

1970

c 134 The Insurance Amendment Act, 1970

Ontario

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CHAPTER 134

An Act to amend The Insurance Act

Assented to November 13th, 1970
Session Prorogued November 13th, 1970

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

1. Section 1 of *The Insurance Act*, as amended by section 1 of *The Insurance Amendment Act, 1961-62*, section 1 of *The Insurance Amendment Act, 1964*, section 1 of *The Insurance Amendment Act, 1966* and section 1 of *The Insurance Amendment Act, 1968-69*, is further amended by adding thereto the following paragraph:

R.S.O. 1960, c. 190, s. 1, amended

1b. "actuary" means a Fellow of the Canadian Institute of Actuaries.

2. Subsection 2 of section 18 of *The Insurance Act* is amended by striking out "*The Corporations Act*" in the third line and inserting in lieu thereof "this Act", so that the subsection shall read as follows:

R.S.O. 1960, c. 190, s. 18, subs. 2, amended

(2) In his annual report the Superintendent shall allow as assets only such of the investments of the several insurers as are authorized by this Act, or by their Acts or instruments of incorporation, or by the general Acts applicable to such investments.

Permissible investments

3. *The Insurance Act* is amended by adding thereto the following section:

R.S.O. 1960, c. 190, amended

18a. The Superintendent may publish from time to time notices, reports, correspondence, results of hearings, decisions and any other matter considered by the Superintendent to be in the public interest.

Publication by Superintendent

4.—(1) Subsection 1 of section 29 of *The Insurance Act*, as re-enacted by section 4 of *The Insurance Amendment Act, 1966*, is repealed and the following substituted therefor:

R.S.O. 1960, c. 190, s. 29, subs. 1 (1966, c. 71, s. 4), re-enacted

Capital
requirements
for licence

(1) A licence shall not be granted to a joint stock insurance company unless the company furnishes to the Superintendent satisfactory evidence that,

(a) if the company is applying for a licence to transact the business of life insurance, the company has paid up capital and surplus of not less than \$2,000,000, or such greater amount as the Minister in the circumstances may require, of which at least \$1,000,000 is paid up capital and at least \$500,000 is unimpaired surplus; and

(b) if the company is applying for a licence to transact any class or classes of business other than life insurance, the company has paid up capital and surplus of not less than \$1,000,000, or such greater amount as the Minister in the circumstances may require, of which at least \$500,000 is paid up capital and at least \$250,000 is unimpaired surplus.

Application
of subs. 1

(2) Subsection 1 does not apply to a joint stock company licensed before the 1st day of January, 1971.

R.S.O. 1960,
c. 190, s. 32,
subs. 3,
re-enacted

5. Subsection 3 of section 32 of *The Insurance Act* is repealed and the following substituted therefor:

Conditions
precedent to
issue of
licence
R.S.O. 1960,
c. 71

(3) The Minister shall not issue the licence until he is satisfied that all the requirements of this Act and of *The Corporations Act* as to the subscriptions for shares in the capital of the insurer, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including any commission payable in connection with subscriptions for shares in the capital of the insurer, are reasonable.

R.S.O. 1960,
c. 190, s. 34,
subs. 2,
re-enacted

6. Subsection 2 of section 34 of *The Insurance Act* is repealed and the following substituted therefor:

Term of
licence

(2) The licence expires on the 30th day of June in each year, subject to renewal by the Superintendent on or before that date.

Conditions
of licence

(3) Any licence may be issued or renewed subject to such limitations or conditions as the Minister considers appropriate.

- (4) Notwithstanding subsections 2 and 3, the Minister ^{Variation of licence} may at any time and in respect of any licence of an insurer,

- (a) reduce the term for which the licence was issued or renewed;
- (b) impose any conditions or limitations relating to the carrying on of the insurer's business that he considers appropriate; or
- (c) vary, amend or revoke any condition or limitation to which the licence is then subject,

but the Minister may not exercise any power granted under this subsection until he has given the insurer notice of his intention to exercise such power and has afforded the insurer a reasonable opportunity to be heard with respect thereto.

7. *The Insurance Act* is amended by adding thereto the ^{R.S.O. 1960, c. 190, amended} following sections:

37a.—(1) Where it comes to the attention of the ^{Assets not accounted for} Superintendent that an insurer incorporated or organized under the laws of Ontario may not be able to account satisfactorily for any assets that appear on its books and, upon investigation, the Superintendent is satisfied that any such assets cannot be satisfactorily accounted for and that the circumstances so warrant, he may immediately take possession and control of the assets of such insurer and maintain such control on his own initiative for a period of seven days and, with the concurrence of the Minister, for any longer period that the Minister may order for the purpose of his report under subsection 1 of section 37b.

- (2) The Superintendent may release any assets under his ^{Release of assets} possession and control that he considers advisable for the purposes of the insurer.

37b.—(1) Where the Superintendent is of the opinion ^{Report to Minister} that the assets of an insurer incorporated or organized under the laws of Ontario are not sufficient to justify its continuance in business or to provide for its obligations under its policies he shall so report to the Minister.

Remedial
powers
of the
Minister

- (2) Where the Minister, after full consideration of the matter and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry or investigation as he sees fit to make, agrees with the opinion of the Superintendent under subsection 1, the Minister may do one or both of the following,

(a) make the insurer's licence subject to such limitations or conditions as he considers appropriate;

(b) prescribe a time within which the insurer shall make good any deficiency of assets.

Subsequent
action

- (3) If the insurer fails to make good any deficiency of assets within the time that has been prescribed under clause *b* of subsection 2, or any extension thereof subsequently given by the Minister, the Minister shall submit the report of the Superintendent to the Lieutenant Governor in Council and the Lieutenant Governor in Council, if he agrees with the report, may order the Superintendent to take possession and control of the assets of the insurer and the Superintendent shall deliver a copy of the order to an officer of the insurer.

Appointment
of
appraisers

- (4) For the purposes of this section, the Minister may appoint such persons as he considers necessary to value and appraise the assets and liabilities of the insurer and report upon its condition and its ability, or otherwise, to meet its liabilities.

Power of
Superinten-
dent
upon taking
control

- 37c.—(1) If so ordered by the Lieutenant Governor in Council under section 37*b*, the Superintendent shall take possession and control of the assets of the insurer and shall thereafter conduct its business and take such steps as in his opinion should be taken toward its rehabilitation, and for such purposes the Superintendent has all the powers of the board of directors of the insurer, and, without limiting the generality of the foregoing, the Superintendent may,

(a) exclude the directors, officers, servants and agents of the insurer from the premises, property and business of the insurer; and

(b) carry on, manage and conduct the operations of the insurer and in the name of the insurer

preserve

preserve, maintain, realize, dispose of and add to the property of the insurer, receive the incomes and revenues of the insurer and exercise all the powers of the insurer.

- (2) While the Superintendent has possession and control of the assets of an insurer under this section, the Minister may direct the Superintendent to apply to the court for an order for the winding up of the insurer under Part VII of *The Corporations Act*. Application to court
R.S.O. 1960
c. 71
- (3) Where the Superintendent is in possession and control of the assets of an insurer and is conducting its business, he may appoint one or more persons to manage and operate the business of the insurer and, Appointment of managers
- (a) each person so appointed is a representative of the Superintendent; and
- (b) the remuneration of any such person, other than an employee of the office of the Superintendent, shall be fixed by the Minister.
- (4) Whenever the Minister believes that an insurer, whose assets are in the possession and control of the Superintendent meets all the requirements of this Act and that it is otherwise proper for the insurer to resume possession and control of its assets and the conduct of its business, the Minister may, in writing, direct the Superintendent to relinquish to the insurer the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease. Relinquishing control
- (5) If the Minister, on the report of the Superintendent, considers that further efforts to rehabilitate an insurer, whose assets are in the possession and control of the Superintendent would be futile, he may, in writing, direct the Superintendent to relinquish to the insurer the possession and control of its assets, and from and after the date specified in such direction the powers of the Superintendent under this section cease. Where rehabilitation efforts futile
- (6) The expenses of the Superintendent incurred in rehabilitation proceedings under this section and sections 37a and 37b shall be paid by all insurers licensed under this Act to carry on business of the same class or classes as the insurer who is the subject Expenses of proceedings

of the proceedings, and the share of each shall be the proportion of the expenses that the net premium income received from the insurer's policyholders in Ontario in its last preceding fiscal year bears to the total net premium income received from the policyholders in Ontario by all insurers of that class in their respective last preceding fiscal years.

Advisory
committee

- (7) The insurers required to bear the said expenses of the Superintendent may appoint a committee of not more than six members to advise the Superintendent in respect of all matters pertinent to the rehabilitation of the insurer whose assets are in the possession and control of the Superintendent.

Appeal

- 37d.—(1) Notwithstanding section 37c, an insurer may appeal to a judge of the Court of Appeal from any order made by the Lieutenant Governor in Council under section 37b within thirty days after the delivery of a copy of the order to an officer of the insurer, and the practice and procedure in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

Stay

- (2) An order of the Lieutenant Governor in Council under section 37b shall take effect immediately, but where there is an appeal, a judge of the Court of Appeal may grant a stay until any appeal is disposed of.

Material
on appeal

- (3) The Minister shall certify to the Registrar of the Supreme Court,
- (a) the decision of the Lieutenant Governor in Council;
 - (b) the reports of the Superintendent to the Minister or the Lieutenant Governor in Council;
 - (c) the record of any hearing; and
 - (d) all written submissions by the appellant to the Superintendent, the Minister or the Lieutenant Governor in Council.

Representa-
tion

- (4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the judge may by order direct the Superintendent to take such action as the judge considers proper or refrain from taking any action specified in the order and the Superintendent shall act accordingly. Order

(6) The order of the judge is final and there is no appeal therefrom, but, notwithstanding the order, the Minister and the Lieutenant Governor in Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. Further decision

8. *The Insurance Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 190,
amended

74. No transfers of shares of an insurer shall be entered in the book or books maintained for that purpose until thirty days after notice thereof has been deposited with the Superintendent if, Report on
share
transfers

(a) the transfer relates to 10 per cent or more of the issued shares of the insurer for the time being enjoying voting rights; or

(b) the directors have reason to believe that the transfer would result in a majority of the issued shares of the insurer for the time being enjoying voting rights being beneficially owned by any one person.

9. Section 80a as enacted by section 3 of *The Insurance Amendment Act, 1961-62*, and section 80b as enacted by section 5 of *The Insurance Amendment Act, 1962-63*, of the *Insurance Act* are repealed and the following substituted therefor: R.S.O. 1960,
c. 190, s. 80a
(1961-62, c.
63, s. 3),
s. 80b, (1962-
63, c. 64,
s. 5),
re-enacted

80a.—(1) Any insurer incorporated and licensed under the laws of Ontario to transact the business of life insurance may, Authoriza-
tion for
variable
contracts
based on
segregated
funds

(a) issue policies for which the reserves vary in amount with the market value of a specified group of assets; and

(b) retain for investment,

(i) policy dividends,

(ii)

- (ii) policy proceeds that become payable on surrender or maturity of the policy not less than five years from the date of its issue if the policyholder so directs, and
- (iii) policy proceeds that become payable on the death of the policyholder if the policyholder or beneficiary so directs,

on the basis that the liability of the insurer in respect thereof varies in amount with the market value of a specified group of assets,

and the insurer shall maintain in respect of such policies, dividends and proceeds, as the case may be, one or more separate and distinct funds with separate assets for each such fund.

How fund
created

- (2) For the purpose of creating a separate and distinct fund under subsection 1, an insurer may, if duly authorized by by-law,
 - (a) make a transfer from the shareholders' fund but the amount so transferred shall not exceed the surplus in the shareholders' fund; and
 - (b) make a transfer of assets from one or more life insurance funds, but,
 - (i) the maximum amount that may be transferred from any life insurance fund is the amount by which 25 per cent of the surplus in that fund exceeds the aggregate of all prior transfers from that fund to all such separate and distinct funds under this subsection and clause *b* of subsection 3 less the aggregate of all prior transfers to that fund pursuant to clause *a* of subsection 5; and
 - (ii) the maximum amount that may be transferred from all life insurance funds is the amount by which 10 per cent of the surplus in those funds or \$2,000,000, whichever is the lesser, exceeds the aggregate of all prior transfers from those funds to all such separate and distinct funds pursuant

to this subsection and clause *b* of subsection 3 less the aggregate of all prior transfers to all life insurance funds pursuant to clause *a* of subsection 5.

- (3) For the purpose of maintaining a separate and distinct fund under subsection 1, an insurer may from time to time make transfers from a life insurance fund, ^{Transfers to fund}
- (a) to the extent that the assets of the separate and distinct fund are not sufficient to provide for any benefits guaranteed under the terms of the policies for which the separate fund is held; or
 - (b) in any case other than that mentioned in clause *a*, if the insurer provides evidence satisfactory to the Superintendent that such transfers are necessary for the proper administration of the policies or deposits for which the separate fund is held.
- (4) Where for the purposes of subsection 2 the surplus in any fund is required to be determined, the surplus shall be taken as shown in the most recent annual statement filed with the Superintendent. ^{Surplus}
- (5) Where a separate and distinct fund is maintained under subsection 1, the assets of such fund shall, subject to subsection 3, be available only to meet the liabilities arising under the policies or deposits in respect of which such fund is maintained, except that, ^{Segregation of assets for policies}
- (a) any amount representing the value of a transfer, or any part thereof, to such separate and distinct fund under subsection 2 or clause *b* of subsection 3, may, with the approval of the Superintendent, be transferred back to the fund or funds from which such transfer was made, and, where there is more than one such fund, the amount transferred back to each shall be that proportion of the whole amount that the amount transferred from that fund to the separate and distinct fund was to the total amount so transferred from all the funds; and
 - (b) any assets, other than assets in respect of a transfer to the separate and distinct fund

under

under subsection 2 or clause *b* of subsection 3, remaining in the separate and distinct fund after the discharge of all the insurer's liabilities in respect of the policies or deposits for which the fund is maintained, may be transferred to such other fund as the directors may determine.

Value of transfers

- (6) For the purposes of clause *b* of subsection 2, the value of any assets transferred to or from a separate and distinct fund shall be taken as the value thereof at the time of transfer to that fund and, for all other purposes, the value from time to time of any assets that have been transferred to a separate and distinct fund maintained under subsection 1 shall be the market value of such assets.

Exception from investment limitations

- (7) Where a separate and distinct fund is maintained under subsection 1, the percentage limits specified in clauses *e* and *f* of section 357 do not apply to the investments and loans constituting the assets of the fund and in the application of those limits to the insurer as a whole the assets of any such separate fund shall not be taken into account.

Definition of variable insurance contracts

- 80b.—(1) In this section, "variable insurance contract" means an annuity or life insurance contract for which the reserves or a part thereof vary in amount with the market value of a specified group of assets held in a separate and distinct fund and includes a life insurance contract under which policy dividends or policy proceeds may be retained for investment in such a fund.

Prohibition

- (2) No insurer shall issue a variable insurance contract or offer to enter into a variable insurance contract that under this Act would be deemed to be made in Ontario until there has been filed with the Superintendent a specimen form of such variable insurance contract, an information folder pertaining thereto and such other material as may be required under the regulations and a receipt therefor has been obtained from the Superintendent.

Form of contract

- (3) The forms of variable insurance contracts and information folders with respect thereto shall comply with the requirements of Part V of this Act and the regulations.

(4)

- (4) The information folder shall provide brief and plain disclosure of all material facts relating to the variable insurance contract and shall contain a certificate to that effect signed by the chief executive officer and the chief financial officer of the insurer or such other persons as the regulations may prescribe. ^{Form of information folder}
- (5) No application for a variable insurance contract shall be accepted by an insurer until the insurer has delivered to the applicant therefor a copy of the latest information folder relating thereto that is on file with the Superintendent. ^{Delivery of information folder}
- (6) So long as an insurer continues to issue a variable insurance contract in respect of which it has filed an information folder, it shall, ^{New information folders}

(a) forthwith after the occurrence of any material change in the contract or in any other facts set out in the latest information folder so filed; and

(b) within thirteen months after the date of filing of the latest information folder so filed, or such other period of time as may be provided by the regulations,

file with the Superintendent a new information folder in respect thereof.

- (7) Where it appears to the Superintendent that, ^{Prohibition order}
- (a) an information folder or any other document filed with the Superintendent by an insurer with respect to a variable insurance contract,
- (i) fails to comply in any substantial respect with the requirements of this Act or the regulations,
- (ii) contains any promise, estimate, illustration or forecast that is misleading, false or deceptive, or
- (iii) conceals or omits to state any material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made; or

(b)

- (b) the financial condition of the insurer or its method of operation in connection with the issuance of its variable insurance contracts will not afford sufficient protection to prospective purchasers of such variable insurance contracts in Ontario,

the Superintendent shall report the same to the Minister and the Minister, if he concurs in the report and after affording the insurer an opportunity to be heard, may order the Superintendent to prohibit the insurer from continuing to issue such variable insurance contracts in Ontario.

Regulations

- (8) The Lieutenant Governor in Council may make regulations,
- (a) prescribing the form and content of variable insurance contracts;
 - (b) prescribing the form, content and time of filing and delivery of information folders;
 - (c) for the furnishing of information by an insurer or an agent thereof to prospective purchasers of variable insurance contracts;
 - (d) prescribing the documents, reports, statements, agreements and other information required to be filed, furnished or delivered under this section, and the form and content thereof.

Separate accounts

- 80c. Every insurer licensed to transact life insurance shall keep separate and distinct accounts of participating and non-participating business.

R.S.O. 1960,
c. 130,
amended

- 10.** *The Insurance Act* is amended by adding thereto the following section:

Reporting on
applications
to register
under
R.S.C. 1952,
c. 31

- 86a. An insurer incorporated under the laws of Ontario shall notify the Superintendent fourteen days in advance of making application for registration under Part IX of the *Canadian and British Insurance Companies Act* (Canada) or any similar enactment or regulation of the Government of Canada.

R.S.O. 1960,
c. 190, s. 88,
subs. 3, cl. c,
re-enacted

- 11.** Clause *c* of subsection 3 of section 88 of *The Insurance Act* is repealed and the following substituted therefor:

- (c) governing group insurance contracts or schemes, or any class thereof including prescribing and regulating their terms and conditions, qualifications for

membership

membership in groups and regulating the marketing of group insurance contracts or schemes;

- (ca) prescribing and defining the terms and conditions upon which an insurer licensed to transact the business of life insurance may invest its funds in fully paid shares of other corporations under the provisions of this Act.

12. Subsection 2 of section 98 of *The Insurance Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 190, s. 98,
subs. 2,
re-enacted

- (2) An insurer who neglects or refuses to comply with subsection 1 is guilty of an offence, and in addition section 99 is not available to the insurer as a defence to an action brought, after such neglect or refusal, for the recovery of moneys alleged to be payable under the contract of insurance.

Offence

13.—(1) Subcondition 1 of statutory condition 2 of section 204 of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966*, is amended by adding thereto the following clause:

R.S.O. 1960,
c. 190, s. 204
(1966, c. 71,
s. 11),
stat. cond. 2,
subcond. 1,
amended

- (ba) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

.

(2) Subcondition 2 of statutory condition 2 of the said section 204 is amended by adding thereto the following clause:

R.S.O. 1960,
c. 190, s. 204
(1966, c. 71,
s. 11),
stat. cond. 2,
subcond. 1,
amended

- (ba) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or

.

14. Part VI of *The Insurance Act*, as re-enacted by section 11 of *The Insurance Amendment Act, 1966* and amended by sections 2, 3, 4, 5 and 6 of *The Insurance Amendment Act, 1967*, section 5 of *The Insurance Amendment Act, 1968* and sections 10, 11, 12, 13, 14 and 15 of *The Insurance Amendment Act, 1968-69*, is further amended by adding thereto the following sections:

R.S.O. 1960
c. 190,
Pt. VI
(1966, c. 71,
s. 11),
amended

Liability
from
ownership

211a. Liability arising from contamination of property carried in an automobile shall not be deemed to be liability arising from the ownership, use or operation of such automobile.

.

Advance
payments
and release
by claimant

220a.—(1) Where an insurer makes a payment on behalf of an insured under a contract evidenced by a motor vehicle liability policy to a person who is or alleges himself to be entitled to recover from the insured covered by the policy, the payment constitutes, to the extent of the payment, a release by the person or his personal representative of any claim that the person or his personal representative or any person claiming through or under him or by virtue of *The Fatal Accidents Act* may have against the insured and the insurer.

R.S.O. 1960,
c. 138

Idem

(2) Nothing in this section precludes the insurer making the payment from demanding, as a condition precedent to such payment, a release from the person or his personal representative or any other person to the extent of such payment.

Payment
to be
taken into
account

(3) Where the person commences an action, the court shall adjudicate upon the matter first without reference to the payment but in giving judgment the payment shall be taken into account and the person shall only be entitled to judgment for the net amount, if any.

Intention

(4) The intention of this section is to permit payments to a claimant without prejudice to the defendant or his insurer, either as an admission of liability or otherwise, and the fact of any payment shall not be disclosed to the judge or jury until after judgment but before formal entry thereof.

R.S.O. 1960,
c. 190,
s. 261, cl. a,
repealed

15. Clause *a* of section 261 of *The Insurance Act* is repealed.

R.S.O. 1960,
c. 190,
s. 342,
re-enacted

16. Section 342 of *The Insurance Act* is repealed and the following substituted therefor:

Interpre-
tation

342. In this Part, "reinsurance" means an agreement whereby contracts made in Ontario by a licensed insurer incorporated or organized under the laws of Ontario or any class or group of such contracts are undertaken or reinsured by another insurer either by novation, transfer or assignment or as a result of amalgamation of the insurers.

17. *The Insurance Act* is amended by adding thereto the following Parts: R.S.O. 1960,
c. 190,
amended

PART XVII

INVESTMENTS

354. In this Part, "insurer" means an insurer incorporated or organized under the laws of Ontario and in section 355 includes only a joint stock insurance company, a fraternal society, a mutual insurance corporation and a cash-mutual insurance corporation. Interpre-
tation

355.—(1) An insurer may invest its funds or any portion thereof in, Investment
powers

(a) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of, Government
bonds

(i) Canada, Australia, Ceylon, India, New Zealand, Pakistan, the Republic of South Africa, the United Kingdom, or any province or state thereof, or Rhodesia or the Republic of Ireland,

(ii) a colony of the United Kingdom,

(iii) the United States of America or a state thereof,

(iv) a country in which the insurer is carrying on business, or a province or state thereof, or

(v) a colony, dependency, territory or possession of any country in which the insurer is carrying on business;

(b) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada or elsewhere where the insurer is carrying on business, or by a school corporation in Canada or elsewhere where the insurer is carrying on business, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such province and collectable by the municipalities in which such property is situate; municipal
etc.,
securities

(c) the bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development; bonds issued
or
guaranteed
by the
International
Bank, etc.

(d)

bonds issued
or
guaranteed
by the
Inter-
American
Development
Bank

(d) the bonds, debentures or other securities issued or guaranteed by the Inter-American Development Bank or by the Asian Development Bank;

federal
subsidy
bonds

(e) the bonds or debentures issued by a corporation that are secured by the assignment to a trust company in Canada of an annual payment that the Government of Canada has agreed to make, if such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;

bonds
secured by
provincial
subsidy

(f) the bonds or debentures issued by a charitable, educational or philanthropic corporation that are secured by the payment, assignment or transfer to a trust company in Canada of subsidies, payable by or under the authority of a province of Canada, sufficient to meet the interest as it falls due on the bonds or debentures and the principal amount of the bonds or debentures on maturity;

debentures
secured by
statutory
charge on
real estate,
plant or
equipment

(g) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the date of investment in such bonds, debentures or other evidences of indebtedness upon the securities of that class of the corporation then outstanding;

revenue
bonds

(h) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of a country in which the insurer is carrying on business, or of a province or state thereof, or of a colony, dependency, territory or possession thereof in which the insurer is carrying on business, to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these

purposes, to levy, impose or make taxes, rates, fees or other charges that,

- (i) may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges, or
 - (ii) in the case of an authority constituted by an Act of a national government, are fixed or authorized by law or subject to the approval of the government or a minister or ministry thereof or of a body responsible to the government or the minister or ministry;
- (i) the bonds, debentures or other evidences of indebtedness issued by a corporation that are ^{bonds, etc. secured by mortgage} fully secured by a mortgage, charge or hypothec to a trustee or to the insurer upon any, or upon any combination, of the following assets,
- (i) real estate or leaseholds,
 - (ii) the plant or equipment of a corporation that is used in the transaction of its business, or
 - (iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection as investments, or cash balances if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,
- and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;
- (j) obligations or certificates issued by a trustee ^{equipment trust certificates} to finance the purchase of transportation equipment for a corporation incorporated in Canada or the United States of America to be used on railways or public highways, if the obligations or certificates are fully secured by,
- (i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

debentures

(ii) a lease or conditional sale thereof by the trustee to the corporation;

(k) the bonds, debentures or other evidences of indebtedness issued or guaranteed by,

(i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause *m* or *n*, or

(ii) a corporation if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least $1\frac{1}{2}$ times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed
investment
certificates

(l) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *m* or *n*;

preferred
shares

(m) the preferred shares of a corporation if,

(i) the corporation has paid a dividend in each of the five years immediately

preceding

preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

- (ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause *n*;
- (*n*) the fully paid common shares of a corporation ^{common shares} that during a period of five years that ended less than one year before the date of investment has either,
 - (i) paid a dividend in each such year upon its common shares, or
 - (ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

- (*o*) ground rents, mortgages, charges or hypothecs ^{real estate mortgages} on real estate or leaseholds in Canada or in any country in which the insurer is carrying on business, but the amount paid for the mortgage, charge or hypothec together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the investment is made shall not exceed three-quarters of the value of the real estate or leasehold covered thereby;
- (*p*) mortgages, charges or hypothecs on real estate ^{guaranteed or insured real estate mortgages} or leaseholds in Canada or in any country in which the insurer is carrying on business or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the mortgage, charge or hypothec exceeds the amount that the insurer is otherwise authorized to invest, if the excess is guaranteed or insured by, or through an agency of, the

R.S.C. 1952,
cc. 31, 125

real estate
for the
production
of income

government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed under this Act, the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada);

(q) real estate or leaseholds for the production of income in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada or with any loan corporation or trust company incorporated in Canada, if,

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the government, or an agency of the government, of the country in which the real estate or leasehold is situated or of a province, state or municipality of that country, or

(B) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause *m* or *n*,

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the insurer,

and the insurer may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

(r)

- (r) real estate or leaseholds for the production of ^{other real estate for the production of income} income in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada or with any loan corporation or trust company incorporated in Canada, if,

(i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of an insurer in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the insurer,

and the company may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold.

- (2) An insurer may lend its funds or any portion ^{Lending funds} thereof on the security of,

(a) any bonds, debentures or other evidences of ^{authorized securities} indebtedness, shares or other securities in which the insurer may invest its funds under subsection 1 but the amount of the loan, together with the amount invested therein, if any, shall not exceed in the aggregate the amount that might be invested therein under this Part;

(b) real estate or leaseholds for a term of years or ^{real estate mortgages} other estate or interest in real estate in Canada or in any country in which the insurer is carrying on business but the amount of the loan together with the amount of indebtedness

under

under any mortgage, charge or hypothec on the real estate or interest therein ranking equally with or prior to the loan shall not exceed 75 per cent of the value of the real estate or interest therein, except that an insurer may accept as part payment for real estate sold by it a mortgage, charge or hypothec for more than 75 per cent of the sale price of the real estate; or

guaranteed
or insured
real estate
mortgages

- (c) real estate or leaseholds in Canada or in any country in which the insurer is carrying on business, notwithstanding that the loan exceeds the amount that the insurer is otherwise authorized to lend, if, to the extent of the excess, the mortgage, charge or hypothec thereon securing the loan is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed under this Act, the *Canadian and British Insurance Companies Act* (Canada) or the *Foreign Insurance Companies Act* (Canada).

R.S.C. 1952,
cc. 31, 125

Securities
received on
reorganiza-
tion,
liquidation
or
amalgama-
tion

- (3) Where an insurer owns securities of a corporation and as a result of a *bona fide* arrangement for the reorganization or liquidation of the corporation or for the amalgamation of the corporation with another corporation, such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not authorized as investments by the foregoing provisions of this section, the insurer may accept such bonds, debentures or other evidences of indebtedness or shares and they shall be allowed as assets of the insurer in the annual report prepared by the Superintendent for the Minister, only for a period of five years after their acceptance, or such further period as the Lieutenant Governor in Council determines, unless it is shown to the satisfaction of the Lieutenant Governor in Council that such bonds, debentures or other evidences of indebtedness or shares are not inferior in status or value to the securities for which they have been substituted or unless they become eligible as investments under subsection 1.

- (4) an insurer who is a joint stock insurance company or a cash-mutual insurance corporation may make investments or loans not hereinbefore authorized by this section subject to the following provisions,
- (a) investments in real estate or leaseholds under this subsection shall be made only for the production of income, and may be made by the insurer in Canada or in any country in which the insurer is carrying on business, either alone or jointly with any other insurance company transacting the business of insurance in Canada, and the insurer may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of an insurer under this subsection in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the book value of the total assets of the insurer;
- (b) this subsection shall be deemed not to enlarge the authority conferred by subsections 1 and 2 to invest in mortgages, charges or hypothecs and to lend on the security of real estate or leaseholds; and
- (c) the total book value of the investments and loans made under this subsection and held by the insurer excluding those that are or at any time since acquisition have been authorized as investments apart from this subsection, shall not exceed 7 per cent of the book value of the total assets of the insurer.
- (5) An insurer licensed to transact the business of life insurance may invest or lend its life insurance funds or any portion thereof in the purchase of, or on the security of, policies of life insurance issued by the insurer or by any other insurance company licensed to transact the business of life insurance in Canada.
- (6) Notwithstanding anything in this Act or in any other Act, an insurer may,
- (a) lend its funds or any portion thereof on the security of real estate pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, or may make loans on the security of real estate or leaseholds or other

Other
assets

real estate
for the
production
of income

exemption

limitation

Life
insurance
policies

National
Housing
Acts

1953-54,
c. 23 (Can)

estate or interest therein in excess of 75 per cent of the value of the real estate or interest therein that forms the security for such loan or in excess of the amount that may be loaned in accordance with that Act or any amendments thereto, where the amount of the excess is guaranteed by the Lieutenant Governor in Council or by a municipality under *The Housing Development Act*;

R.S.O. 1960,
c. 182

1953-54,
c. 23 (Can)

- (b) if it is licensed to transact the business of life insurance, cause to be formed, or may join with one or more insurance companies licensed to transact the business of life insurance in forming one or more institutional holding companies and one or more institutional housing corporations as defined in the *National Housing Act, 1954* (Canada), and may invest its funds in shares or debentures of such holding companies and in shares of such housing corporations to an aggregate amount that, when added to the aggregate amount invested by such insurer under clause c, does not exceed 5 per cent of its total assets in Canada allowed by the Superintendent; and

- (c) if it is licensed to transact the business of life insurance, invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in any other classes or types of investment pursuant to the *National Housing Act, 1954* (Canada) or any amendments thereto, including the purchase of land, the improvement thereof, construction of buildings thereon, and the management and disposal of such land and buildings.

Guaranteed
loans under
1964-65,
c. 24 (Can)
R.S.C. 1952,
c. 110,
1955, c. 46
(Can),
1960-61,
c. 5 (Can)

- (7) An insurer may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada), the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada).

Power to
invest in
shares of
certain
corporations

- (8) Notwithstanding anything in subsection 1, an insurer licensed under the laws of Ontario to transact the business of life insurance may invest its funds in the fully paid shares of,

(a)

- (a) any corporation incorporated outside Canada to undertake contracts of life insurance;
- (b) any corporation incorporated to provide the insurer or a corporation mentioned in clause *a* with advisory, management or sales distribution services in respect of life insurance contracts or annuities the reserves for which vary in amount depending on the market value of a specified group of assets maintained in a separate and distinct fund;
- (c) any corporation incorporated under the laws of Canada or any province thereof to undertake contracts of insurance other than contracts of life insurance;
- (d) any corporation incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds;
- (e) any corporation incorporated to offer public participation in an investment portfolio;
- (f) any corporation incorporated to provide a corporation mentioned in clause *e* with advisory, management or sales distribution services; or
- (g) with the prior approval of the Minister, any corporation incorporated to carry on any other business reasonably ancillary to the business of insurance,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

- (9) An insurer may take any additional securities of any nature to further secure repayment to it of any loan or investment or to further secure the sufficiency of any of the securities in or upon which it is by this section authorized to invest or lend any of its funds. Additional security may be taken
- (10) Where the constitution, by-laws or rules of an insurer prescribe the securities in which its funds may be invested, nothing in this section enlarges the power of investment. By-laws to prevail
- (11) The Superintendent may direct an insurer to dispose of and realize any of its investments acquired after Disposal of unauthorized investments

the 1st day of May, 1928, and not authorized by this Part, and such insurer shall within sixty days after receiving such direction absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by such insurer for such investments, the directors of the insurer are jointly and severally liable for the payment to such insurer of the amount of the deficiency, but if any director present at the meeting at which such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment and is able to do so, delivers or sends to the insurer by registered mail his protest against such investment, and, within eight days thereafter, sends a copy thereof by registered mail to the Superintendent, such director thereby and not otherwise exonerates himself from such liability.

Investments
of other
insurers

356. An insurer who is not a joint stock insurance company, a fraternal society, a mutual insurance corporation or a cash-mutual insurance corporation may invest its funds in securities described in clauses *a* to *l* and clauses *o* and *p* of subsection 1 of section 355 and may lend its funds on the security of any such securities.

Restrictions
and
limitations

357. The following restrictions, limitations and prohibitions apply to insurers in the exercise of the investment powers under sections 355 and 356,

(a) an insurer not licensed to transact the business of life insurance shall not invest in or lend its funds upon the security of its own shares or the shares of any corporation transacting the business of insurance;

(b) an insurer licensed to transact the business of life insurance shall not,

(i) invest in the shares of a corporation incorporated in Canada to undertake contracts of life insurance,

(ii) lend its funds upon the security of its own shares, or

(iii) except as provided in section 224a of *The Corporations Act*, invest in or purchase its own shares;

- (c) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada or a municipal corporation in Canada, an insurer shall not invest in any one security or make a total investment in any one corporation, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the insurer;
- (d) except as to investments made under subsection 8 of section 355 and as to securities guaranteed by the Government of Canada or the government of a province of Canada or by a municipal corporation in Canada, an insurer shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;
- (e) the total book value of the investments of an insurer in common shares, other than its own common shares purchased under section 224a of *The Corporations Act*, shall not exceed 25 ^{R.S.O. 1960, c. 71} per cent of the book value of the total assets of the insurer;
- (f) the total book value of the investments of an insurer in real estate or leaseholds for the production of income under clauses *g* and *r* of subsection 1 of section 355 and subsection 4 of section 355 shall not exceed 10 per cent of the book value of the total assets of the insurer;
- (g) an insurer shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default; and
- (h) an insurer shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind.

358.—(1) An insurer shall not knowingly make an investment, other than a loan on the security of a policy of life insurance issued by it, ^{Prohibited loans and investments}

(a)

(a) by way of a loan to,

- (i) a director or officer of the insurer, or a spouse or child of such director or officer, or
- (ii) an individual, his spouse or any of his children under twenty-one years of age if either the individual or a group consisting of the individual, his spouse and such children is a substantial shareholder of the insurer;

(b) in a corporation that is a substantial shareholder of the insurer; or

(c) in a corporation in which,

- (i) an individual mentioned in subclause i of clause a,
- (ii) an individual who is a substantial shareholder of the insurer,
- (iii) another corporation that is a substantial shareholder of the insurer, or
- (iv) a group consisting exclusively of individuals mentioned in subclause i of clause a,

has a significant interest.

Disposition

(2) An insurer shall not knowingly retain an investment mentioned in subsection 1.

Interpre-
tation

(3) For the purpose of this section,

"significant
interest"

- (a) a person has a significant interest in a corporation, or a group of persons has a significant interest in a corporation if,
 - (i) in the case of a person, he owns beneficially, either directly or indirectly, more than 10 per cent, or
 - (ii) in the case of a group of persons, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the shares of the corporation for the time being outstanding;

- (b) a person is a substantial shareholder of a ^{"substantial shareholder"} corporation or a group of persons is a substantial shareholder of a corporation if that person or group of persons owns beneficially, either individually or together and either directly or indirectly, equity shares to which are attached more than 10 per cent of the voting rights attached to all of the equity shares of the corporation for the time being outstanding; and in computing the percentage of voting rights attached to equity shares owned by an underwriter, there shall be excluded the voting rights attached to equity shares acquired by him as an underwriter during the course of distribution to the public by him of such shares;
- (c) "equity share" means a share of any class to ^{"equity share"} which are attached voting rights exercisable under all circumstances and a share of any class to which are attached voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (d) "investment" means, ^{"investment"}
- (i) an investment in a corporation by way of purchase of bonds, debentures, notes or other evidences of indebtedness thereof or shares thereof, or
 - (ii) a loan to a person or persons,
- but does not include any normal working balance between an insurer and any other corporation transacting the business of insurance or any advance or loan that is merely ancillary to the main business of the insurer; and
- (e) notwithstanding paragraph 44 of section 1, ^{"officer"} "officer" means only the president, a vice-president, the secretary, the treasurer, the manager, the controller and the actuary of an insurer and any other person designated as an officer of the insurer by by-law or by resolution of the directors thereof.

"Down-
stream",
investment

- (4) For the purposes of this section, where a person or a group of persons owns beneficially, directly or indirectly, or is deemed by this subsection to own beneficially, shares of a corporation, that person or group of persons shall be deemed to own beneficially that proportion of the shares of any other corporation that is owned beneficially, directly or indirectly, by the first-mentioned corporation, that is equal to the proportion of the shares of the first-mentioned corporation that is owned beneficially, directly or indirectly, or is deemed by this subsection to be owned beneficially, by that person or group of persons.

Exception

- (5) Notwithstanding subsection 4, an insurer is not prohibited from making an investment in a corporation only because a person or a group of persons that owns beneficially, directly or indirectly, or is deemed to own beneficially equity shares of the insurer is, by reason of that subsection, deemed to own beneficially equity shares of such corporation.

Exemption

- (6) Where any person or group of persons is a substantial shareholder of an insurer and, as a consequence thereof and of the application of this section, certain investments are prohibited for the insurer, the Minister may, on the advice of the Superintendent, and on application by the insurer, exempt from such prohibition any particular investment or investments of any particular class if he is satisfied,

(a) that the decision of the insurer to make or hold any investment so exempted has not been and is not likely to be influenced in any significant way by that person or group, and does not involve in any significant way the interests of that person or group apart from their interests as a shareholder of the insurer; and

(b) that the investment is to be made under the power granted to the insurer under this Part.

Idem

- (7) Any order of exemption made by the Minister under subsection 6 may contain any conditions or limitations considered by the Minister to be appropriate and may be revoked by the Minister at any time.

Invest-
ments in
corporate
name

- 359.—(1) All investments and deposits of the funds of an insurer shall be made in its corporate name.

(2)

- (2) Every insurer shall at all times retain in Canada and under its own control assets of a value at least equal to its total liabilities to its policyholders in Canada. ^{Assets in Canada}
- (3) Where the laws of any province, state or country in which any insurer transacts or is about to transact business require that the deposits made or to be made by such insurer in such province, state or country shall be made in the name of or transferred or assigned to any person or corporation other than the insurer, this section does not prohibit such insurer from making in the name of, or transferring or assigning to, such other person or corporation the investments and deposits necessary to comply with the said laws. ^{Deposits outside Canada}
- (4) No director or officer of an insurer and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly, any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of such insurer, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that, if he is a policyholder, he is entitled to all the benefits accruing under the terms of his contract. ^{Prohibition on directors or officers receiving fees or gifts}
- (5) Except as in this section provided, all the securities of an insurer incorporated and licensed under the laws of Ontario shall be held at the head office of the insurer or elsewhere in Ontario and the holding of securities, wherever situated, is subject to such regulations respecting their safekeeping, including registration and the bonding of directors, officers and employees of the insurer, as the Lieutenant Governor in Council may prescribe. ^{Securities to be held in Ontario}

PART XVIII

UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE

360. For the purposes of this Part,

^{Interpretation}

- (a) "person" means a person engaged in the business of insurance and includes any individual, corporation, association, partnership, reciprocal or inter-insurance exchange, mem-

ber

ber of the society known as Lloyds, fraternal society, mutual benefit society, agent, broker or adjuster;

- (b) "unfair or deceptive acts or practices in the business of insurance" includes,
- (i) the commission of any act prohibited under this Act or the regulations;
 - (ii) any unfair discrimination between individuals of the same class and of the same expectation of life, in the amount or payment or return of premiums, or rates charged by it for contracts of life insurance or annuity contracts, or in the dividends or other benefits payable thereon or in the terms and conditions thereof,
 - (iii) any unfair discrimination in any rate or schedule of rates between risks in Ontario of essentially the same physical hazards in the same territorial classification,
 - (iv) any illustration, circular, memorandum or statement that misrepresents, or by omission is so incomplete that it misrepresents, the terms, benefits or advantages of any policy or contract of insurance issued or to be issued,
 - (v) any false or misleading statement as to the terms, benefits or advantages of any contract or policy of insurance issued or to be issued,
 - (vi) any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing, or intending to induce, an insured to lapse, forfeit or surrender a policy or contract,
 - (vii) any payment, allowance or gift, or any offer to pay, allow or give, directly or indirectly, any money or thing of value as an inducement to any prospective insured to insure,
 - (viii) any charge by a person for a premium allowance or fee other than as stipulated in a contract of insurance upon which a sales commission is payable to such person, or

(ix) any consistent practice or conduct that results in unreasonable delay or resistance to the fair adjustment and settlement of claims.

361. No person shall engage in any unfair or deceptive act or practice in the business of insurance. Prohibition
362. The Superintendent may examine and investigate the affairs of every person engaged in the business of insurance in Ontario in order to determine whether such person has been, or is, engaged in any unfair or deceptive act or practice. Superintendent may investigate
- 363.—(1) Where it appears to the Superintendent that any person is engaging in any unfair or deceptive act or practice in the business of insurance, the Superintendent may order that such person cease engaging in his business or any part thereof named in the order, and an order under this subsection may be made subject to such terms and conditions as the Superintendent may specify in the order and the order may be revoked when the Superintendent is satisfied that the unfair and deceptive acts or practices are corrected and not likely to recur. Order of Superintendent
- (2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Superintendent the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof or such longer time as is consented to by the person entitled to the hearing. Hearing
- (3) A notice of every order made under this Part shall be served upon every person named therein and upon such other persons as the Superintendent considers appropriate and thereupon no person shall engage in that part of the business of insurance that is the subject of the order. Service and effect of order
364. Any person who contravenes an order of the Superintendent made under this Part is, in addition to any other consequence or remedy provided by law, guilty of an offence punishable in the same manner as if the person were undertaking insurance or carrying on business in Ontario without holding a licence to do so. Penalty

18.—(1) Section 208, as amended by section 7 of *The Corporations Amendment Act, 1962-63*, section 5 of *The Corporations Amendment Act, 1964*, section 1 of *The Corporations* R.S.O. 1960, c. 71, ss. 208, 209, repealed

Amendment Act, 1965 and section 13 of *The Corporations Amendment Act, 1968*, and section 209 of *The Corporations Act* are repealed.

References
to repealed
provisions

(2) Any reference in any Act, regulation or document to section 208 or 209 of *The Corporations Act*, or otherwise to the investment provisions of *The Corporations Act* applying to insurers referred to in subsection 1 of section 208 or in section 209 thereof, shall be deemed to be a reference to the corresponding powers in Part XVII of *The Insurance Act*.

R.S.O. 1960,
c. 190

Commence-
ment

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

Short title

20. This Act may be cited as *The Insurance Amendment Act, 1970*.