



Province of Alberta

INSURANCE ACT

Revised Statutes of Alberta 2000
Chapter I-3

Current as of July 1, 2015

Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only, and that the original Acts should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2013 c18 s3 repeals and substitutes s29, s5 amends s60.

Regulations

The following is a list of the regulations made under the *Insurance Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	Amendments
Insurance Act		
Adverse Contractual Action	28/2015	
Arbitration Proceedings Rules.....	71/2005	
Automobile Accident Insurance		
Benefits	352/72	233/78, 12/81, 273/82, 409/87, 171/88, 178/89, 306/91, 114/95, 4/98, 36/98, 121/2004, 259/2006, 149/2011, 127/2012
Automobile Insurance Premiums	117/2014	
Automobile Insurance Rate Board Fees	179/2005	187/2006, 118/2008, 29/2015
Certificate Expiry, Penalties and Fees.....	125/2001	292/2002, 9/2003, 375/2003, 269/2004,

		93/2006, 18/2009, 200/2012
Classes of Insurance	144/2011	225/2013, 159/2014
Complaint Resolution.....	259/2004	206/2014
Diagnostic and Treatment Protocols	116/2014	
Enforcement and Administration	129/2001	382/2003, 124/2004, 99/2006, 147/2011, 117/2014
Fair Practices.....	128/2001	96/2006, 145/2011, 183/2011, 129/2012, 225/2013
Home Warranty Insurance	225/2013	159/2014
Insurance Agents and Adjusters	122/2001	293/2002, 9/2003, 93/2003, 109/2003, 376/2003, 128/2004, 196/2005, 94/2006, 19/2009, 36/2010, 88/2011, 144/2011, 145/2011, 199/2012
Insurance Councils	126/2001	27/2002, 10/2003, 104/2006, 68/2008, 198/2009, 164/2010, 148/2011, 31/2012, 62/2013
Minor Injury	123/2004	260/2006, 35/2011
Miscellaneous Provisions	120/2001	180/2001, 213/2001, 187/2002, 287/2003, 374/2003, 257/2005, 91/2006, 15/2007, 203/2010, 100/2011, 146/2011
Provincial Companies	124/2001	340/2003, 90/2006, 241/2007, 18/2008, 17/2009, 79/2011
Reciprocal Insurance Exchange	123/2001	92/2006
Recovery of Administration Costs	199/2009	
Replacement of Life Insurance		
Contracts	127/2001	9/2003, 95/2006, 154/2010
Transitional (Insurance Amendment Act, 2008 — Part 5)	185/2011	

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

Interpretation

Definitions

1 In this Act,

- (a) “adjuster” has the meaning set out in section 2;
- (b) “affiliate” has the meaning set out in section 3;
- (c) “agency contract” means a contract between an insurance agent and an insurer in which the insurance agent agrees to act as an insurance agent in respect of insurance issued by the insurer, but does not include the arrangement that an insurance agent has with an insurer that is the service carrier for the Government approved industry plan under section 609;
- (d) “automobile” includes a trolley bus and a self-propelled vehicle, and the trailers, accessories and equipment of automobiles, but does not include watercraft, aircraft or railway rolling stock that runs on rails;
- (e) “base capital” means base capital as defined in the regulations;

Using different names

75 No person may advertise or carry on business as a special broker in a name other than the name set out in the person's special broker's licence.

1999 cI-5.1 s75

Release of financial guarantee

76 A special broker is entitled to a release or cancellation of the financial guarantee submitted by the special broker when the Minister is satisfied that all insurance effected under section 63 by the broker is no longer in force or has been reinsured.

1999 cI-5.1 s76

Regulations**Regulations**

77 The Lieutenant Governor in Council may make regulations

- (a) respecting the maximum proportion of risks that may be reinsured with unlicensed insurers for the purposes of section 62(3);
- (b) respecting the requirement, conditions, training and experience that must be met before a special broker's licence is issued or renewed;
- (c) respecting terms and conditions that may be imposed on a special broker's licence;
- (d) respecting any matter that is to be prescribed under this Subpart.

1999 cI-5.1 s77

Subpart 3
Licensing of Reciprocal
Insurance Exchanges

Definitions

78 In this Subpart,

- (a) "approved securities" means
 - (i) in respect of a reciprocal insurance exchange that has its principal office in Alberta, investments that the exchange would be authorized to make if the exchange were a provincial company,
 - (ii) in respect of a reciprocal insurance exchange that has its principal office in a province other than Alberta,

investments that the exchange is authorized to make under the laws of that province, and

- (iii) in respect of a reciprocal insurance exchange that has its principal office outside Canada, investments that the exchange is authorized to make under Part XIII of the *Insurance Companies Act* (Canada);
- (b) “principal attorney” means a person authorized by subscribers under a power of attorney to sign reciprocal contracts on their behalf and to act on the subscribers’ behalf in respect of any matter specified in the power of attorney relating to those contracts;
- (c) “principal office” means the main office of the principal attorney;
- (d) “reciprocal contract” means a reciprocal contract of indemnity or inter-insurance;
- (e) “subscribers” means persons exchanging reciprocal contracts with each other.

1999 c1-5.1 s78

Licence required

79(1) No person may exchange a reciprocal contract unless

- (a) the exchange is made by the person’s principal attorney,
- (b) the exchange is part of a reciprocal insurance exchange that is licensed under this Subpart, and
- (c) the reciprocal contract falls within a class of insurance that the reciprocal insurance exchange is authorized to undertake.

(2) No person may act as principal attorney or on behalf of a principal attorney in the exchange of reciprocal contracts for persons who are resident in Alberta unless the exchange is part of a reciprocal insurance exchange that is licensed under this Subpart.

1999 c1-5.1 s79

Exception

80(1) Despite section 79, a person may, with respect to property located in Alberta, exchange a reciprocal contract that is a contract of property insurance and that is part of an unlicensed reciprocal insurance exchange if

- (a) the exchange of the contracts is done for protection only and not for profit,

- (b) the contracts are effected outside Alberta,
- (c) the exchange of contracts is effected without any solicitation by the unlicensed reciprocal insurance exchange, and
- (d) the person who owns the property, within 30 days after signing the contract,
 - (i) notifies the Superintendent in writing under oath of the terms of the contract, the persons with whom the insurance is placed and the amount of premium paid or payable or premium notes given or to be given or mutual liability assumed in connection with the insurance, and
 - (ii) at the same time pays to the Minister a fee equal to 50% of the premium paid or payable or premium notes given or to be given or mutual liability assumed in connection with the insurance.

(2) If the fee referred to in subsection (1)(d)(ii) is not paid within 30 days from the time when it becomes payable, a sum equal to 50% of the fee remaining unpaid becomes a penalty that forms a part of the fee and is recoverable with the fee.

RSA 2000 cI-3 s80;2005 c27 s19;2008 c19 s16

Classes of insurance

81 Subject to section 82, a reciprocal insurance exchange may be licensed to undertake any class of insurance that a provincial company may be licensed to undertake except for the following classes:

- (a) life insurance;
- (b) accident and sickness insurance;
- (c) surety insurance.
- (d) repealed 2008 c19 s17.

RSA 2000 cI-3 s81;2008 c19 s17

Automobile insurance

82(1) No reciprocal insurance exchange may be licensed to undertake the type of automobile insurance that is evidenced by a motor vehicle liability policy, except the type of insurance provided in a standard excess automobile policy or standard non-owned automobile policy.

(2) The Minister may issue a licence to a reciprocal insurance exchange that authorizes the exchange to undertake automobile

insurance, other than the type described in subsection (1), if the Minister is satisfied that

- (a) the exchange has signed reciprocal contracts or bona fide applications for such contracts for at least the prescribed number of automobiles, and
- (b) arrangements are in effect for the reinsurance of all liabilities in excess of the prescribed limits.

RSA 2000 cI-3 s82;2005 c27 s10;2008 c19 s18

Property insurance

83 The Minister must not issue a licence to a reciprocal insurance exchange that authorizes the exchange to undertake property insurance unless the Minister is satisfied that the exchange has bona fide applications for reciprocal contracts for at least the prescribed number of separate property insurance risks in Alberta or elsewhere and for at least the prescribed aggregate amount.

RSA 2000 cI-3 s83;2008 c19 s18

Application for licence

84(1) Persons who wish to have a reciprocal insurance exchange licensed must submit the following to the Minister:

- (a) the name of the exchange;
- (b) the name and address of its principal attorney;
- (c) the classes of insurance that cover the reciprocal contracts to be exchanged;
- (d) a copy of the form of the contract, agreement or policy under or by which the reciprocal contracts are to be effected or exchanged;
- (e) a copy of the form of power of attorney under which the contracts are to be effected or exchanged;
- (f) the location of the office from which the contracts are to be issued;
- (g) if the exchange is required by section 94 to have an attorney for service, the appointment of an individual as its attorney for service and the consent of the individual to act as the attorney for service;
- (h) any other information required by the Minister.

(2) Persons who wish to have a reciprocal insurance exchange's licence renewed must submit the following to the Minister:

- (a) the name of the exchange;
- (b) the name of its principal attorney;
- (c) any other information required by the Minister.

1999 c1-5.1 s84

Name of exchange

85 The Minister may refuse to issue a licence to a reciprocal insurance exchange if the name or designation under which contracts are issued is so similar to a name or designation of a licensed exchange or licensed insurer that confusion or deception is likely.

1999 c1-5.1 s85

Issuing licence

86 Applicants who apply for a licence for a reciprocal insurance exchange or to renew such a licence are entitled to the licence if the Minister is satisfied that

- (a) the requirements of this Act and the regulations relating to the licence have been met, and
- (b) in the case of an existing reciprocal insurance exchange, the exchange is in compliance with the requirements of this Act and the regulations.

1999 c1-5.1 s86

Notice of licence

87(1) The Minister must publish a notice of the licence of a reciprocal insurance exchange in The Alberta Gazette.

(2) This section does not apply to the renewal of a licence.

1999 c1-5.1 s87

Premium deposit

88 Every reciprocal insurance exchange must require its subscribers to provide to its principal attorney, as a condition of membership in the exchange, a premium reasonably sufficient for the risk assumed by the exchange.

1999 c1-5.1 s88

Management of exchange

89 The affairs of a reciprocal insurance exchange must be managed by an advisory board or committee of subscribers established in accordance with the power of attorney.

1999 c1-5.1 s89

Term of licence

90 A licence issued under this Subpart expires on December 31 of the year in which it is issued or renewed.

1999 cI-5.1 s90

Annual return

91(1) Every licensed reciprocal insurance exchange must file an annual return for each calendar year within the time period specified in subsection (2) that meets the requirements of subsection (3).

(2) The annual return for a calendar year must be filed by the last day of the following February.

(3) The annual return must

- (a) set out the name of the reciprocal insurance exchange and the name and address of its principal attorney and of its attorney for service,
- (b) set out the financial information required by the Minister that is audited in a manner that is satisfactory to the Minister,
- (c) set out any other information considered necessary by the Minister, and
- (d) be signed by the principal attorney and at least 2 members of the advisory board or committee of subscribers of the reciprocal insurance exchange.

(4) If, in the Minister's opinion, an annual return prepared by a reciprocal insurance exchange for another jurisdiction meets the requirements of subsection (3), the exchange may file that return to satisfy the requirements of subsection (1).

1999 cI-5.1 s91

Signing contracts

92 After a reciprocal insurance exchange is licensed under this Subpart, a principal attorney may sign a reciprocal contract on behalf of a subscriber if the attorney is authorized by a power of attorney from the subscriber.

1999 cI-5.1 s92

Court action

93 Despite any condition or stipulation in a power of attorney or in a reciprocal contract, any action or proceeding in respect of any such contract may be maintained in any court of competent jurisdiction in Alberta.

1999 cI-5.1 s93

Attorney for service

94(1) Every reciprocal insurance exchange whose principal attorney is not located in Alberta must have an attorney for service who meets the requirements of subsection (2).

(2) The attorney for service must be an individual who is resident in Alberta.

(3) Service of any document in a legal action, suit or proceeding on a reciprocal insurance exchange may be effected by

- (a) delivering the document to its attorney according to the Minister's records,
- (b) delivering the document to the address, according to the Minister's records, of its attorney, or
- (c) sending the document by registered mail to that address.

(4) A document sent by registered mail to the attorney's address in accordance with subsection (3)(c) is deemed to be served 7 days from the date of mailing unless there are reasonable grounds for believing that the attorney did not receive the document at that time or at all.

(5) Every reciprocal insurance exchange that is required to have an attorney for service must ensure that its attorney's office is open during normal business hours.

1999 cI-5.1 s94

Attorney's change of address

95 An attorney for service who changes addresses must, before the change occurs, notify the Minister of the date of the change and the new address.

1999 cI-5.1 s95

Change in attorney for service

96(1) If the attorney for service of a reciprocal insurance exchange dies or resigns or if an exchange revokes the appointment of an attorney for service, the exchange must, as soon as is reasonably possible, provide the Minister with

- (a) the appointment of its new attorney for service, and
- (b) the consent of the individual to act as the attorney for service.

(2) An attorney for service of a reciprocal insurance exchange who intends to resign must

- (a) give not less than 60 days' notice to the exchange, and
- (b) send a copy of the notice to the Minister.

1999 cI-5.1 s96

No attorney for service

97 If a reciprocal insurance exchange that is required to have an attorney for service does not have an attorney for service, service on the exchange may be effected by serving the Superintendent.

1999 cI-5.1 s97

Requirements for property insurance

98(1) A reciprocal insurance exchange that is authorized to undertake property insurance must ensure that no subscriber has assumed on any single property insurance risk an amount greater than 10% of the net worth of the subscriber.

(2) The principal attorney of a reciprocal insurance exchange that is authorized to undertake property insurance must file, when requested by the Minister, a statement under oath

- (a) showing the maximum amount of indemnity on any single property insurance risk, and
- (b) stating that no subscriber has assumed on any single property insurance risk an amount greater than 10% of the net worth of the subscriber.

RSA 2000 cI-3 s98;2008 c19 s19

Amount of reserve

99 Every reciprocal insurance exchange must maintain with the principal attorney as a reserve fund a sum in cash, approved securities or other prescribed assets equal to an amount calculated in accordance with the following formula:

$$(50\% \text{ of } (A-B)) + (C-D)$$

where

- A is the amount of premiums collected or credited to the accounts of subscribers on reciprocal contracts in force having one year or less to run;
- B is the amount paid to licensed insurers to reinsure the reciprocal contracts referred to in A;
- C is the amount of premiums collected or credited to the accounts of subscribers on reciprocal contracts in force that have more than one year to run less the amount of those

premiums that is attributable to the expired portion of the contracts;

- D is the amount paid to licensed insurers to reinsure the reciprocal contracts referred to in C less the amount that is attributable to the expired portion of the reinsurance contracts.

RSA 2000 cI-3 s99;2013 c18 s6

Temporary exclusion from premium calculation

99.1(1) In this section, “premiums” means premiums collected or credited to the accounts of subscribers in respect of reciprocal contracts in force.

(2) A reciprocal insurance exchange may provide for the assessment on its subscribers of a premium surcharge over and above the premiums required by section 88.

(3) The premium surcharge may be assessed only during the year in which the reciprocal insurance exchange’s licence is initially issued and during the first full year of its renewal after its initial issue, except that the Minister may, on application by the exchange, extend the period of authorization of the surcharge for further one-year periods until the 2nd anniversary of the end of that year in which the licence was initially issued.

(4) The reciprocal insurance exchange may exclude the premium surcharges from “premiums” for the purpose of calculating the reserve fund requirements of section 99.

2003 c19 s33

Guarantee fund

100(1) In addition to the reserve fund referred to in section 99, every reciprocal insurance exchange must maintain a guarantee fund in cash or approved securities in an amount calculated in accordance with the following formula:

$$(A - B - C - D) + E$$

where

- A is all liabilities associated with the operation of the exchange, including liabilities under reciprocal contracts undertaken by the exchange;
- B is any amount that is recoverable from licensed insurers that have reinsured reciprocal contracts referred to in the description of A;

- C is any amount that is recoverable from unlicensed reinsurers that have, with the prior approval of the Minister, reinsured reciprocal contracts referred to in the description of A;
- D is all unearned premiums;
- E is an amount set out in the regulations.

(2) Cash, approved securities or other prescribed assets maintained in the reserve fund referred to in section 99 must not be included in the guarantee fund.

RSA 2000 cI-3 s100;2013 c18 s7

Deficiency

101(1) If a reciprocal insurance exchange does not have the minimum amount required under sections 99 and 100, the subscribers or the principal attorney of the exchange must make up the deficiency forthwith.

(2) If funds other than those that accrued from premiums of subscribers are supplied to make up a deficiency, the funds must, so long as a deficiency exists, be deposited and held for the benefit of subscribers under the terms and conditions specified by the Minister.

1999 cI-5.1 s101

Investments

102(0.1) Every reciprocal insurance exchange that has its principal office in Alberta must ensure that the funds of the exchange are invested in accordance with Part 2, Subpart 11 as if the exchange were a provincial company.

(1) Every reciprocal insurance exchange that has its principal office in a province or territory other than Alberta must ensure that the funds of the exchange that are required by the laws of the province or territory in which the principal office is located to be invested

- (a) are invested in approved securities, and
- (b) are within the limits for investments established by the laws of that province or territory for reciprocal insurance exchanges.

(2) Every reciprocal insurance exchange that has its principal office outside Canada must ensure that the funds of the exchange that are required by Part XIII of the *Insurance Companies Act* (Canada) to be invested

- (a) are invested in approved securities, and

- (b) are within the limits for investments established by Part XIII of the *Insurance Companies Act* (Canada).

RSA 2000 cI-3 s102;2013 c18 s8

Contracts

103 No reciprocal insurance exchange may, without the approval of the Superintendent, undertake any liability on a reciprocal contract or on any other contract of insurance except on behalf of a subscriber.

RSA 2000 cI-3 s103;2008 c19 s20

Reinsurance

104 No principal attorney or reciprocal insurance exchange may effect reinsurance of any risks undertaken by the exchange in any other reciprocal insurance exchange.

1999 cI-5.1 s104

Suspension or cancellation of licence

105(1) If a reciprocal insurance exchange or principal attorney fails or refuses to comply with or contravenes any provision of this Act or the regulations, the licence issued to the exchange may be suspended or cancelled by the Minister after notice and opportunity for a hearing before the Minister has been given to the exchange or its principal attorney.

(2) A suspension or cancellation under subsection (1) does not affect the validity of any reciprocal contracts effected before the suspension or cancellation of the rights and obligations of subscribers under the contracts.

(3) The principal attorney must give the subscribers notice of the suspension or cancellation and the Minister must publish notice of the suspension or cancellation in *The Alberta Gazette*.

1999 cI-5.1 s105

Information to Minister

105.1 A licensed reciprocal insurance exchange must provide to the Minister, within the time specified by the Minister,

- (a) any information that is required by the Minister to enable the Minister to respond to inquiries on the exchange's market conduct activities;
- (b) any information that is required by the Minister for analytical or policy-making purposes.

2013 c18 s9

Regulations

106 The Lieutenant Governor in Council may make regulations

- (a) respecting the number of automobiles and limits for the purposes of section 82(2);
- (b) prescribing the amount for “C” for the purposes of section 100;
- (c) respecting any matter that is to be prescribed under this Subpart.

1999 cI-5.1 s106

Part 2 Provincial Companies

Subpart 1 Status and Powers of Provincial Companies

Capacity of provincial company

107(1) Subject to this Act, the regulations, its bylaws and any term or condition in its instrument of incorporation or licence, a provincial company

- (a) has the capacity and the rights, powers and privileges of an individual, and
- (b) has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Alberta to the extent that the laws of that jurisdiction permit.

(2) A provincial company must not

- (a) carry on business or exercise any right, power or privilege that it is prohibited from carrying on or exercising by this Act, the regulations, its bylaws or any term or condition in its instrument of incorporation or licence, or
- (b) exercise any of its rights, powers and privileges in a manner that contravenes this Act or the regulations.

1999 cI-5.1 s107

Constructive notice

108 No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a provincial company by reason only that the document has been filed with the Minister or is available for inspection at an office of the company.

1999 cI-5.1 s108