

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 36

**An Act to amend the Act respecting insurance and to
again amend the Civil Code**

First reading

Second reading

Third reading

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Ministre des consommateurs, coopératives et
institutions financières

L'ÉDITEUR OFFICIEL DU QUÉBEC

1979

EXPLANATORY NOTES

This bill amends the Act respecting insurance. The provisions of this bill are designed to diversify the sources of financing of insurers under Québec charters, soften the investment standards that are applicable to them and modify the norms regarding the valuation of an insurer's assets and liabilities.

The bill also proposes certain corrective measures to be made to the provisions dealing with mutual associations, with auditors, with licences and certificates and, finally, with the administration of the act.

Finally, the bill proposes to amend certain articles of the Civil Code dealing with the contract of insurance.

Sec. 1. The proposed amendment will allow the signature of the Superintendent to be affixed by means of an automatic device or a facsimile of it to be used.

Sec. 2. The proposed amendment amends section 52 of the act which required that the capital stock of an insurance company be composed of common shares only.

Sec. 3. The proposed amendment will allow insurance companies to issue securities other than shares as source of financing.

Bill 36

An Act to amend the Act respecting insurance and to
again amend the Civil Code

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1. Section 9 of the Act respecting insurance (1974, chapter 70) is amended by adding, at the end, the following paragraphs:

“The regulations may authorize, on such conditions as may be fixed therein, the affixing of the required signature by means of an automatic device to such documents as may be determined therein.

The regulations may also authorize a facsimile of the required signature to be engraved, lithographed or printed on such documents as may be determined therein; in that case, the facsimile has the same value as the signature itself.”

2. Section 52 of the said act is replaced by the following section:

“**52.** The capital stock of insurance companies must consist exclusively of shares with a par value.”

3. Section 62 of the said act is amended by adding, at the end, the following paragraphs:

“Insurers may also, for the same purposes, on such terms and conditions as may be provided in the regulations, contract loans by issuing subordinated notes or by accepting subordinated shareholder loans.

For the purposes of this section, a subordinated note is a security that by its terms provides that the indebtedness evi-

Sec. 4. *The intent of the proposed amendment is to allow the directors of a mutual association to be remunerated.*

Sec. 5. *The proposed amendment suppresses an ambiguity concerning the nature of property that may be ensured by a mutual fire insurance company.*

Sec. 6. *The proposed amendment provides concordance with section 5 of the bill.*

denced by it will, in the event of the insolvency or winding-up of the insurer, rank

- (a) after the other debts;
- (b) equally with the other subordinated notes issued by it;
- (c) before the subordinated shareholder loans.

For the purposes of this section, a subordinated shareholder loan is a loan for a fixed term granted to the insurer by one of its shareholders or by a person who controls one of its shareholders, stipulating that in the event of the insolvency or winding-up of the insurer, the loan will rank equally with other similar loans but be subordinate to all other debts.”

4. Section 138 of the said act is replaced by the following section:

“138. In accordance with the by-laws of the association, the directors may be remunerated and are entitled to the reimbursement of justifiable expenses incurred by them in the performance of their duties.”

5. Section 146 of the said act is amended by replacing the first paragraph by the following paragraphs:

“146. Mutual fire insurance associations may insure against fire, lightning, wind and other property insurance risks, the private houses, stores, shops and other buildings, household furnishings, merchandise, livestock, farm produce and other objects found within the boundaries of the county for which the association is incorporated or in any adjacent local municipality situated in a county for which there is no mutual fire insurance association or, subject to section 148, within the boundaries of any city or town geographically located within the boundaries of such county; however, the mutual fire insurance companies in counties which on the day of the coming into force of this act are authorized to insure throughout the Province may continue to do so.

Mutual fire insurance associations may also, and in accordance with this section, transact automobile insurance, hail insurance, guarantee insurance and liability insurance.”

6. Section 149 of the said act is replaced by the following section:

“149. The business of the association shall be divided into two classes, one of which shall include personal risks, and the other, the risks which can be assimilated to mercantile or indus-

Sec. 7. *The proposed amendment aims at accepting the principle of self-financing for each fund of mutual benefit associations instead of the obligation to make up their deficit every year.*

Sec. 8. *The proposed amendment to section 167 aims at rendering the application of section 203 uniform for all insurers.*

Sec. 9. *The proposed amendment provides concordance with section 5 of the bill.*

Sec. 10. *The object of the proposed amendments is to standardize the use of the word "security". That amendment is also proposed in sections 16 and 17 of the bill.*

trial risks in accordance with the regulations made for that purpose by the Lieutenant-Governor in Council.”

7. Section 167 of the said act is replaced by the following section:

“**167.** In addition to the benefit or indemnity funds, a fund for general expenditures shall be established; all such funds must be self-sufficient by way of premiums or assessments collected for that purpose without ever drawing from other funds.”

8. Section 203 of the said act is amended by replacing the first paragraph by the following paragraph:

“**203.** No insurer shall transact both damage insurance and insurance of persons unless it was incorporated before (*insert here the date of the coming into force of this bill*) and was then authorized to do so by its charter.”

9. Section 228 of the said act is amended by replacing the second paragraph by the following paragraph:

“For every class of insurance contemplated in section 146 that relates to mercantile and industrial risks, the association or company must post an additional deposit of \$10,000.”

10. Section 246 of the said act is replaced by the following section:

“**246.** Any insurer may acquire and hold bonds or other securities issued by a corporation, a cooperative association or a cooperative agricultural association,

(a) if they are fully secured by real estate or by shares, preferred shares, bonds or other securities allowable for investment by the insurer under this division;

(b) if they are fully secured by equipment of the corporation, of the cooperative association or of the cooperative agricultural association, and if one or the other, as the case may be, has paid in full the interest on its other debts during the ten years preceding the acquisition of the bonds or other securities by the insurer;

(c) if the common or preferred shares of the corporation or of the cooperative agricultural association or the shares or preferred shares of the cooperative association are allowable for investment by the insurer under section 247 or by subsection 1 of section 248;

Sec. 11. *In paragraph a of subsections 1 and 2 of section 247 a reference must be made to shares and preferred shares and not to common shares and shares. The other amendments provide concordance with section 248.*

Sec. 12. *The object of the proposed amendment to section 248 is to shorten the period during which a corporation has to obtain a certain yield to allow its common shares to be eligible as investment by an insurer. A third paragraph is added to provide for certain particular situations. Finally, the amendment to paragraph b of subsection 2 proposes to allow an insurer transacting damage insurance who has assets in excess of the required minimum to invest a greater part of his assets in common shares.*

(d) if they are fully secured by a corporation or a cooperative agricultural association whose common or preferred shares are allowable for investment by the insurer under section 247 or by subsection 1 of section 248; or

(e) if they are fully secured by a cooperative agricultural association whose shares or preferred shares are allowable for investment by the insurer under section 247 or subsection 1 of section 248.”

11. Section 247 of the said act is replaced by the following section:

“247. (1) Any insurer other than a mutual association may acquire and hold fully paid preferred shares of a corporation other than an insurance company or of a cooperative agricultural association if one or the other, as the case may be, has

(a) paid on its preferred shares, during each of the five years preceding the acquisition, a dividend equal to at least the weighted average of the annual dividend rates specified on its preferred shares, or

(b) obtained on its common shares the yield provided for in subsection 1 of section 248 during the period fixed therein.

(2) The insurer contemplated in subsection 1 may also acquire and hold fully paid preferred shares of a cooperative association if the latter has,

(a) during each of the five years preceding the acquisition, paid interest on its preferred shares or obtained a yield on them equal to at least the weighted average of the annual rates of interest or yield specified on its preferred shares; or

(b) obtained on its shares the yield provided for in subsection 1 of section 248 during the period fixed therein.”

12. Section 248 of the said act is replaced by the following section:

“248. (1) An insurer other than a mutual association may acquire and hold fully paid common shares of a corporation other than an insurance company or of a cooperative agricultural association or fully paid shares of a cooperative association if the corporation or association, during a period of five years that ended less than one year before the date of acquisition, obtained on its common shares or shares in each of at least four of those five years, including the last year, a net yield of at least 4 per cent of the average value at which the shares or common shares were entered in its capital account during the year in which it made earnings available for payment of dividends.

Sec. 13. *The intent of the proposed amendment is to add to section 249 a disposition allowing an insurer transacting damage insurance to acquire subsidiaries established for the carrying on of operations ancillary to insurance operations. The amendment also repeals the second paragraph.*

Sec. 14. *The object of the proposed amendment is to increase the percentage of assets that an insurer transacting damage insurance may invest as hypothecs.*

Sec. 15. *The object of the proposed amendment is to increase the percentage of assets than any insurer may invest in the acquisition of immoveables.*

(2) The rights conferred by this section are also subject to the following restrictions:

(a) no insurer may hold more than 30 per cent of the common shares or of a class of common shares of one corporation or cooperative agricultural association or of the shares or of a class of shares of one cooperative association;

(b) no insurer may invest more than 25 per cent of its total assets in common shares except where, in the case of an insurer other than a mutual association transacting damage insurance, its assets exceed the minimum provided for in section 275 when they are established in taking account only of the first paragraph of that section; the insurer may then invest all or part of its surplus in common shares up to forty per cent of its total assets.

(3) For the purposes of subsection 1, where a corporation or association holds more than fifty per cent of the shares or common shares of another corporation or association and the accounts of the corporation or association are presented to the shareholders or members in consolidated form, the yield must be computed on the basis of these accounts. Similarly, in the case of a corporation or association continuing or formed as a result of an amalgamation, the yield is determined, for any relevant period prior to the date of amalgamation, as though the consolidated accounts of the amalgamated corporations or associations had been established."

13. Section 249 of the said act is replaced by the following section:

"249. Subject to paragraph *b* of subsection 2 of section 248, any insurer that is not a mutual association and which transacts insurance other than life insurance, may, subject to the conditions prescribed by the regulations, acquire and hold fully paid shares of an insurance company or, with the prior approval of the Superintendent, of any corporation incorporated to carry on the business ancillary to the business of insurance determined by regulation."

14. Section 252 of the said act is amended by replacing subsection 2 by the following subsection:

"(2) The insurer transacting damage insurance shall not invest in the debts contemplated in subsection 1 more than 20 per cent of its total assets; if the insurer transacts both insurance of persons and damage insurance, such restriction does not apply to assets relating to insurance of persons."

15. Section 253 of the said act is amended by replacing subparagraphs *a* and *b* of subsection 2 by the following subparagraphs:

Sec. 16. and 17. *The proposed amendments provide concordance with section 10 of the bill.*

Sec. 18 and 19. *The proposed amendments provide concordance with section 20 of the bill.*

“(a) an insurer’s total investment in real estate shall not exceed 15 per cent of its assets;

(b) an insurer’s total investment in the real estate constituting any single undertaking and held by the insurer as a source of income shall not exceed 4 per cent of its assets;”.

16. Section 255 of the said act is replaced by the following section:

“**255.** Any insurer other than a mutual association may make loans secured by the shares of a corporation or of a cooperative agricultural association, the shares or preferred shares of a cooperative association and bonds or other securities which it is authorized to acquire and hold. Such loans are subject to the same restrictions and conditions as investment in such securities.”

17. Section 258 of the said act is replaced by the following section:

“**258.** No insurer may invest in shares, bonds or other securities of a corporation or a cooperative agricultural association which fails to pay the prescribed dividends on its shares or the interest on its bonds or other securities, nor make a loan to it.

Furthermore, no insurer may invest in shares, preferred shares, bonds or other securities of a cooperative association which fails to obtain the prescribed yield on its shares or preferred shares; nor may it make a loan to it.”

18. Section 259 of the said act is amended by replacing paragraphs *d* and *e* by the following paragraphs:

“(d) a corporation in which a person contemplated in paragraph *a* or in paragraph *c* holds more than 10 per cent of the share capital;

(e) a corporation in which a group consisting exclusively of persons contemplated in paragraph *a* holds more than 50 per cent of the share capital;”.

19. Section 262 of the said act is amended by replacing the first paragraph by the following paragraph:

“**262.** No insurer shall acquire or hold shares, bonds or other securities of a corporation to which it is prohibited from making a loan under section 259. Section 264 is void when this section applies.”

Sec. 20. *The exclusions in sections 259 and 262 of the corporations contemplated in section 250 is not complete; the corporations contemplated in section 249 should also be excluded. The proposed amendment is designed to rectify the situation.*

Sec. 21. *The proposed amendment intends to introduce new standards regarding the assets to be maintained by insurers transacting damage insurance that are not mutual associations.*

Sec. 22. *The intent of the proposed amendments is to ensure that the Superintendent will be notified of the selection made by an insurer under section 275, and to limit the declarations of dividends.*

Sec. 23. *The replacement of paragraphs a, b and c of section 276 concerns the standards regarding the reserves that must be established by insurers transacting insurance of persons.*

20. Section 263 of the said act is amended by adding, at the end, the following words:

“Nor do they apply to loans or investments made by an insurer to or in a corporation in which the insurer holds fully paid shares in accordance with section 249 or section 250.”

21. Section 275 of the said act is replaced by the following section:

“**275.** Every insurer, other than a mutual association, transacting damage insurance must maintain assets, calculated in accordance with the standards prescribed by regulation, which must not be less than the sum of 115 per cent of its reserves maintained in accordance with subparagraphs *a*, *b* and *c* of the first paragraph of section 277 and the amount of its other liabilities.

Where, under the policies issued by an insurer with respect to a particular class of insurance, the expected claims ratio is less than 95 per cent, the insurer may, with respect to the assets to be maintained for the aforementioned reserves, select the expected claims ratio, increased by 20 per cent, provided that the result obtained is not less than 100 per cent.

However, the claims ratio selected by the insurer shall not be less than the sum of 60 per cent of the ratio experienced in respect of the last year and forty per cent of the ratio experienced in the preceding year.”

22. The said act is amended by inserting, after section 275, the following sections:

“**275a.** Where an insurer makes the selection provided for in the second paragraph of section 275, he must give notice thereof to the Superintendent. The notice must be accompanied with a declaration signed by an actuary or by an officer of the insurer stating that, with respect to the policies contemplated, the selected ratio is in effect the expected claims ratio.

“**275b.** No insurer, other than a mutual association, transacting damage insurance may make a declaration of dividends for an amount exceeding 75 per cent of its average yearly profits in respect of the three years preceding the year in which a dividend is declared.”

23. Section 276 of the said act is amended by replacing paragraphs *a*, *b* and *c* by the following paragraphs:

“(a) the assumptions regarding interest rates, mortality, morbidity or other contingencies must be those considered by the

Sec. 24. *The proposed amendment intends to allow the establishment, by regulation, of standards regarding the reserves of insurer transacting damage insurance.*

Sec. 25. *The object of the proposed amendments is to render more explicit the prohibition made to certain persons preventing them from being appointed auditors.*

Sec. 26. *The proposed amendment concerns the information that auditors must furnish in their reports.*

Sec. 27. *The proposed amendment provides concordance with section 29 of the bill.*

Sec. 28. *The object of the proposed amendment is to leave it to the Superintendent to indicate the form of the statement of operations furnished by insurers.*

actuary appointed in conformity with the second paragraph of section 309 to be appropriate with respect to the financial situation of the insurer and the insurer's contracts of insurance of persons, and considered acceptable by the Superintendent;

“(b) the valuation methods used must be in conformity with the standards and methods established by regulation.”

24. Section 277 of the said act is amended by replacing the second paragraph by the following paragraph:

“Such reserves must be computed in conformity with the standards and methods established by regulation.”

25. Section 294 of the said act is replaced by the following section:

“**294.** No shareholder, director, officer or employee of the insurer or of a corporation contemplated in section 249 or in section 250 in which the insurer has invested funds may be appointed auditor under this division.”

26. Section 297 of the said act is replaced by the following section:

“**297.** The auditor must so specify in his report if he believes, on the basis of the registers of the insurer, of the explanations given and of all the available information, that the statements faithfully represent the results of the insurer's operations during the year and its financial condition at the end of the year, or, if he believes that they do not faithfully represent them or that pertinent information respecting the affairs of the insurer has not been revealed, he must furnish an explanation for it.

For the purposes of his report, the auditor may accept the certificate contemplated in the third paragraph of section 309.”

27. Section 299 of the said act is amended by replacing paragraph *d* by the following paragraph:

“(d) the certificate contemplated in the third paragraph of section 309;”.

28. Section 305 of the said act is replaced by the following section:

“**305.** Every insurer shall, before 1 March each year, prepare and file with the insurance branch, in the form prescribed by the Superintendent, a statement of operations for the year ending on the preceding 31 December.”

Sec. 29. *The proposed amendments concern the report of the valuation actuary.*

Sec. 30. *The object of the proposed amendment is to leave it to the Superintendent to indicate the form of the separate annual statement to be furnished by insurers who maintain separate groups of assets.*

Sec. 31. *The object of the proposed amendment is to leave it to the Superintendent to indicate the form of the memorandum of investment of insurers.*

Sec. 32. *The object of the proposed amendment is to recognize diplomas or other proof of studies relating to the profession of insurance agent that is recognized by the regulations.*

Sec. 33. *The object of the proposed amendment is to leave it to the Superintendent to indicate the form of applications for insurance agent certificates.*

29. Section 309 of the said act is amended by replacing the second and third paragraphs by the following paragraphs:

“Every insurer transacting insurance of persons must annex to its annual statement the report of a valuation actuary appointed in respect of its reserves by a resolution of the board of directors, and whose appointment has been announced to the Superintendent by the filing with him of a copy of that resolution.

That report must include a certificate of the valuation actuary attesting that the reserves are not less than those required by law, that they were calculated on the basis of appropriate rates with respect to the circumstances of the insurer and its contracts of insurance of persons and they make good and sufficient provision to cover all obligations under such contracts; the report must also include such other information as may be required by the Superintendent.

That report is required from mutual benefit associations at such times as may be determined by regulation.”

30. Section 311 of the said act is replaced by the following section:

“**311.** Every insurer maintaining separate groups of assets must furnish a separate annual statement in the form prescribed by the Superintendent, specially indicating their origin and, where such is the case, their reallocation to the original groups.”

31. Section 314 of the said act is replaced by the following section:

“**314.** Every licensed insurer must also send to the Superintendent, on the dates and in the form fixed by the latter, a memorandum indicating any changes in its investments since the date when it filed its last memorandum.”

32. Section 328 of the said act is amended by adding, at the end, the following paragraph:

“This section shall not be set up against persons who hold a diploma or other proof of studies pertaining to the profession that is recognized by the regulations.”

33. Section 331 of the said act is replaced by the following section:

“**331.** Every person applying for an insurance agent’s certificate must file his application with the Superintendent in the form prescribed by him, together with the recommendations and

Sec. 34. *The proposed amendment makes a correction to the description of the cases where a special broker certificate could be used.*

Sec. 35. *The intent of the proposed amendment is to allow the diversification of the activities of claims adjusters.*

Sec. 36. *The intent of the proposed amendment is to allow the issue of a claims adjuster's certificate on demand provided that the holders take the prescribed examinations within a prescribed delay. The persons having a diploma or another proof of studies recognized as relevant to the profession of claims adjuster could be exempt from the examinations prescribed.*

Sec. 37. *The object of the proposed amendment is to leave it to the Superintendent to indicate the form of applications for claims adjusters certificates.*

Sec. 38. *The proposed amendment is for concordance with the Winding-up Act.*

deposit prescribed by this act and the documents prescribed by the regulations.

This application must indicate in particular the classes of insurance which the candidate intends to transact as agent."

34. Section 346 of the said act is amended by replacing the second paragraph by the following paragraph:

"Such certificate is not valid in the case of life insurance, automobile insurance or sickness and accident insurance or in the cases where insurance of another type may be obtained at a reasonable rate from licensed insurers."

35. The said act is amended by adding, after section 349, the following section:

"349 a. The certificate provided for in section 348 may be issued to carry on one or more of the activities enumerated in paragraph *j* of section 1 in conformity with the standards established by regulation."

36. Section 350 of the said act is replaced by the following section:

"350. Subject to this act and the regulations, any natural person at least eighteen years of age is entitled to an adjuster's certificate provided he takes the examinations prescribed by regulation within the time limits provided therein.

These examinations must be of such nature as to ascertain impartially the competence of the candidate and relate to his general and technical knowledge.

This section shall not be set up against persons who hold a diploma or other proof of studies pertaining to the profession that is recognized by the regulations."

37. Section 353 of the said act is amended by replacing the first paragraph by the following paragraph:

"353. Every person applying for an adjuster's certificate shall submit his application to the Superintendent in the form prescribed by him together with a deposit of \$5,000 for an adjuster acting on his own account and an additional \$1,000 for each employee through whom such person proposes to act as adjuster."

38. Section 405 of the said act is replaced by the following section:

Sec. 39. The proposed amendment is designed to extent the delay for prescription for offences against the Act respecting insurance.

Sec. 40. The amendments proposed by paragraphs a, b, c and d are for concordance. Paragraph f of section 420 presently reads as follows: "prescribe, for each class of licence or certificate holders, the nature of the audits relating to the statements to be presented to the Superintendent and the form of the auditor's attestation;"

The amendments proposed by paragraph e will allow the agents' or claims adjusters' certificates issued by other Canadian governments to be recognized. Moreover, the Lieutenant-Governor in Council will no longer have to consider reciprocity before recognizing the certificates issued by other governments.

The amendment proposed by paragraph f provides for the uniform utilization of the word "catégories", in French.

“405. The liquidator shall, within seven days after the end of any three month period, make to the Superintendent a summary report of his activities for that period. The report must indicate the receipts and expenses of the winding-up and a statement of its assets and liabilities at the end of that period.”

39. Section 409 of the said act is replaced by the following section:

“409. The penalties provided by this act are imposed in accordance with the Summary Convictions Act (Revised Statutes, 1964, chapter 35).

Every proceeding under this act is prescribed by two years from the date of the offence.”

40. Section 420 of the said act is amended:

(a) by replacing paragraph *c* by the following paragraph:

“(c) determine the tenor of applications for licences and certificates and the tenor of such licences and certificates;”;

(b) by replacing paragraphs *e* and *f* by the following paragraphs:

“(e) determine, for each class of licence or certificate holders, the nature and tenor of the statements they must furnish in addition to those prescribed by this act, and the time when they must be filed;

“(f) recognize the diplomas or other proofs of studies pertaining to the profession of insurance agent or claims adjuster to be in lieu of examinations prescribed under this act;”;

(c) by replacing paragraph *i* by the following paragraph:

“(i) oblige insurers who carry on business in Québec to furnish the Superintendent with information and statistics on their operations in Québec and to file the statements relating thereto and determine the nature of the information that must be so given and the tenor of the statements to be so filed;”;

(d) by replacing paragraph *n* by the following paragraph:

“(n) determine the tenor of special licences or certificates which may be issued to brokers under section 346, the conditions to be met by the persons applying for the issue or renewal of the said licences or certificates, the fees to be paid, the guarantees to be given, the books and registers to be kept, the statements to be filed with the Superintendent and the conditions of issue;”;

(e) by replacing paragraph *o* by the following paragraph:

“(o) recognize the equivalence of insurance agent’s or claims adjuster’s permits, licences or certificates granted by other governments;”;

Sec. 41. *The object of the proposed amendment is to leave it to the Superintendent to prescribe the forms required for the application of the act.*

Sec. 42. *Article 2478 of the Civil Code led to the belief that insurance propositions must necessarily be written. The amendment proposes a correction.*

Sec. 43. *The object of the proposed amendment is to avoid a repetition where the change is requested in writing by the insured. As it presently reads, the article required the endorsement to be countersigned by the insured.*

Sec. 44. *The object of the proposed amendment is to make the distinction between the juridical effects of representations and warranties.*

Sec. 45. *The proposed amendment provides concordance with section 44 of the bill.*

Sec. 46. *The object of the proposed amendment is to provide for the situation of an insured person who has remedied a breach of warranty.*

(f) by replacing paragraph *r* by the following paragraph:

“(*r*) define the different classes of insurance and determine the cases where and the conditions on which they may be contained in a single policy;”.

41. Section 422 of the said act is replaced by the following section:

“**422.** The Superintendent may prescribe the forms necessary for the application of this act.”

42. Article 2478 of the Civil Code, replaced by section 2 of chapter 70 of the statutes of 1974, is amended by replacing the first paragraph by the following paragraph:

“**2478.** The insurer must provide the policyholder with the policy and a copy of any application made in writing.”

43. Article 2482 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is amended by replacing the second paragraph by the following paragraph:

“Every change made by means of an endorsement is part of the contract. However, an endorsement stipulating a reduction of the liability of the insurer has no effect unless the policyholder consents to it in writing.”

44. Article 2485 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“**2485.** The policyholder, and the insured if the insurer requires it, is bound to represent all the facts known to him which are likely to influence a reasonable insurer materially in the setting of the premium, the appraisal of the risk or the decision to cover it.”

45. Article 2486 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is amended by replacing the first paragraph by the following paragraph:

“**2486.** The obligation respecting representations is deemed met if the facts are substantially as represented and there is no material concealment.”

46. Article 2489 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

Sec. 47. *The effect of the proposed amendment supplies to a deficiency respecting articles 2576 and 2584.*

Sec. 48. *The intent of the proposed amendment is to ease the obligation of insured persons to inform their insurer of any increase in the risk.*

Sec. 49. *The object of the proposed amendment is to define the address of the insured person for the purposes of a cancellation of an insurance contract.*

Sec. 50. *The proposed amendment deals with the transfer of insurance.*

“2489. A breach of warranty aggravating the risk suspends the coverage. The suspension ceases when the insurer has acquiesced or the breach has been remedied.”

47. Article 2500 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is amended by replacing the first paragraph by the following paragraph:

“2500. Any stipulation which derogates from the prescriptions of articles 2474, 2478 to 2484, 2486, 2490 to 2492, 2494 to 2506, 2508, 2510 to 2515, 2518, 2529, 2530, the second paragraph of article 2533, articles 2536, 2538, 2539, 2541, 2546 to 2549, 2557, 2559, 2560, 2561, 2562, the second paragraph of article 2563, article 2564, the third paragraph of article 2566, articles 2574, 2577 to 2582, 2585, the first two paragraphs of article 2586, articles 2587, 2598, 2599 and 2601 to 2605 is without effect.”

48. Article 2566 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2566. The insured must promptly advise the insurer of any increase in the risk specified in the contract or that resulting from events within his control and which is likely to materially influence a reasonable insurer in the setting of the rate of the premium, the appraisal of the risk or the decision to continue to insure it.

Article 2488 applies, *mutatis mutandis*, if a loss occurs before the resiliation of the insurance or the date the notice of a new premium rate is sent by the insurer.”

49. Article 2567 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2567. Except for transport insurance, the insurer or the insured may resiliate the contract by written notice.

The notice takes effect upon receipt if it proceeds from the insured, and fifteen days after receipt at the last known address if it proceeds from the insurer.”

50. Article 2577 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2577. The contract of insurance may be transferred only with the consent of the insurer and in favour of a person who has an insurable interest in the object of the insurance.”

Sec. 51. *The proposed amendment provides concordance with section 50 of the bill.*

Sec. 52. *The object of the proposed amendment is to clarify the notion of "value of the insured property".*

Sec. 53. *The proposed amendment deals with an exclusion from fire insurance.*

Sec. 54. *The intent of the proposed amendment is to specify the costs charged to an insurer over and above the amount of an insurance.*

51. Article 2578 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2578. In the case of death of the insured person, his bankruptcy or the transfer between co-insured persons of their interest in the insurance, the insurance continues in favour of the heir, the trustee in bankruptcy or the remaining insured person.”

52. Article 2583 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2583. If the policy does not contain special valuation formulas, proof of the true value of the property insured must be established in the usual manner.

In unvalued policies, the amount of the insurance does not make proof of the value of the property.

In a valued contract, the agreed value makes complete proof, as between the insurer and the insured, of the true value of the property.”

53. Article 2590 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is amended by replacing the second paragraph by the following paragraph:

“The insurer is not liable for loss caused solely by excessive heat from a heating apparatus nor occasioned by any process involving the application of heat, when there is no fire or commencement of fire.”

54. Article 2605 of the said Code, replaced by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

“2605. Costs and expenses of suits against the insured, including those of the defence, and interest on the amount of the insurance, are borne by the insurer over and above the limits of the insurance.”

55. This act comes into force on the day of its sanction except section 21, which will come into force on the date of the coming into force of section 275 of the Act respecting insurance (1974, chapter 70).