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c 34 Automobile Insurance Rates Control Act, 1989

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CHAPTER 34

An Act to control Automobile Insurance Rates

Assented to July 13th, 1989

Whereas, pending the completion of the review of alternative insurance products, it is desirable that legislation be enacted to control premiums, as provided in this Act;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

"automobile insurance" has the same meaning as in section 1 of the Insurance Act, except that it does not include insurance for any motor vehicle or trailer that may be operated legally on a highway without a permit issued under section 7 of the Highway Traffic Act other than a motorized snow vehicle;

"Board" means the Ontario Automobile Insurance Board;

"capped rate", means, in respect of a coverage under a contract of automobile insurance, the lesser of,

(a) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 17th day of April, 1989 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, plus an amount equal to 7.6 per cent of that premium,

(b) the premium that would be charged for the coverage for comparable risks using the Facility Association rate in effect at the beginning of the term of the contract;

"Facility Association rate" means the premium for a coverage determined under the Plan of Operation of the Facility Association under the Compulsory Automobile Insurance Act;
“insurer” means an insurer licensed under the Insurance Act and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“regulations” means the regulations made under this Act.

(2) The Facility Association established under the Compulsory Automobile Insurance Act shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

2.—(1) Except as permitted by the regulations, no insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 31st day of May, 1989 that exceeds the capped rate for the coverage.

(2) Except as permitted by this Act or the regulations, the Facility Association shall not increase the Facility Association rate in respect of any coverage.

3. The Board shall monitor for compliance with this Act.

4.—(1) An insurer shall make a return to the Board, in such form and at such times as the Board may require, showing such information with respect to rates charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Board may require.

(2) Every return under subsection (1) shall be verified by the statutory declaration of an officer of the insurer and the declaration shall be in such form as the Board may specify.

5.—(1) Sections 2 to 18 of the Ontario Automobile Insurance Board Act, 1988 apply with necessary modifications to matters arising under this Act.

(2) Section 33 of the Ontario Automobile Insurance Board Act, 1988 ceases to have effect until a day to be named by proclamation of the Lieutenant Governor.

(3) The orders of the Board issued the 1st day of February, 1989, the 13th day of February, 1989 and the 16th day of March, 1989 shall not take effect.

6.—(1) The Facility Association may increase the Facility Association rate in respect of any coverage under contracts of
automobile insurance by an amount not exceeding 7.6 per cent of the Facility Association rate in effect on the 17th day of April, 1989.

(2) The Facility Association shall file all rates that are increased under subsection (1) with the Board before the rates take effect.

(3) A rate increase under this section may apply only to contracts of automobile insurance, the terms of which commence after the 31st day of May, 1989.

7.—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than $25,000, in the case of an individual, and not more than $100,000, in any other case.

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted.

(3) A prosecution for an offence under this Act shall not be instituted except with the consent in writing of the Board.

(4) A prosecution for an offence under this Act shall not be instituted more than two years after the facts upon which the prosecution is based first came to the knowledge of the Board.

8.—(1) The Lieutenant Governor in Council may make regulations,

(a) permitting insurers to increase their capped rates in accordance with the regulations;

(b) exempting insurers and the Facility Association from the requirements of this Act in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;

(c) permitting the Facility Association to increase Facility Association rates in accordance with the regulations.
(2) A regulation may be general or particular in its application.

9. If there is a conflict between a provision of this Act or of a regulation and a provision of the Ontario Automobile Insurance Board Act, 1988 or an order of the Board under that Act, the provision of this Act or of the regulation prevails.

10. This Act is repealed on the earlier of,

(a) the 31st day of December, 1990; or

(b) a day to be named by proclamation of the Lieutenant Governor.

11. This Act shall be deemed to have come into force on the 17th day of April, 1989.

12. The short title of this Act is the Automobile Insurance Rates Control Act, 1989.