

1977 BILL 96

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA.

BILL 96

THE TRUST COMPANIES AMENDMENT ACT, 1977

MR. GHITTER

First Reading

Second Reading

Third Reading

Bill 96
Mr. Ghitter

BILL 96

1977

THE TRUST COMPANIES AMENDMENT ACT, 1977

(Assented to _____, 1977)

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

1 The Trust Companies Act is amended by this Act.

2 Section 2(1) is amended

(a) in clause 2(i) by adding "or (1.1)" after "subsection (1)",

(b) in clause 16 by adding "or" at the end of subclause (iv) and by adding the following:

(v) that is restricted by law in its use to commercial, industrial or residential purposes by zoning or otherwise;

(c) by repealing clause 23, and

(d) by repealing clause 30 and by substituting the following:

30 "unauthorized investment or loan" means an investment or loan of a company's own funds or its deposits and investment moneys that is not authorized by, or is expressly prohibited by, this Act or the regulations or is made in contravention of any limitations or conditions prescribed by this Act or the regulations;

Explanatory Notes

1 This Bill will amend chapter 372 of the Revised Statutes of Alberta 1970.

A considerable number of the provisions of this Bill are to come into force on proclamation as regulations will be necessary before they can be effective. For an enumeration of these provisions, see the last section of this Bill.

2 Section 2(1), clauses 2, 16, 23 and 30 now read:

2. "ancillary corporation" means

(i) a corporation referred to in section 112, subsection (1) and controlled by a provincial company in accordance with that subsection, or

(ii) a corporation whose assets have been purchased by a provincial company in accordance with section 112.1;

16. "improved real estate" means real estate

(i) upon which there exists a building used or capable of being used for residential, commercial, industrial, educational, religious, charitable or recreational purposes, or

(ii) upon which such a building is being constructed, or

(iii) which is provided with the utilities necessary to serve such a building with electric power, water and sewers but only when the land is being mortgaged for the purpose of financing the construction of such a building, or

(iv) on which actual farming or ranching operations are being conducted;

23. "real estate subsidiary" means a corporation referred to in section 113, subsection (1);

3 Section 8(2) is amended by adding “\$5000 has been paid in” after “not less than” and by repealing clauses (a), (b) and (c).

4 Section 15(2) is amended by adding “at its head office” after “kept by the company”.

5 Section 30(2) is repealed and the following is substituted:

(2) A person is not eligible to be a director unless he holds fully paid common shares of the company, as the absolute and sole owner thereof in his individual right and not as trustee or in the right of another, in respect of which not less than \$5000

(a) has been paid in or credited by the company as capital, or

(b) was paid as the purchase price for the shares.

6 Section 65(1)(a) and (b) and (3) is amended by striking out “or a real estate subsidiary of the company”.

30. "unauthorized investment or loan" means an investment or loan of a company's own funds or its deposits and investment moneys that is not authorized by or is expressly prohibited by this Act or is made in contravention of any limitations prescribed by this Act;

As to the amendment to clause 2(i) and the repeal of clause 23, see the amendments to sections 112 and 113 of the Act in this Bill.

As to the amendment to the definition of "improved real estate", see also the amendment in this Bill to section 114.

The definition of "unauthorized investment or loan" is recast to reflect amendments in this Bill that will allow limitations and conditions on investments and loans to be prescribed by regulation.

3 Section 8(2) now reads:

(2) Notwithstanding anything in a company's special Act, a person is not eligible to act as a provisional director unless he is a subscriber for stock of the company for and on his own behalf, so as to become the absolute and sole owner in his individual right of such stock and not as trustee or in the right of another, on which subscription not less than

(a) \$3,000 have been paid in, where the paid in capital stock of the company is \$1,000,000 or less, or

(b) \$4,000 have been paid in, where the paid in capital stock of the company is over \$1,000,000 and does not exceed \$3,000,000, or

(c) \$5,000 have been paid in, where the paid in capital stock of the company exceeds \$3,000,000.

4 Section 15(2) now reads:

(2) The by-law shall be forthwith recorded in a book to be kept by the company for that purpose and to be known as the "by-law book".

5 Section 30(2) now reads:

(2) A person is not eligible to be a director unless he holds common shares of the company, as the absolute and sole owner thereof in his individual right and not as trustee or in the right of another, in respect of which not less than

(a) \$3,000, or such greater amount as the by-laws require, have been paid in or credited by the company as capital, when the paid in capital stock of the company is \$1,000,000 or less, or

(b) \$4,000, or such greater amount as the by-laws require, have been paid in or credited by the company as capital, when the paid in capital stock of the company is over \$1,000,000 and does not exceed \$3,000,000, or

(c) \$5,000, or such greater amount as the by-laws require, have been paid in or credited by the company as capital, when the paid in capital stock of the company is over \$3,000,000.

6 Consequential to the amendments in this Bill to sections 112 and 113 of the Act.

7 *Section 89(7) is repealed and the following is substituted:*

(7) The remuneration of the auditors of the company appointed at an annual meeting of the company shall be fixed by the shareholders at that meeting or by the directors if they are authorized to do so, but the remuneration of auditors appointed under subsection (6) shall be fixed by the directors.

8 *Section 98.1(1)(c) is amended by striking out “or real estate” and by substituting “, real estate or leasehold estate”.*

9 *Section 108(1) is amended*

(a) by adding the following clause after clause (a):

(a.1) “regulated financial institution” means

- (i) a trust company incorporated in Canada,**
- (ii) a chartered bank,**
- (iii) a treasury branch,**
- (iv) an insurance company incorporated in Canada,**
- (v) a credit union incorporated in Canada, or**
- (vi) any other corporation approved by the Director;**

(b) in clause (b) by striking out “sections 112 and 113” and by substituting “section 112”.

10 *Section 110(a) is repealed.*

11(1) *Section 111(1) is amended*

(a) in clause (a) by repealing subclauses (i) and (ii) and substituting the following:

7 Section 89(6) and (7) now read:

16) Where the company's auditors resign or are removed pursuant to subsection (5), the directors shall, by a majority vote, appoint as the company's auditors another firm of chartered accountants acceptable to the Director.

17) The remuneration of the auditors shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed by the directors may be fixed by the directors.

8 Corrects a drafting omission.

9 "Regulated financial institution" is defined for the purposes of sections 116 and 125 and the proposed section 128.1. The amendment to clause (b) is made as a consequence of the amendments in this Bill to sections 112 and 113 of the Act.

10 Section 110 now reads:

110 Where a company makes or has made a loan authorized by this Division, it may take personal property as security for the loan if

(a) the loan is made pursuant to section 111, subsection (3), or

(b) the personal property is in addition to the other security required by this Division in respect of the loan.

Clause (a) is repealed as a consequence of the repeal of section 111(3) of the Act by this Bill.

11 Section 111 now reads in part:

111(1) A provincial company may invest or loan the company's own funds and its deposits and investment moneys in, or on the security of

(i) issued or guaranteed as to principal and interest by the Government of Canada, the government of a province of Canada, the Government of the United States of America or the government of any state of the United States of America, or

(ii) issued or guaranteed as to principal and interest by a municipal corporation in Canada or the United States of America, or

(b) in clause (a) by repealing subclauses (v) and (vi) and substituting the following:

(v) issued by a corporation incorporated in Canada if the bonds, debentures, notes or other evidences of indebtedness are fully secured by a first mortgage to the company or to a trustee upon any of, or any combination of, the following assets:

(A) improved real estate or leaseholds,

(B) plant or equipment of the corporation that is used in the transaction of its business, or

(C) bonds, debentures, notes or other evidences of indebtedness or preferred or common shares authorized as investments under this section,

but the inclusion as additional security in the mortgage of assets not of a class authorized by this Division as investments for a provincial company does not render the investment or loan an unauthorized investment or loan, or

(vi) issued or guaranteed by a corporation incorporated in Canada or in the United States of America if at the date of the investment or loan the preferred shares or common shares of that corporation are authorized investments under clause (g) or (h), or

(c) by repealing clause (b),

(d) by repealing clause (d)(i), and

(e) in clause (g) by adding “or the United States of America” after “incorporated in Canada”.

(2) Section 111(3) is repealed.

- (a) *bonds, debentures, notes or other evidences of indebtedness*
- (i) *issued or guaranteed as to payment of principal and interest by the Government of Canada or the government of any province of Canada, or*
- (ii) *issued or guaranteed as to payment of principal and interest by any municipal corporation in any province of Canada or the Government of the United States of America, or*
- (v) *issued by a corporation incorporated in Canada if the bonds, debentures, notes or other evidences of indebtedness are fully secured by a first mortgage to a trustee upon any, or any combination of, the following assets:*
- (A) *improved real estate, or*
- (B) *the plant or equipment that is used in carrying on its business, or*
- (C) *bonds, debentures, notes or other evidences of indebtedness or preferred or common shares authorized as investments by this section,*
- or*
- (vi) *issued by a corporation incorporated in Canada if at the date of the investment or loan the preferred shares or common shares of that corporation are authorized investments under clause (g) or (h), or*
- (b) *bonds, debentures or preferred shares issued by a corporation incorporated in the United States of America and that are convertible to common shares of the corporation, if at the time of the investment or loan the common shares of that corporation are authorized investments under clause (h),*
- (d) *investment certificates issued by another registered trust company if*
- (i) *that other company is an approved corporation under The Trustee Act, and*
- (ii) *at the date of the investment or loan the preferred shares or common shares of that other company would, in the absence of section 123, clause (a), be an authorized investment under clause (g) or (h),*
- (g) *preferred shares of a corporation incorporated in Canada if*
- (i) *the corporation has paid a dividend upon any class of its preferred shares in each of the five years immediately preceding the date of the investment or loan at least equal to the specified annual rate for that class, or*
- (ii) *the common shares of the corporation are, at the date of the investment or loan, authorized investments under clause (h),*
- (3) *A company may loan the company's own funds and its deposits and investment moneys without the taking by the company of security otherwise required by this Division but*
- (a) *loans under this subsection shall not exceed in the aggregate an amount equal to 7 per cent of the company's own funds and its deposits and investment moneys or such lesser amount as the Director may prescribe for the company, and*

12 Section 112 is amended

(a) in subsection (1) by adding “or in the United States of America” after “incorporated in Canada”, and

(b) in subsection (1) by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding the following clause:

(c) in the case of acquisition of shares of a corporation incorporated in the United States of America, none of the company’s deposits and investment moneys is used to make the acquisition.

(c) by adding the following after subsection (1):

(1.1) A provincial company may arrange for the incorporation in Canada or the United States of America of a corporation if

(a) the approval of the Minister is first obtained,

(b) the corporation is incorporated for the purpose of carrying on a business activity reasonably ancillary to the business of a trust company,

(c) at the time of incorporation and at all times thereafter is the registered and beneficial owner of equity shares of the corporation carrying more than 50% of the voting rights attached to all equity shares of the corporation for the time being outstanding, and

(d) in the case of a corporation incorporated in the United States of America, none of the company’s deposits and investment moneys is used in connection with the incorporation or the acquisition of any shares of the corporation.

(d) in subsection (2) by adding “or (1.1)” after “subsection (1)”.

13 Section 112.1 is amended

(a) in subsection (1) by adding “or the United States of America” after “incorporated in Canada”,

(b) the outstanding amount of loans under this subsection to any one person shall not at any time exceed the amount prescribed by the Director for the company.

Section 111(3) will be replaced by the new section 128.2.

12 Section 112(1) and (2) now reads:

112(1) A company may acquire, in accordance with this section, fully paid common shares of any corporation incorporated in Canada to carry on a business activity reasonably ancillary to the business of a trust company if

(a) the approval of the Minister is first obtained, and

(b) the company is, upon making the acquisition, and all times thereafter, the registered and beneficial owner of equity shares of the corporation carrying more than 50 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

(2) Where the Minister gives his approval under subsection (1), the approval may be made subject to any terms and conditions prescribed from time to time by the Lieutenant Governor in Council.

The proposed subsection (1.1) will replace section 113(1) and (2) which are to be repealed by section 12 of this Bill.

13 Section 112.1(1) now reads:

112.1(1) Notwithstanding anything in this Act, a provincial company may acquire the assets of a corporation incorporated in Canada to carry on a business activity reasonably ancillary to the business of a trust company, upon the assumption of the obligations and liabilities of that corporation, but no agreement therefor takes effect until it has been approved by the Minister.

(b) by adding the following subsection:

(4) A provincial company shall not use any of its deposits and investment moneys to acquire the assets of a corporation incorporated in the United States of America pursuant to subsection (1) or to defray any expenses in connection with such an acquisition.

14(1) Section 113 is amended

(a) by repealing subsections (1), (2), (5), (6), (7) and (8),

(b) in subsection (3) by striking out “its real estate subsidiary” and substituting “an ancillary corporation of the company”,

(c) in subsection (3)(a), (d) and (e) by striking out “real estate subsidiary” and by substituting “ancillary corporation”,

(d) by repealing subsection (3)(c) and substituting the following:

(c) the amount of the indebtedness under the mortgage does not exceed any limitation prescribed by the regulations,

(e) by adding the following after subsection (3):

(3.1) A provincial company may, with the company’s own funds or its deposits and investment moneys, make a loan to its ancillary corporation other than a mortgage loan under subsection (3), if it is authorized to do so by the regulations and then only in accordance with any conditions prescribed by the regulations with respect to loans under this subsection.

(f) in subsection (4) by striking out “subsidiary” and substituting “ancillary corporation”, and

(g) in subsection (4) by adding “or loan” after “mortgage”.

(2) A real estate subsidiary of a provincial company incorporated pursuant to section 113(1) of The Trust Companies Act prior to the commencement of this subsection shall be deemed to be an ancillary corporation of the company incorporated pursuant to section 112(1.1) of that Act, as enacted by section 12(c) of this Act, and shall be deemed to have been incorporated with the consent of the Minister of Consumer and Corporate Affairs.

14 Section 113 now reads:

113(1) A provincial company may arrange for the incorporation in Alberta or elsewhere in Canada of a corporation if

(a) at the time of incorporation and at all times thereafter the company is the registered and beneficial owner of equity shares of the corporation carrying more than 50 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, and

(b) the corporation is incorporated primarily for the purpose of this section and with objects incidental to such purposes.

(2) Where a real estate subsidiary is incorporated, the company shall notify the Director of that fact within 10 days after the date of incorporation, and shall furnish him with a true copy of its instrument of incorporation and its memorandum of association and articles of association or any similar instruments or rules for the regulation of the affairs of the subsidiary.

(3) A provincial company may, with the company's own funds or its deposits and investment moneys, make a loan to its real estate subsidiary on the security of a first mortgage executed in favour of the company pursuant to section 114, subsection (1) if

(a) the real estate subsidiary is the sole owner of the improved real estate so mortgaged at all times during the term of the mortgage,

15 Section 114 is amended

(a) in subsection (2)(b) by striking out “the leasehold estate is of improved real estate” and by substituting “the real estate from which the leasehold estate is derived is improved real estate”,

(b) by adding the following after subsection (3):

(4) Notwithstanding subsections (1) and (2), a provincial company shall not make a loan under either of those subsections if the real estate concerned is improved real

(b) the mortgage is otherwise not prohibited under this Division,

(c) the amount of the indebtedness under the mortgage does not exceed an amount equal to 2 per cent of the aggregate of the company's own funds and the company's deposits and investment moneys,

(d) at the time of execution of the mortgage, the real estate subsidiary has entered into leases or agreements for leases of the improved real estate and such leases will provide net revenue sufficient during the term of the mortgage to repay at least 85 per cent of the amount loaned by the company, and

(e) the company has, prior to the execution of the proposed mortgage, informed the Director of the mortgage and the company and the real estate subsidiary have complied with any terms and conditions prescribed by the Director in respect of the mortgage or the leases.

(4) Except with the consent of the Director, a provincial company shall not enter into any agreement or arrangement with its subsidiary other than a mortgage permitted by this section or with respect to any matter incidental to that mortgage.

(5) A provincial company may have more than one subsidiary under this section but shall not enter into more than one mortgage with one subsidiary without the prior consent of the Director.

(6) Notwithstanding subsections (1) and (5), the Minister may by notice to a provincial company that has one or more real estate subsidiaries prohibit the company from arranging for the incorporation of any additional real estate subsidiaries except with the approval of the Minister and if the company thereafter arranges for the incorporation of a subsidiary in contravention of the notice, the shares of real estate subsidiary owned by the company are an unauthorized investment.

(7) The total amount of the moneys invested by the company in the shares of its real estate subsidiaries and loaned under mortgages in favour of its real estate subsidiaries shall not exceed more than 10 per cent of the aggregate of the company's own funds and its deposits and investment moneys.

(8) The Minister may with respect to any company increase the percentage limit referred to in subsection (7) in respect of all or any of the real estate subsidiaries of the company.

Real estate subsidiaries will instead be incorporated pursuant to section 112(1.1) of the Act as proposed in section 9(c) of this Bill. All references in the Act to real estate subsidiaries will be changed to ancillary corporations.

15 Section 114(2)(b) now reads:

(2) A provincial company may, with the company's own funds and its deposits and investment moneys, invest in mortgages of leasehold estates or make loans under mortgages executed in favour of the company of leasehold estates if in each case

(b) the leasehold estate is of improved real estate in Alberta or elsewhere where the company is registered or licensed to carry on business as a trust company,

estate only by reason of section 2(1), clause 16(v) unless the company has first obtained from the borrower an undertaking, made in accordance with the regulations, that development of the real estate will commence within the time prescribed by the regulations.

16 Section 116 is repealed and the following is substituted:

116 A company may make an investment or loan under section 114 or section 115(2)(a) or (c) jointly with one or more regulated financial institutions.

17 Sections 118 to 122 are repealed and the following is substituted:

118 The powers of a provincial company to make investments and loans under sections 111 to 117 are subject to any limitations and conditions respecting the exercise of those powers prescribed by the regulations.

18 Section 123(2) is amended by striking out “, the shares of a mortgage investment corporation that are owned by the company or a real estate subsidiary of the company” and by substituting “or the shares of a mortgage investment corporation that are owned by the company”.

19 Section 124 is amended by repealing subsections (1), (2), (3) and (6).

20 Section 125 is amended

(a) in subsection (1) by striking out all that portion of the subsection preceding clause (a) and by substituting the following:

125(1) Subject to subsections (3) and (4), a company may invest the company’s own funds or its deposits and investment moneys in real estate for the production of income, either alone or jointly with one or more regulated financial institutions,

(b) in subsection (1), as amended by clause (a) of this section, by striking out “subsections (3) and (4)” and by substituting “subsection (4) and the regulations”,

An apparent contradiction occurs in subsection (2)(b) because of the definitions of “improved real estate” and “real estate” in section 2(1) of the Act. This amendment is aimed at removing the contradiction.

As to the proposed subsection (4) see the amendment to the definition of “improved real estate” being made by section 2 of this Bill. Section 114(1) and (2) deals with mortgage loans on the security of improved real estate and leasehold estates respectively. The undertaking referred to in the proposed subsection (4) is required where the land concerned is “improved real estate” only by being zoned for commercial, industrial or residential use. See also the amendment in this Bill to section 134(1) of the Act which will allow the Director of Trust Companies to order the company to dispose of the loan if the undertaking is not complied with.

16 Section 116 now reads:

116 A company may make an investment or loan under section 114 or section 115, subsection (2), clause (a) or (c) jointly with any other registered trust company, a loan company or insurance company incorporated in Canada, subject to the approval of the Director and to any conditions prescribed by the Director.

17 Sections 118 to 122 and section 124(1), (2), (3) and (6) contain particular limitations and restrictions on the powers of an Alberta trust company to make investments or loans in or upon the security of securities and mortgages. These limitations and restrictions will be dealt with in the regulations. See the amendments in this Bill to section 145 of the Act.

18 Consequential to the amendments to section 113 of the Act in this Bill.

19 See note to section 17 of this Bill.

20 Section 125(1) and (2) now read:

125(1) Subject to subsections (3) and (4), a company may invest its own funds and its deposits and investment moneys in improved real estate for the production of income, either alone or jointly with any other registered trust company, a loan company incorporated in Canada and approved by the Director or an insurance company incorporated in Canada,

(a) if the real estate is situated in Alberta or elsewhere where the company is registered or licensed to carry on business as a trust company,

(b) if at the time of the investment the real estate is subject to a lease made to, or guaranteed by,

(i) a corporation the preferred or common shares of which are authorized for investment under section 111, or

(c) in subsection (2) by striking out “Subject to subsections (3) and (4)” and by substituting “Subject to subsection (4) and the regulations”,

(d) by striking out subsection (3).

21 The following headings and sections are added after section 128:

Personal Property Leasing

128.1(1) Subject to the regulations, a provincial company may, with the company’s own funds and its deposits and investment moneys, either alone or jointly with one or more regulated financial institutions, invest in any personal property for the purpose of leasing it if in the case of each lease,

(a) the lease is for a fixed term and cannot be terminated or cancelled by the other party to the lease during its term,

(b) the rentals under the lease will provide a net revenue sufficient

(i) to yield to the lessor a reasonable return during the term of the lease, and

(ii) to enable the lessor to recover the purchase price of the personal property so leased,

and

(c) the lessee under the lease is a corporation any of whose securities are qualified as investments for a provincial company under section 111(1).

(ii) the Crown in right of Canada or the Crown in right of Alberta or any other province of Canada, or

(iii) a Crown corporation incorporated under an Act of the Parliament of Canada, an Act of the Legislature or an enactment of any province of Canada,

and

(c) if the lease provides for a net revenue sufficient to yield a reasonable interest return during the unexpired term of the lease and to repay at least 85 per cent of the amount invested by the company in the real estate within the term of the lease, but not exceeding 30 years from the date of investment,

and the company may hold, maintain, improve, sell or otherwise deal with or dispose of the real estate.

(2) Subject to subsections (3) and (4), a company may invest its own funds and its deposits and investment moneys in improved real estate for the production of income where the real estate is situated in Alberta or elsewhere where the company is registered or licensed to carry on business as a trust company, and the company may hold, maintain, improve, sell or otherwise deal with or dispose of the real estate.

Subsection (3) contains limitations on investments under subsections (1) and (2). These limitations will be dealt with in the regulations. See the amendments in this Bill to section 145 of the Act.

21 The proposed section 128.1 will enable Alberta trust companies to engage in equipment leasing.

The proposed section 128.2 is a general investment and lending power or “basket clause”.

The investment powers under both sections are subject to limitations and conditions prescribed by regulation: see the amendments in this Bill to section 145 of the Act.

(2) Where a lease entered into pursuant to subsection (1) is cancelled by the lessor by reason of the default of the lessee, a new lease may be entered into with respect to the same property and in that event

(a) subsection (1)(a) and (c) apply to the new lease, and

(b) the rentals under the new lease shall provide a net revenue sufficient

(i) to yield to the lessor a reasonable return during the term of the lease, and

(ii) to enable the lessor to recover the purchase price of the property so leased less any amounts recovered on account of the purchase price pursuant to the previous lease.

(3) Where a lease entered into under subsection (1) or (2) expires, the lease may be renewed or a new lease of the property entered into and in that event, subsection (1)(a), (b)(i) and (c) apply to the new lease or the renewal of the lease.

(4) Property leased under this section shall be sold at its fair market value when the lease is cancelled or expires and either the lease is not to be renewed or the property is not to be leased again.

Residual Power Respecting Investments and Loans

128.2 Subject to the regulations, a provincial company may, with the company's own funds and its deposits and investment moneys, make investments and loans not otherwise authorized by this Division.

22 *Section 129 is amended*

(a) *by striking out subsection (4) and by substituting the following:*

(4) Subsection (1)(a), (b) and (c) do not apply to a loan made by a company with the company's own funds to any of the persons referred to in those clauses or jointly to one of those persons and another or others, if

(a) the loan is approved by the board of directors or the executive committee of the board of directors of the company,

22 Section 129(1)(a), (b), (c) and (4) now reads:

129(1) Notwithstanding anything in this Division, a company shall not directly or indirectly with the company's own funds or its deposits and investment moneys make any loan to, or purchase any mortgage, loan, securities or real estate from,

(a) any director or officer of the company, or

(b) the spouse, child, parent, brother or sister of any director or officer of the company, or

(c) a person who is to the knowlege of the company the father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law of any officer or director of the company, or

(b) the amount of the loan does not exceed any limitation prescribed by the regulations,

(c) the loan does not contravene any conditions prescribed by the regulations,

(d) the loan is made on terms not more favourable to the borrower than to comparable borrowers of similar creditworthiness in the normal course of business, and

(e) in the case of a loan made pursuant to section 114 or 115, the loan is made only to a person referred to in subsection (1)(a), (b) or (c) or to that person and his spouse jointly and the loan relates to real estate used or to be used solely as the residence of the borrower or the borrower and his spouse.

(b) as to subsection (5)(c) by striking out “, a mortgage investment corporation of which the company is a shareholder or a real estate subsidiary of the company” and by substituting “or a mortgage investment corporation of which the company is a shareholder”,

(c) by repealing subsection (6) and by substituting the following:

(6) Subsection (1)(a) to (f) apply to a company in relation to an ancillary corporation of the company as though the words “the company” in those clauses read instead “an ancillary corporation of the company”.

23 Section 130(1)(a) is amended by striking out “or a real estate subsidiary of the company”.

24 Section 132(2) is repealed and the following is substituted:

(2) A person is not liable under subsection (1)

(a) if, being a director when the unauthorized investment or loan was approved and being present at the meeting of the board of directors or a committee thereof at the time when it was approved, he

(i) forthwith at that meeting entered on the minutes of that meeting his protest against the unauthorized investment, and

(ii) notified the Director, in writing, of his protest within 8 days after the date of that meeting,

or

(4) Subsection (1), clause (a) does not apply where the company makes a loan under section 114 or 115 to an officer of the company who is not a director in respect of real estate used or to be used solely as the residence of that officer, but the exemption provided by this subsection is limited to one loan to any one officer.

The amendments to subsections (5) and (6) are made as a consequence of the amendments in this Bill to sections 112 and 113 of the Act.

23 Consequential to the amendments in this Bill to sections 112 and 113 of the Act.

24 Section 132(2) now reads:

(2) A person is not liable under subsection (1)

(a) if, being a director when the unauthorized investment was approved and being present at the meeting of the board of directors or a committee thereof at the time when it was approved, he

(i) protested the unauthorized investment or loan at that meeting orally or in writing, and

(ii) notified the Director in writing, of his protest within eight days after the date of that meeting,

or

(b) if, being a director when the unauthorized investment or loan was approved but not being present at the meeting of the board of directors or a committee thereof at the time when it was approved, he

(i) being able to do so, filed with the company his protest against the unauthorized investment or loan within 24 hours after he became aware of it, and

(ii) being able to do so, notified the Director, in writing, of that protest within 8 days after the date on which he filed his protest with the company.

25 *Section 134(1) is amended*

(a) *in clause (c) by adding “or 112.1” after “section 112”, and*

(b) *by adding the following after clause (c):*

(c.1) any mortgage in respect of which an undertaking was given under section 114(4) if the undertaking has not been complied with, or

26 *Section 136 is amended by adding the following subsection after subsection (3):*

(3.1) This section applies only where the loan is made in Alberta.

27 *Section 139 is amended*

(a) *in subsection (9) by striking out “amalgamation” and by substituting “amalgamation”, and*

(b) *in subsection (13)(a) by striking out “amalgamated” and by substituting “amalgamated”.*

28 *Section 145 is amended*

(a) *by adding the following clauses after clause (d1):*

(d2) authorizing loans under section 113(3.1) and prescribing conditions with respect to the making of such loans;

(d3) prescribing limitations or conditions on the exercise by a provincial company of any of its powers to make investments or loans under Division 7;

(b) if, being a director when the unauthorized investment or loan was approved but not being present at the meeting of the board of directors or a committee thereof at the time when it was approved, he

(i) filed his written protest against the unauthorized investment or loan with the company, and

(ii) notified the Director in writing, of that protest,

within 30 days after the date on which he first had notice that the unauthorized investment or loan was so approved or within 60 days after the date when the unauthorized investment or loan was so approved, whichever is the sooner.

25 Section 134(1)(c) now reads:

134(1) The Director may by order direct a company to dispose of

(c) any common shares of an ancillary corporation of the company in respect of which there has been a contravention of any terms or conditions prescribed by the Lieutenant Governor in Council pursuant to section 112, or

As to the proposed clause (c.1) see the amendment in this Bill to section 114 of the Act and the explanatory note opposite.

26 Section 136 requires the submission of a loan statement to a borrower where there is a bonus or discount in favour of the trust company. The amendment will make it clear that, as regards Alberta-incorporated trust companies, the requirement applies only in Alberta.

27 Corrects typographical errors.

28 Section 145 enumerates regulation-making powers of the Lieutenant Governor in Council for the purposes of Part I of the Act.

As to the proposed clauses (d2),(d3),(d4) and (d5), see the amendments in this Bill relating to sections 113, 118 to 122, 124, 125 and 129(4) and the proposed sections 128.1 and 128.2.

The amendments to clause (g) are consequential to the amendments in this Bill to sections 112 and 113 of the Act.

(d4) prescribing limitations or conditions for the purposes of section 129(4);

(d5) authorizing the Minister or the Director to increase or decrease any limitations prescribed pursuant to clause (d3) or (d4) either generally or in particular circumstances or with respect to a particular company;

(b) in clause (g)(i) by striking out “and real estate subsidiaries”,

(c) in clause (g) by striking out “or” at the end of subclause (iii) and by repealing subclauses (iii) and (iv).

29 Section 165 is amended

(a) in clause (a) by striking out “and each real estate subsidiary of the company” and by substituting “or subsidiary”,

(b) in clause (b) by striking out “expense” and by substituting “expenses”, and

(c) in clause (b) by striking out “or real estate subsidiaries”.

30 Section 192(2) is amended by striking out “register of trust companies” and by substituting “Trust Companies Register”.

31(1) This Act, except the provisions enumerated in subsection (2), comes into force on the day upon which it is assented to.

(2) The following provisions of this Act come into force on a date or dates to be fixed by Proclamation:

section 2;

section 6;

section 10;

section 11(2);

section 12(c) and (d);

section 14;

section 17;

section 18;

section 19;

29 Consequential to the amendments in this Bill to sections 112 and 113 of the Act.

30 The name of the register is corrected to its proper name under section 146 of the Act.

section 20(b), (c) and (d);

section 21;

section 22;

section 23;

section 25(b);

section 28;

section 29.

