

Bill No. 28 of 1951.

A BILL TO AMEND THE TRUST COMPANIES ACT.

NOTE.

This Bill amends *The Trust Companies Act*, being chapter 241 of the Revised Statutes of Alberta, 1942.

This Act presently does not contain any provisions dealing with the amalgamation of trust companies. This Bill adds the necessary sections in this connection which are similar to provisions that have been enacted in *The Loan and Trust Corporations Act* of the province of Ontario, and *The Trust Companies Act* of the province of Nova Scotia. Some other provinces are also giving consideration to introducing these provisions at the forthcoming sessions of their Legislatures.

Four new sections are added immediately after section 23. The new section 23*a* provides that whenever a trust company acquires the business, property and assets of another trust company all trusts and duties binding upon the selling company are vested in and are binding upon the purchasing company. The name of the purchasing company is substituted for the name of the selling company in all instruments, documents, wills, codicils, probates, administrations, guardianships, etc.

The new section 23*b* provides that a certified copy of each instrument transferring the assets of the selling company to the purchasing company shall be filed in the office of the Minister. The Minister is empowered to issue a certificate certifying that the instrument of transfer has been filed in his office.

Section 23*c* provides that the Minister's certificate may be filed in any Land Titles Office.

Section 23*d* provides that a certified copy of the instrument of transfer is admissible in evidence in all courts.

The Bill comes into force on the 1st day of July, 1951.

KENNETH A. MCKENZIE,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

Bill No. 28 of 1951.

An Act to amend The Trust Companies Act.

(Assented to _____, 1951.)

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

1. *The Trust Companies Act*, being chapter 241 of the Revised Statutes of Alberta, 1942, is hereby amended.

New sections 23a, 23b, 23c and 23d **2.** The following new heading and sections 23a, 23b, 23c and 23d are added immediately after section 23:

“Amalgamation of Trust Companies.

Inter-pretation “fiduciary”

“23a. (1) In this section,—

“(a) ‘fiduciary’ includes trustee, bailee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent;

“instrument”

“(b) ‘instrument’ includes a will, codicil or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, statute and a judgment, decree, order, direction and appointment of a court, judge or other constituted authority.

Assets vested in purchasing company

“(2) Whenever a trust company that is registered under this Act acquires the business, property and assets of another trust company,—

“(a) on and after the date upon which the acquisition takes place, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon the selling company shall be vested in and bind and may be enforced against the purchasing company as fully and effectually as if it had been originally named as the fiduciary in the instrument;

“(b) whenever in an instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the selling company as the fiduciary, the name of the purchasing company shall be deemed to be substituted for the name of the selling company and the instrument shall vest the subject matter therein described in the purchasing company according to the tenor of, and at the time indicated or intended by, the instrument and the

purchasing company shall be deemed to stand in the place and stead of the selling company;

- “(c) where the name of the selling company appears as executor, trustee, guardian or curator in a will or codicil, the will or codicil shall be read, construed and enforced as if the purchasing company was so named therein, and the purchasing company shall have the same status and rights as the selling company in respect of the will or codicil;
- “(d) in all probates, administrations, guardianships, committeeships or appointments of administrator or guardian *ad litem* issued or made by a court to the selling company from which at the date upon which the acquisition becomes effective it had not been finally discharged, the purchasing company, *ipso facto*, shall be substituted therefor;
- “(e) on and after the date upon which the acquisition becomes effective, the assets acquired shall become vested in the purchasing company in accordance with and subject to the terms of any agreement made with respect thereto and without any further conveyance, and the selling company, subject to the terms of any such agreement, shall execute such formal and separate conveyances, assignments and assurances for registration purposes or otherwise as may reasonably be required to confirm or evidence the vesting in the purchasing company of the full title and ownership of the assets acquired.

“**23b.** (1) a certified copy of each instrument transferring the assets of the selling company to the purchasing company shall be filed in the office of the Minister.

Instrument transferring assets to be filed with Minister

“(2) The Minister, upon being satisfied that the purchasing trust company is registered under this Act, may issue a certificate under his hand and seal certifying that a certified copy of the instrument transferring the assets of the selling company to the purchasing company has been filed in his office.

Certificate evidencing filing

“**23c.** A certificate of the Minister given under section 23b or a copy thereof certified under seal by a notary public to be a true copy may be registered in any Land Titles Office without proof of the signature or the seal of the person signing and sealing the same or purporting to have signed and sealed the same.

Registration of certificate in Land Titles Office

“**23d.** A copy of an instrument transferring the assets of a selling company to a purchasing company filed in the office of the Minister, when certified as a true copy under the seal of the Minister and under his hand or the hand of the Deputy Minister, is admissible in evidence in all courts.”.

Certified copy of instrument (transferring assets) admissible in evidence

3. This Act shall come into force on the first day of July, 1951.

Coming into force

No. 28.

FOURTH SESSION
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

BILL

An Act to amend The Trust
Companies Act.

Received and read the

First time

Second time

Third time

HON. MR. GERHART.
