

Bill No. 17 of 1943.

A BILL TO AMEND THE ALBERTA INSURANCE ACT.

NOTE.

Section 1 of the Bill is to protect persons having more than one policy of insurance from terms of a policy which provides that it shall be excess to the other policy, that is, not contributory for a rateable share until the other policy is paid out. Such provisions in a policy are invalidated by the amendment unless consented to by the other insurer. This amendment has been approved by the conference of Provincial Superintendents of Insurance.

Section 2 of this Bill amends the statutory conditions applicable to fire insurance policies. The existing condition 4 (b) reads as follows:

"4. Unless otherwise specifically stated in the policy, the insurer is not liable for the losses following, that is to say,—

"(b) for loss or damage caused by invasion, insurrection, riot, civil commotion, military or usurped power;"

As Parliament has provided for war damage in *The War Risk Insurance Act*, chapter 35, Statutes of 1942 (Canada), it is thought advisable to change the above exception to the form as it appears in the Bill. The insurance companies co-operating with the Dominion Government in war risk insurance have agreed not to write any war risk insurance except under that Act. This amendment has the approval of the Superintendent of Insurance of Ontario and British Columbia and other provinces and may be repealed by proclamation.

Section 3 of the Bill adds a new statutory condition applicable to automobile insurance policies, which exempts the insurer from liability for the risks mentioned, unless the policy or an endorsement thereon expressly provides otherwise. This amendment has already been passed by Ontario, British Columbia, Saskatchewan, Manitoba and New Brunswick, and Quebec already has such an exclusion in its policies.

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. 17 of 1943.

An Act to amend The Alberta Insurance Act.

(Assented to _____, 1943.)

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

1. *The Alberta Insurance Act*, being chapter 201 of the Revised Statutes of Alberta, 1942, is hereby amended by inserting immediately after section 197 thereof, the following new section:

“**197a.**—(1) If at the time of the happening of any loss or damage by fire to property insured there is in force more than one policy taken by and in the name of the insured insuring the property against loss or damaged caused by the peril of fire, no term of any such policy that excludes the insured from contributing a rateable proportion of the loss with an insurer under any such other policy shall be valid unless the insurer under such other policy has expressly assented in writing to such term.

“(2) For the purposes of subsection (1) a policy shall be deemed to be in force notwithstanding any term thereof that the policy shall not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

“(3) Nothing in subsection (1) shall affect the validity of any divisions of the sum insured into separate items, or any limits of insurance on specified property, or a co-insurance clause, or a limitation of liability clause authorized under section 197, or the provision of statutory condition No. 8 respecting undisclosed insurance.

“(4) Notwithstanding subsection (1) insurance on identified articles shall be a first loss insurance as against all other insurance.

“(5) This section shall, in respect to the peril of fire, apply to all policies of all classes of insurance except Aircraft, Automobile, Boiler and Machinery, Live Stock and Marine Insurance.”

2. The said Act is further amended as to Schedule B, Statutory Conditions (Fire), thereof as follows:

(a) Paragraph (b) of condition 4 of the statutory conditions contained in the said Schedule is suspended and the following substituted therefor:

“(b) for loss or damage caused by insurrection, riot, civil commotion, or usurped power, or for war damage as defined by paragraph (m) of section 2 of *The War Risk Insurance Act, 1942* (Canada), and as interpreted by a certain order of the Governor General in Council numbered P.C. 11038, dated the third day of December, 1942.”

- (b) Subject to the exception stated in subsection (2) of section 195, paragraph (b) of condition 4 of the said statutory conditions, as enacted by this section, shall be deemed to be part of every contract of fire insurance now in force or hereafter made, notwithstanding that it is not printed in the policy.
- (c) This section shall continue in force only until a day to be named by the Lieutenant Governor by his proclamation.

3. The said Act is further amended as to Schedule C, Statutory Conditions (Automobile), thereof by inserting after statutory condition 3 the following new statutory condition:

“3a. In cases other than motor vehicle liability policies, the insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.”

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

No. 17.

THIRD SESSION
NINTH LEGISLATURE
7 GEORGE VI
1943

BILL

An Act to amend The Alberta
Insurance Act.

Received and read the

First time

Second time.....

Third time.....

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1943