

1975 Bill 50
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

THE ALBERTA INSURANCE AMENDMENT ACT, 1975

THE MINISTER OF CONSUMER AND CORPORATE AFFAIRS

First Reading

Second Reading

Third Reading

BILL 50

1975

(Second Session)

THE ALBERTA INSURANCE AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

1. The Alberta Insurance Act is hereby amended.

2. The following section is added after section 34:

34.1 (1) Every provincial company carrying on the business of insurance other than life insurance shall maintain assets, allowable as such under this Act or that were authorized by law at the time of their acquisition, of a value of not less than 115 per cent of the aggregate amount of

- (a) the unearned premiums upon all its outstanding unmatured policies, calculated pro rata for the time unexpired,
- (b) all its matured claims, and
- (c) all its other liabilities.

(2) In determining the value of its assets for the purpose of subsection (1), a company shall not value its assets at an amount greater than the market value of the assets.

3. Section 43, subsection (3) is amended by striking out the words "of the report" and by substituting therefor the words "of a report made under this section".

Explanatory Notes

1. This Bill will amend chapter 187 of the Revised Statutes of Alberta 1970.

2. Minimum amount of assets to be maintained by a provincial company carrying on the business of insurance other than life insurance.

3. Section 43, subsection (3) presently reads:

(3) If the Minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant Governor in Council that he concurs in the report of the Superintendent, the Lieutenant Governor in Council may suspend or cancel the licence of the insurer and prohibit the insurer from doing any further business or soliciting or undertaking in the Province any insurance.

4. Section 108 is struck out and the following is substituted therefor:

108. (1) For the purpose of the annual statement under section 98, securities owned by a provincial company shall be valued in accordance with the regulations made under subsection (2).

(2) The Lieutenant Governor in Council may make regulations prescribing the methods of valuation of securities owned by a provincial company.

5. The following heading and section are added after section 141:

Dividends

141.1 A provincial company carrying on the business of insurance other than life insurance shall not pay a dividend where

- (a) its capital is impaired, or
- (b) it does not have assets in the amount required under section 34.1, or
- (c) the payment of the dividend will
 - (i) impair its capital, or
 - (ii) reduce its assets below the amount that is required under section 34.1.

6. Section 174, subsection (1) is amended by striking out clause (b) and by substituting therefor the following:

- (b) if authorized to do so by a resolution passed by the shareholders at a special general meeting called for that purpose where the shares voted in favour of that resolution represent at least three-fourths of the subscribed stock held by the shareholders who were either present at that meeting or were represented by proxy at that meeting,

7. Section 299, subsection (4) is amended by adding after clause (c) the following clause:

- (c1) the occasional and infrequent use by a person of his automobile for the transportation of children to or from activities conducted as part of an educational program, or

4. Section 108 presently reads:

108. (1) In this section,
- (a) "amortized value", when used in relation to the value of a redeemable security at any date after purchase, means a value so determined that if the security were purchased at that date and at that value, the yield would be the same as the yield with reference to the original purchase price;
 - (b) "annual statement" means the statement required under section 98 to be delivered to the Superintendent;
 - (c) "market value" means the market value at the date of the annual statement or, in the discretion of the Superintendent, at a date not more than 60 days before the date of that statement;
 - (d) "redeemable security" means a security for a fixed term and which is redeemable at the end of that term at a specified value;
 - (e) "redemption date", when used in relation to a security that is redeemable at more than one specified date, means the specified date that gives the lower or the lowest effective rate of interest, as the case may be;
 - (f) "yield", when used in relation to a redeemable security, means the effective rate of interest that will be returned on the purchase price if the payments of interest specified in the security are made up to and including the redemption date and the security is then redeemed at the specified value.
- (2) For the purpose of subsection (1), clauses (a), (e) and (f),
- (a) where a redeemable security is acquired otherwise than by purchase, it shall be deemed to have been purchased at a price not exceeding the market value at the date of acquisition, and
 - (b) where the option to redeem a security is not exercised at the redemption date used to determine the yield then, with respect to the remainder of the term, the security shall be deemed to have been purchased at that date at a price equal to the then amortized value.
- (3) The securities owned by a provincial company shall be taken into account, in every annual statement, at values which, in total, do not exceed the sum of
- (a) the amortized values of redeemable securities not in default, issued or guaranteed by the Government of Canada or by the Government of any province of Canada, and
 - (b) the book values of all securities other than those described in clause (a) less a deduction equal to the lesser of
 - (i) the excess, if any, of the aggregate of the book values over the aggregate of the market values of such securities, or
 - (ii) the deduction prescribed by this clause for the purposes of the immediately preceding annual statement together with one-third of the excess described in subclause (i).
- (4) When, in the opinion of the Minister, the market values are unduly depressed, the Minister may, on the report of the Superintendent, authorize, for the purpose of subsection (3), the use of values in excess of the market values but not exceeding the values used for this purpose in the next preceding annual statement of the company or, in the case of securities acquired by the company since the date of that statement, not exceeding the book values at the date of the annual statement to be deposited.
- (5) Every annual statement of a provincial company shall show in a schedule the market values of all securities owned by the company at the date of the statement.

5. Prohibition against payment of dividends in certain instances.

6. Section 174 (1) presently reads:

174. (1) The directors of any provincial company may from time to time,
- (a) in the event of the company's paid-up capital being impaired, and
 - (b) if duly authorized and empowered by a resolution approved
 - (i) by the votes of shareholders representing at least two-thirds of all the subscribed stock of the company, and
 - (ii) at a special general meeting duly called for considering the resolution, pass a by-law for writing off the paid-up capital any amount that they have been so authorized and empowered to write off.

7. Exclusion from the exceptions to liability of insurer.

8. Section 306 is amended by striking out subsections (11) and (12) and by substituting therefor the following:

(11) Where one or more contracts provide for coverage in excess of the limits mentioned in section 300, except as provided in subsection (12), the insurer may, notwithstanding subsection (4),

(a) with respect to the coverage in excess of those limits, and

(b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured other than a defence arising out of a breach of statutory condition 2 set forth in section 288.

(12) Where a contract provides coverage of the type mentioned in section 298, clause (a) in respect of an automobile operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may, notwithstanding subsection (4),

(a) with respect to that type of coverage in excess of the limits mentioned in section 300 or the minimum limits required for that type of coverage under any other Act, whichever is the greater amount, and

(b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured other than a defence arising out of a breach of statutory condition 2 set forth in section 288.

9. The following section is added after section 315:

315.1 (1) Where a person entitled to benefits provided by insurance under section 312 and section 313 or either of them

(a) is an occupant of a motor vehicle involved in an accident, the insurer of the owner of the motor vehicle shall, in the first instance, be liable for payment of the benefits provided by the insurance, or

(b) is a pedestrian and is involved in a motor vehicle accident, the insurer of the owner of that motor vehicle shall, in the first instance, be liable for the payment of the benefits provided by the insurance.

(2) Nothing in this section affects the operation of the provisions of section 312, subsections (2) to (5) and section 313.

10. (1) This Act, except for sections 2 and 5, comes into force on the day upon which it is assented to.

(2) Sections 2 and 5 come into force on a date to be fixed by Proclamation.

8. Section 306, (11) and (12) presently read:

(11) Where one or more contracts provide for coverage in excess of the limits mentioned in section 300, except as provided in subsection (12), the insurer may,

(a) with respect to the coverage in excess of those limits, and

(b) as against a claimant,

avall itself of any defence that it is entitled to set up against the insured, notwithstanding subsection (4).

(12) Where a contract provides coverage of the type mentioned in section 298, clause (a) in respect of an automobile operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may,

(a) with respect to that type of coverage, and

(b) as against a claimant,

only avall itself of a defence that it is entitled to set up against the insured in respect of that part of the coverage, if any, that exceeds,

(c) the limits mentioned in section 300, or

(d) the minimum limits required for that type of coverage by or under any other Act,

whichever is the greater.

9. Governs the first priority of payments made pursuant to insurance which provides for medical expenses or accident insurance benefits.