

No. 6

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5th Session, 13th Legislature, Alberta  
7 Elizabeth II, 1959

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## **BILL 6**

A Bill Respecting Guaranty Trust Company of Canada  
and The Western Trust Company

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MR. GERHART

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## **Explanatory Note**

The purpose of this Act is to transfer to the Guaranty Trust Company of Canada all the trusts, assets and liabilities of the Western Trust Company, which is being merged in the first named company.

# BILL

No. 6 of 1959

An Act Respecting Guaranty Trust Company of Canada  
and The Western Trust Company

(Assented to , 1959)

**W**HEREAS Guaranty Trust Company of Canada has Preamble  
purchased all the issued and outstanding shares of  
The Western Trust Company and has purchased the entire  
business, rights and property of The Western Trust Com-  
pany under and by virtue of an agreement made between  
the said Companies bearing date the 21st day of February,  
1959, and the said companies have by Petition prayed for  
special legislation in respect to the matters hereinafter  
set forth, and it is expedient to grant the prayer of the  
said Petition.

Therefore, Her Majesty, by and with the advice and con-  
sent of the Legislative Assembly of the Province of Alberta,  
enacts as follows:

**1.** So far as the legislative jurisdiction of the Province Agreement  
extends, the agreement between Guaranty Trust Company ratified and  
of Canada and The Western Trust Company, a copy of confirmed  
which is set out in Schedule "A" hereto (hereinafter called  
"the Agreement") is hereby ratified and confirmed, and  
all the terms thereof are hereby legalized and declared to  
be valid and operative to the same extent and in the same  
manner as if the several clauses thereof were set out and  
enacted as part of this Act; and each of the parties to the  
Agreement is declared to have had power to make and  
execute the said Agreement.

**2.** Guaranty Trust Company of Canada is substituted Guaranty  
as executor, administrator, trustee, committee, assignee, Trust  
liquidator, receiver, registrar, transfer agent, guardian or Company  
curator, or as the case may be, in the place and stead of The of Canada  
Western Trust Company, in or in respect of every trust, substituted  
trust deed, deed, mortgage, indenture, conveyance, will, as trustee  
codicil, probate, letters of administration, judgment, order,  
appointment or other document whatsoever, or trust how-  
soever created wherein or whereby or of which The Western  
Trust Company is or was named as or became trustee or  
appointed to any office or trust, and all trusts and trust  
estates and properties of every kind and description, includ-  
ing incomplete or inchoate trusts, granted to or held by

The Western Trust Company, or in respect of which it might become entitled to act, and all powers, rights, immunities and privileges conferred upon or enjoyed by it under such trust, trust deed, deed, mortgage, indenture, conveyance, will, codicil, probate, letters of administration, judgment, order, appointment, or other document whatsoever, or in respect or by virtue of any trust howsoever created, are hereby vested in Guaranty Trust Company of Canada upon the same trusts and with the same powers and subject to the same obligations and duties as are therein, thereby or in respect thereof respectively provided or imposed, and all trusts, trust deeds, deeds, mortgages, indentures, conveyances, wills, codicils, probates, letters of administration, judgments, orders, appointments or other documents whatsoever, heretofore or hereafter made, naming or appointing The Western Trust Company to the office of executor, administrator, trustee, committee, assignee, liquidator, receiver, registrar, transfer agent, guardian or curator, or to any other office or position whatsoever, or wherein any estate, money or other property, or any interest, possibility or right is intended to be heretofore or hereafter vested in or administered or managed by or put in charge of The Western Trust Company, shall be read, construed and given effect to as if Guaranty Trust Company of Canada were and had been named therein in the place and stead of The Western Trust Company.

Properties  
of The  
Western  
Trust  
Company  
vested in  
Guaranty  
Trust  
Company  
of Canada

3. All the lands, estates, leases, charges, mortgages, encumbrances, securities, assets, properties, real, personal or mixed, effects, rights, credits, choses-in-action and causes of action of every description belonging to or standing in the name of or existing in The Western Trust Company are hereby transferred to and vested in Guaranty Trust Company of Canada without further act, conveyance or other deed, to and for the use and benefit absolutely of Guaranty Trust Company of Canada, its successors and assigns for all the estate, right, title, interest, claim and demand which The Western Trust Company has or becomes or may become entitled to, and Guaranty Trust Company of Canada is hereby empowered to exercise all the powers, rights and privileges over or in respect of the same, or any of them, that The Western Trust Company has or had or could or might have exercised, and may sell, release, discharge, assign, transfer, convey, dispose of or otherwise deal with all or any of the said lands, estates, leases, charges, mortgages, encumbrances, securities, assets, properties, real, personal or mixed, effects, rights, credits, choses-in-action and causes of action aforesaid and execute all requisite or proper assignments, transfers, discharges, releases, deeds, grants or other conveyances or other documents whatsoever, as occasion therefor shall arise, and exercise all powers in connection therewith or with respect thereto in the name of Guaranty Trust Company of Canada in the same manner as if they stood in the name of or had been made to or in favour of Guaranty Trust Company of

Canada, and no suit, action, appeal, application or other proceeding being carried on or power or remedy being exercised shall be discontinued or abated on account of this Act or of the purchase by Guaranty Trust Company of Canada of all the issued and outstanding shares of The Western Trust Company, or of the acquisition by Guaranty Trust Company of Canada of the business, rights and property of the said The Western Trust Company, but the same may be continued in the name of Guaranty Trust Company of Canada, and Guaranty Trust Company of Canada has the same rights and is subject to the same liabilities and shall pay or receive the like costs as if such suits, actions, appeals, applications or other proceedings had been commenced or defended in the name of Guaranty Trust Company of Canada, and Guaranty Trust Company of Canada is empowered to bring, maintain and exercise in its own name any suit, action, appeal, application or other proceeding or to exercise any power, right, or remedy or right of distress which The Western Trust Company could have been or become entitled to bring, maintain or exercise.

4. This Act shall be and shall in all respects be treated, for the purposes of every land titles office, registry office and other public office whatsoever in the Province of Alberta, and of any and all transactions therein and of the officers administering the same, as a legal and valid grant, conveyance, transfer and assignment to Guaranty Trust Company of Canada of any and all lands or interests in lands and any and all mortgages, charges, encumbrances or other documents whatsoever and of any and all other property of every description, real, personal or mixed, and whether under *The Land Titles Act*, *The Companies Act* or *The Bills of Sale Act*, or any other Act, or under any other system or form of registration, now or hereafter standing in the name of or vested in The Western Trust Company, whether as owner, trustee, liquidator or otherwise, and it is not necessary to register or file or issue this Act or any further or other instrument, document or certificate or to make any entry showing the transmission or assignment of title from The Western Trust Company to Guaranty Trust Company of Canada of any such property, or in the case of lands under *The Land Titles Act* to have certificates of title issued in, or to have any mortgage, charge, encumbrance or other document whatsoever transmitted to, the name of Guaranty Trust Company of Canada, nor is it necessary in any instrument or document whereby Guaranty Trust Company of Canada deals with any of the said property, to recite or set out such transmission or assignment of title or to pay any fees in connection with the grant or assignment hereby made of any of such property.

Valid grant  
without  
registration

5. Nothing in this Act affects the rights of any creditor of, or any person having a claim against, either of the said companies, nor impairs, modifies or affects the liability of The Western Trust Company in respect of any trust or

Rights of  
creditors  
preserved

trust estate which by or under this Act becomes vested in Guaranty Trust Company of Canada, but all such rights may be asserted against Guaranty Trust Company of Canada, which shall be responsible for all debts, liabilities and obligations of The Western Trust Company.

Coming  
into force

6. This Act comes into force on the day upon which it is assented to.

#### SCHEDULE "A"

AGREEMENT made this 21st day of February, 1959.  
BETWEEN:

THE WESTERN TRUST COMPANY, herein-  
after called "the Vendor"

OF THE FIRST PART

— and —

GUARANTY TRUST COMPANY OF CANADA,  
hereinafter called "the Purchaser"

OF THE SECOND PART.

WHEREAS the Vendor was incorporated by Special Act of the Parliament of Canada, being chapter 180 of the Statutes of Canada, 6 Edward VII, and carried on business as a trust company with head office at the City of Winnipeg, in the Province of Manitoba, under the provisions of the *Trust Companies Act* (Canada) and under such Act may sell its business, rights or property;

AND WHEREAS the Purchaser was incorporated by Special Act of the Parliament of Canada, being chapter 65 of the Statutes of Canada, 15-16 George V, and is carrying on business as a trust company with head office at the City of Toronto, in the Province of Ontario, under provisions of the *Trust Companies Act* (Canada) and under such Act may purchase the business, rights and property and assume the liabilities of another trust company;

AND WHEREAS on the 7th day of May, 1958, there were issued and outstanding as fully paid shares in the capital stock of the Vendor, 10,050 shares of a par value of \$100 each out of an authorized share capital of 20,000 shares of \$100 each;

AND WHEREAS on the 7th day of May, 1958, the Purchaser did complete the purchase of all the said 10,050 issued and outstanding shares in the capital stock of the Vendor, pursuant to an offer made to all the holders of the said shares dated February 24th, 1958, and did make payment on the said 7th day of May, 1958, to all the shareholders of the Vendor, in the sum of \$180 per share, Canadian funds, being the price named in the said offer;

AND WHEREAS from and after the said 7th day of May, 1958, the business of the Vendor has been carried on by the Purchaser;

AND WHEREAS it is considered necessary and desirable that this agreement be entered into for the purpose of compliance with the provisions of section 79 (1) of *The Trust Companies Act*.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) in cash now paid by the Purchaser to the Vendor, receipt whereof is hereby acknowledged, and of the payment on May 7th, 1958, of \$180 per share to the holders of all the issued and outstanding shares of the Vendor as above recited, and of the covenants and agreements hereinafter set out, the parties hereto have agreed as follows:

1. The Vendor does hereby sell, transfer and assign unto the Purchaser, as a going concern, all the business, undertaking, property, assets and goodwill of the Vendor, which, without limiting the generality of the foregoing, shall include the following:

- (a) The goodwill of the business of the Vendor with whatever rights in connection therewith which are capable of being transferred, including the right to use the name of the Vendor in connection with the business of the Purchaser so purchased, and to hold out and represent the Purchaser as carrying on such business in continuation of the Vendor's business and in succession thereto, and in the discretion of the Purchaser to use the words "formerly "The Western Trust Company or such other words indicating that the business is carried on in continuation of or in succession of the Vendor;
- (b) All the freehold and leasehold properties, wherever situate, belonging to the Vendor;
- (c) All mortgages, stocks, shares, bonds, debentures and other securities for money owned by the Vendor;
- (d) All the book and other debts due or owing or to become due to the Vendor in connection with the said business, and the full benefit of all securities for such debts;
- (e) The full benefit of all contracts and engagements to which the Vendor is or may be entitled in connection with the said business;
- (f) All rights of action and things in action arising out of or incidental or pursuant to ownership of any assets and property hereby agreed to be sold or affecting the value thereof insofar as those rights of action are capable of being transferred;

- (g) All fees and compensation due to, accruing due to or earned by the Vendor in connection with any work or services rendered by the Vendor, whether or not such fees and compensation have been fixed by agreement, by order of a competent court, or otherwise;
- (h) All cash on hand and in any banks or other depositories and all bills, notes, moneys, negotiable instruments and credits, owned or held by the Vendor in connection with the said business;
- (i) All chattels, furniture, safety deposit equipment, fixtures and other like property belonging to the Vendor;
- (j) All other assets and property, rights, branches and effects of the Vendor whatsoever and wheresoever situate;

all of which said foregoing are hereinafter referred to as "the purchased premises."

2. The Purchaser shall and does hereby undertake to pay, satisfy, discharge, perform and fulfil all the debts, liabilities, duties and obligations of the Vendor whatsoever and to adopt, perform, discharge and fulfil all contracts and engagements now binding upon the Vendor and shall at all times keep the Vendor and its shareholders and each and every one of them indemnified against such debts, liabilities, duties, obligations, contracts and engagements and against all actions, proceedings, costs, damages, claims, demands and other proceedings in respect thereof. PROVIDED that nothing herein contained shall deem to alter or change the liability (if any) of each shareholder of the Vendor for such personal or corporate income tax as may be imposed under *The Income Tax Act* or the *Income War Tax Act* or for any debt or liability of any shareholder of the Vendor to the Vendor.

3. The Purchaser shall and does hereby accept such title to the purchased premises as the Vendor possesses, and the Vendor shall deliver to the Purchaser all deeds, instruments, certificates and documents in its possession or power evidencing such title and all books of account of the Vendor and all other books, papers and documents belonging to the Vendor or in its possession or under its control.

4. It is understood and agreed that any right of action transferred or assigned to the Purchaser hereunder by the Vendor may be exercised or enforced, and any proceedings which may have been commenced by the Vendor in connection therewith prior to the date of purchase of the outstanding shares of the Vendor as above recited may be continued at the request of the purchaser in the name of the Vendor for the benefit of the Purchaser, or in the name of the Purchaser, provided that nothing in this agreement shall derogate from or extinguish any right of action now vested in the Vendor in connection with the business of the Vendor prior to the abovementioned date



of purchase of shares and any such right of action shall remain in and be enforceable by the Vendor and at the request of the Purchaser the Vendor shall take any proceedings to enforce, exercise and realize upon such rights of action in its own name but for the full benefit and advantage of the Purchaser and at the expense of the Purchaser.

5. The Vendor further covenants and agrees from time to time hereafter to make application for or join in making application for the appointment of the Purchaser as Trustee (which term shall include executor, administrator, committee, guardian, trustee, assignee, liquidator and receiver, agent and other fiduciary of any kind or nature whatsoever) in respect of all such trusts and agencies now vested in or conducted by the Vendor or provided to arise hereafter and/or vest in the Vendor, and will use its best endeavours to procure such appointment.

6. The Vendor covenants and agrees forthwith and from time to time hereafter to execute and deliver to the Purchaser such covenants, assignments, transfers and other documents in writing as may be necessary or considered expedient to vest in the Purchaser the title to all assets and property of the Vendor wheresoever situate, and if required by the Purchaser, shall join with the Purchaser in any application to governmental authority or constituted authority by way of supplement to or in lieu of such covenants, assignments, transfers and other documents required for the said purpose.

7. It is agreed between the parties hereto that the employees of the Vendor shall be afforded the opportunity of participating in the existing retirement annuity plan of the Purchaser, the procedure to be adopted to effect such participation being such as may be decided after any necessary consultation with and approval of the Minister of National Revenue, to the intention that the employees of the Vendor shall, to the extent possible, with all just and proper exceptions, having regard to the differing effect of commencement dates and participation, become entitled to substantially the like benefits of the present employees of the Purchaser.

8. This agreement shall be submitted to the Treasury Board of Canada and to such other governmental or constituted authority as may be necessary for assent and approval in order to give this agreement full force and effect.

9. It is understood and agreed that this agreement shall be deemed to have been and shall be effective as and from the hour of 3:00 o'clock in the afternoon, Central Daylight Saving Time, on the 7th day of May, 1958.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested by the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED  
and DELIVERED  
In the pesence of :

THE WESTERN TRUST  
COMPANY

Per "J. W. Berry" President  
"L. Johnson" Secretary  
(Seal of The Western  
Trust Company)

GUARANTY TRUST COMPANY  
OF CANADA

Per "J. W. Berry" President  
"J. A. Thompson" Secretary  
(Seal of Guaranty Trust  
Company of Canada)

No. 6

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FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

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## BILL

An Act Respecting Guaranty Trust  
Company of Canada and The  
Western Trust Company

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Received and read the

First time.....

Second time.....

Third time.....

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MR. GERHART

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