e) fix the rates to be paid to the Board by applicants for insurance under this Act, which rates may vary as the Board in its discretion may decide.”

6. The said Act is further amended by adding thereto immediately after section 10 the following new section:

“**10a.**—(1) The Board may from time to time prescribe the kind or kinds of policies which it will issue.

“(2) Without restricting the generality of the foregoing, any policy may,—

- “(a) fix different expiry dates for insurance effected pursuant to the provisions of this Act having regard to the rates to be paid to the Board;
- “(b) fix the amounts of the reductions in premiums which the Board is hereby authorized to make in respect of any insured crop or any part thereof which is harvested other than by the straight combine method which reductions may differ as between different kinds of crop, as between different hail insurance areas, and as between different harvesting methods;
- “(c) fix a date on or before which applications must be made in forms prescribed by the Board for any reduction in premium to which an applicant claims to be entitled in respect of any crop or any part thereof harvested other than by the straight combine method;
- “(d) contain a partial payment of loss clause to the effect that the insurer shall pay only an agreed portion of any loss which may be sustained, or the

amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed or stamped upon the face of the policy in conspicuous type in red ink the words 'This policy contains a partial payment of loss clause'."

7. The said Act is further amended as to section 11,—

- (a) by striking out paragraph (c) of subsection (2) thereof and by substituting therefor the following:

"(c) the maximum amount per acre payable to any one applicant, his nominees or assignees, in respect of any loss subject to the maximum amount fixed by the Board for that year;"

- (b) by adding immediately after paragraph (f) of subsection (2) the following new paragraph:

"(g) such other matters or things as the Board may from time to time require;"

- (c) by striking out subsection (3) thereof and by substituting therefor the following:

"(3) Any person who has effected insurance with the Board in respect of any crop in an amount less than the maximum amount fixed by the Board for the year in which the insurance is effected may make application to the Board at any time and in such form as may be prescribed by the Board for additional insurance in an amount which together with the insurance previously effected shall not exceed the maximum amount prescribed by the Board for the year;"

- (d) by striking out subsection (5) thereof and by substituting therefor the following:

"(5) In case damage by hail occurs to any crop in respect of which an application for insurance has been accepted the Board shall cause such inquiry to be made into the circumstances as it may consider necessary and if as a result of the inquiry the Board is satisfied that the damage occurred prior to the time the application was made or within twenty-four hours thereafter the Board shall,—

"(a) disallow all claims with respect to such damage or loss; and

"(b) maintain the insurance in force subject to a deduction for such damage or loss unless the applicant sends to the Board by registered mail within seventy-two hours of the time when the damage by hail occurs a notice in writing that all or a specified portion of the crops upon which the insurance was effected have been so damaged and that he desires cancellation of the insurance as to such crops or the specified portion of them;

- “(c) upon receipt of the written notice referred to in the preceding paragraph forthwith cancel the acceptance of the application as to the crops or the specified portion of them as requested in the said notice and thereupon the application with respect to the crops or the specified portion of them (as the case may be), shall be deemed to have been refused by the Board in the first instance.”;
- (e) by inserting immediately after subsection (6) thereof the following new subsection:
- “(6a) In case an application for insurance in respect of crops which have been insured under the provisions of this Act pursuant to a policy previously issued by the Board is accepted, and the aggregate amount of insurance per acre as effected by the policies is in excess of the maximum amount fixed by the Board for the year, the later policy shall nevertheless constitute a valid and enforceable contract between the applicant and the Board and the rights and liabilities of the applicant and the Board under the contract shall be such rights and liabilities as are mentioned in the immediately preceding subsection hereof.”;
- (f) by striking out subsection (7) thereof and by substituting therefor the following:
- “(7) No application shall be deemed to have been made unless and until the applicant has delivered to the Board or to a duly authorized agent of the Board the written application for insurance required by the provisions of this Act and has paid to the Board or to an authorized agent of the Board a sum of not less than five dollars or such greater amount as may from time to time be prescribed by the Board 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 and no application shall be accepted by the Board unless and until the applicant has paid the prescribed sum to the Board, or to an authorized agent of the Board.”

8. The said Act is further amended as to section 12 by striking out the same and by substituting therefor the following:

“**12.** Any person who has effected insurance with the Board in respect of any crop may make application to the Board for the cancellation of his insurance in whole or in part by sending to the Board at its office in Calgary by fully prepaid registered post not later than the first day of August in the year in which the insurance was effected an application in writing signed by the applicant or his authorized agent and upon the receipt of the application the Board shall so cancel the insurance in whole or in part

and in the event of cancellation shall charge the applicant the earned portion of the premium with respect to the crops as to which the insurance is cancelled in accordance with the short term rates which the Board is hereby authorized to fix from time to time."

9. The said Act is further amended as to section 13,—

- (a) by striking out subsections (1), (2) and (3) thereof and by substituting therefor the following:

"13.—(1) In case the total premium payable to the Board in respect of any application is not paid or any amount which may be charged against the applicant under the provisions of this Act is not paid, the Board shall as and from the date of the application or the date on which the amount is charged to the applicant (as the case may be), have a lien upon all crops grown by the applicant, or in which he has an interest in the year in which the application is made, and in each of the next ensuing three years, for the amount of the unpaid premium and for all amounts charged to the applicant pursuant to the provisions of this Act, and such lien subject only to the provisions of *The Crop Liens Priorities Act*, shall have priority over all other liens, charges, encumbrances, claims and demands whatsoever.

"(2) In case the total premium payable to the Board in respect of any policy is not paid or any amount which may be charged against the applicant under the provisions of this Act is not paid, the Board shall have a lien upon all amounts payable in respect of any claim for loss by damage from hail to the insured crops under the policy upon or in respect of which the premium or charges is or are unpaid, and upon all amounts payable in terms of any other policy issued to the applicant, or in which the applicant has an interest, and the amount of the Board's claim may at the discretion of the Board be deducted from or offset against any amounts payable in terms of the said policy or policies or any of them.

"(3) The lien created by subsection (1) of this section shall be enforceable by seizure and sale of the crops and of the goods and chattels of the applicant to the same extent and in the same manner *mutatis mutandis* as is provided by *The Municipal District Act* for recovery by distress of taxes owing to a municipal district and the distress and sale may be made and carried out by any person appointed in writing by the chairman or the secretary of the Board for the purpose. The costs chargeable in respect of the seizure and sale shall be those payable to bailiffs under *The Distress Act.*";

- (b) by striking out the words "every person who is the grower of any grain which is subject to a lien under section 13 who" where the same occur in subsection (4) thereof and by substituting therefor the following: "every person who is the grower of or entitled to any grain which is subject to a lien under subsection (1) who";
 - (c) by striking out subsection (5) and by substituting therefor the following:

"(5) Every person who, having knowledge that any grain is subject to a lien under subsection (1), buys, sells, receives or disposes of any such grain and does not apply the proceeds or value thereof in satisfying the lien upon it, shall be guilty of an offence and liable on summary conviction to a penalty of not less than twenty-five dollars and not more than five hundred dollars and costs, and in default of payment to imprisonment for not more than three months."
 - (d) by adding immediately after subsection (5) the following new subsections:

"(6) Any penalty imposed on any person under the provisions of subsection (4) and paid shall up to the aggregate of all sums owing by such person to the Board, be paid to the Board, and the balance shall be applied in accordance with the provisions of *The Fines and Penalties Act*.

"(7) The taking of proceedings under subsections (4) and (5) or either of them shall not prejudice or affect in any way the Board's rights to recover moneys owing to it.

"(8) Notwithstanding anything contained in any Statute or the Common Law, proceedings under subsection (4) or subsection (5) shall be commenced within eighteen months from the date on which the offence complained of occurs and not afterwards."
- 10.** The said Act is further amended as to section 14.—
- (a) by striking out subsection (1) thereof and by substituting therefor the following:

"**14.**—(1) In case loss occurs to any crop in respect to which insurance has been effected, the applicant shall within three days after the date upon which the loss occurs, send by registered mail in a prepaid cover addressed to The Alberta Hail Insurance Board, Calgary, Alberta, a notice of claim of loss in such form as may be prescribed by the Board.

"(2) Every policy of insurance effected pursuant to the provisions of this Act in respect of any crop, shall expire at twelve o'clock midnight on the expiry

date mentioned therein, and the Board shall not be liable for any loss or damage occurring to the crop after that date.”;

- (b) by renumbering subsections (1a), (2), (3) and (4) as subsections (3), (4), (5) and (6).

11. The said Act is further amended as to section 15.—

- (a) by renumbering subsection (3b) thereof as subsection (3a);
- (b) by adding at the end of subsection (4) the following words:

“Provided that if the Board confirms the report of the adjuster all expenses incurred by the Board in connection with the appeal at the discretion of the Board be charged to the claimant and shall thereupon be added to any unpaid premium owing by the claimant and become a part thereof, and if the claimant be not indebted to the Board for unpaid premium, the Board shall have a like lien as for unpaid premium.”

12. The said Act is further amended as to section 16.—

- (a) by striking out paragraph (d) thereof and by substituting therefor the following:

“(d) in the case of over-ripe grain, loss arising from neglect of the insured to cut the crop or any part thereof;”;

- (b) by adding to the proviso at the end thereof the following words: “and in such case shall be added to any unpaid premium owing by the claimant and become a part thereof and if the claimant be not indebted to the Board for unpaid premium, the Board shall have a like lien for the costs of inspection as for unpaid premiums.”

13. The said Act is further amended as to section 18 by striking out subsection (3) thereof and by substituting therefor the following:

“(3) In case there is at any time on or before the twenty-eighth day of February in any year, any balance in the Trust Account standing to the credit of any area after providing for the payment of all sums payable thereout on account of expenses of the Board and claims for crop damage, the Board may in its discretion transfer an amount not exceeding one-half of the balance to the credit of a General Reserve Account and the funds in the General Reserve Account shall be available for the payment of claims or for any other expenditures of the Board which the Board may consider proper.”

14. The said Act is further amended as to section 21 by striking out the following words where the same occur

therein: "such funds shall be available for any expenditures of the Board as the Board may consider proper", and by substituting therefor the following: "the funds in the General Reserve Account shall be available for the payment of claims or for any other expenditures of the Board which the Board may consider proper".

15. The said Act is further amended by renumbering sections 20, 21, 22, 23, 24, 25 and 26 as 19, 20, 21, 22, 23, 24 and 25 respectively.

16. This Act shall come into force on the day upon which it is assented to, and upon so coming into force shall be deemed to have been in force at all times as, from and after the first day of August, 1941.

SECOND SESSION
NINTH LEGISLATURE

6 GEORGE VI

1942

BILL

An Act to amend The Alberta Hail
Insurance Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. LOW.

EDMONTON:
A. Shnitka, King's Printer
1942