

1975

c 88 The Insurance Amendment Act, 1975

Ontario

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CHAPTER 88

An Act to amend The Insurance Act*Assented to July 18th, 1975*

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

1. Subsection 2 of section 27 of *The Insurance Act*, being ^{s. 27 (2),} amended chapter 224 of the Revised Statutes of Ontario, 1970, is amended by inserting after "plan" in the fifth line "or under the Fire Mutuals Guarantee Fund".
2. Subsection 3 of section 28 of the said Act is amended by ^{s. 28 (3),} amended adding at the end thereof "or under the Fire Mutuals Guarantee Fund".
- 3.—(1) Subsection 1 of section 127 of the said Act is amended ^{s. 127 (1),} amended by adding at the end thereof "or under the Fire Mutuals Guarantee Fund".
 - (2) Section 127 of the said Act is amended by adding thereto ^{s. 127,} amended the following subsection:
 - (1a) Sections 129, 130, 131, 133, 134, 135, 136, 137 and ^{Application} 138 do not apply in respect of contracts of insurance to ^{to Fire} Mutuals ^{Guarantee} Fund which the Fire Mutuals Guarantee Fund is applicable. ^{Fund}
 - (3) Subsection 2 of the said section 127, as amended by the ^{s. 127 (2),} amended Statutes of Ontario, 1971, chapter 84, section 6, is further amended by inserting after "plan" in the second line "or under the Fire Mutuals Guarantee Fund".
4. Subsection 1 of section 132 of the said Act is amended by ^{s. 132 (1),} amended inserting after "plan" in the second line "or to which the Fire Mutuals Guarantee Fund is applicable".
5. Subsection 1 of section 139 of the said Act is amended by ^{s. 139 (1),} amended inserting after "plan" in the third line "or to which the Fire Mutuals Guarantee Fund is applicable".

s. 140 (1),
amended

6.—(1) Subsection 1 of section 140 of the said Act is amended by inserting after “plan” in the second line “or under a contract to which the Fire Mutuals Guarantee Fund is applicable”.

s. 140 (4),
amended

(2) Subsection 4 of the said section 140, as amended by the Statutes of Ontario, 1973, chapter 124, section 13, is further amended by inserting after “plan” in the first line “or under a contract to which the Fire Mutuals Guarantee Fund is applicable”.

s. 140 (5),
amended

(3) Subsection 5 of the said section 140, as amended by the Statutes of Ontario, 1971, chapter 84, section 8 and 1973, chapter 124, section 13, is further amended by inserting after “plan” in the third line “or under the Fire Mutuals Guarantee Fund”.

s. 143,
enacted

7. The said Act is amended by adding thereto the following section:

Fire Mutuals
Guarantee
Fund
R.S.O. 1970,
c. 254

143. (1) The Superintendent may approve the terms of an agreement to establish and maintain a fund to be held in trust by a trust company registered under *The Loan and Trust Corporations Act*, such fund to be known as the Fire Mutuals Guarantee Fund.

Parties to
agreement
for Fund

(2) Subject to the approval of the Superintendent, an insurer licensed to transact business on the premium note plan, together with other insurers of the same class and The Farm Mutual Reinsurance Plan, Inc., may enter into the agreement.

Purposes
of Fund

(3) The assets of the Fire Mutuals Guarantee Fund may be used as directed by a board of trustees established under the agreement, with the approval of the Superintendent, for the purpose of satisfying claims by policyholders and third parties that cannot be met by the assets of an insurer who is a party to the agreement.

Assets
of Fund

(4) The assets of the Fund shall,

- (a) be maintained at no less than a book value of \$1,000,000 including the value of any assessments made to restore the book value of \$1,000,000, or such further amount as may be specified from time to time by the Superintendent;
- (b) be maintained or increased by assessments on parties to the agreement on the basis set out in the agreement referred to in subsection 1;

- (c) be an authorized investment within the meaning of subsection 8 of section 79 and the value to be included by each licensed insurer shall be proportional to its contribution to the trust and shall be subject to examination by the Superintendent in the same manner as the other assets and property of licensed insurers;
- (d) be invested and valued in the same manner and be subject to the same restrictions as the assets of a mutual fire insurance corporation carrying on business on the premium note plan.
- (5) No assessment referred to in clause *b* of subsection 4 shall be paid by an insurer if its effect would be to reduce the surplus of that insurer below the minimum amount specified by the Superintendent, and such a waiver of an assessment shall not be cause for the insurer's expulsion from the Fund. 4 Relief from assessment
- (6) The Superintendent shall be deemed to have an interest in the Fund as representative of all persons who may be claimants against insurers that are parties to the agreement and the trustees shall from time to time furnish the Superintendent with such information and accounts with respect to the Fund as the Superintendent may require. Interest of Superintendent in Fund
- (7) The Superintendent may permit the withdrawal from the trust agreement of an insurer upon terms and conditions or, where an insurer is in default of payment of its assessment under the agreement, the Superintendent may withdraw his approval given under subsection 2. Withdrawal from agreement
- (8) An insurer that becomes a party to the agreement referred to in subsection 1 shall, except with the approval of the Superintendent, cease to undertake contracts of insurance or renew existing contracts of insurance on the premium note plan. Ceasing to issue contracts on premium note plan
- (9) All parties to the agreement and their officers and directors, shall be deemed to be persons engaged in the business of insurance for the purposes of this Act and the regulations and any contravention of the trust agreement constitutes an offence. Application of Act
- (10) An account filed with the Superintendent under subsection 6, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and the trustees' administration thereof, unless the Superintendent, within six months Passing of accounts

of the date upon which the account is filed with him, requires in writing that such account be filed and passed before a judge of the surrogate court of the county or district in which the account is being administered.

Application
of R.S.O.
1970,
cc. 451, 470

(11) The provisions of *The Surrogate Courts Act* and the rules made thereunder and of *The Trustee Act* with respect to the passing of accounts of the trustees apply, *mutatis mutandis*, to the passing of accounts under subsection 10.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. This Act may be cited as *The Insurance Amendment Act, 1975*.