

1984 BILL PR 1

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL PR 1

**CENTRAL TRUST COMPANY AND
CROWN TRUST COMPANY ACT**

MR. ALEXANDER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill PR 1
Mr. Alexander

BILL PR 1

1984

CENTRAL TRUST COMPANY AND CROWN TRUST COMPANY ACT

(Assented to _____, 1984)

WHEREAS Crown Trust Company, Central Trust Company, the Canada Deposit Insurance Corporation and the Registrar appointed under the *Loan and Trust Corporations Act* (Ontario) have entered into an agreement effective February 7, 1983, constituting Central Trust Company as the agent of Crown Trust Company for the purpose of taking over and carrying on certain of the business of Crown Trust Company including the trusteeship and agency business in Alberta and in other areas of Canada; and

WHEREAS it is desirable that the rights and obligations of those who have relations with Crown Trust Company and Central Trust Company concerning the trusteeship and agency business of Crown Trust Company be clearly determined; and

WHEREAS Crown Trust Company and Central Trust Company have by their petition prayed that it be enacted as herein set forth and it is expedient to grant the prayer of the petition;

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

Rights of third parties

1 Nothing in this Act affects the rights of any person having a claim against Crown Trust Company in respect of a document or trust to which section 3 applies, or impairs, modifies or affects the liability of Crown Trust Company to any such person, but all such rights as may be enforceable in Alberta may be asserted against Central Trust Company, which shall be responsible for all debts, liabilities and obligations of Crown Trust Company in respect of every such document and trust.

Non-application; exceptions

2(1) This Act does not apply to

(a) real or personal property owned or held by, vested in, or granted to Crown Trust Company, and that is held by Crown Trust Company exclusively for its own use and benefit, and not in trust for or for the benefit of any other person or purpose;

(b) real or personal property that is held by Crown Trust Company under a document or trust to which section 3 applies that is situate outside Alberta, and any power, right, immunity, privilege, or right of action that may be exercised by or against Crown Trust Company under any such document or trust with respect to that property, but,

(i) for all property situate outside Alberta for which Crown Trust Company has been appointed, or is entitled to be appointed, by a court of Alberta, as personal representative of a deceased person, whether as executor, administrator or otherwise, Central Trust Company may, upon application to that court, be appointed personal representative in the place and stead of Crown Trust Company with respect to that property, and

(ii) for all property situate outside Alberta not coming within subclause (i), but held by Crown Trust Company under a document or trust to which section 3 applies, for which the Court of Queen's Bench or the Surrogate Court has jurisdiction under section 16 of the *Trustee Act* to make an order for the appointment of a new trustee, Central Trust Company may, upon application to the Court of Queen's Bench or the Surrogate Court, as the case may be, be appointed trustee in the place and stead of Crown Trust Company with respect to that property, and such appointment has for all purposes of the laws of Alberta the same effect as if made under section 16 of the *Trustee Act*,

and sections 1 and 6 of this Act apply to every document and trust in respect of which an appointment is made under subsection (1)(b)(i) or (ii);

(c) trusts relating to moneys received for guaranteed investment and any real or personal property held in trust with respect to any such guaranteed investment of which Crown Trust Company is trustee.

(2) Notwithstanding subsection (1)(c), this Act applies to trusts relating to moneys received for guaranteed investment and any real or personal property held in trust with respect to any registered retirement savings plan, registered retirement income fund, registered home ownership savings plan, deferred profit-sharing plan or income averaging annuity contract, as those terms are defined in the *Income Tax Act* (Canada).

Substituted
fiduciary

3(1) Subject to section 2, and notwithstanding any contrary provision in the *Trustee Act*, Central Trust Company is substituted in the place and stead of Crown Trust Company in or in respect of every trust, trust deed, trust agreement, instrument of creation, settlement, assignment, will, codicil or other testamentary document, and every letters probate, letters of administration, judgment, decree, order, directions or appointment of any court, judge or other constituted authority, and every other document or trust howsoever created, including every incomplete or inchoate trust, and in every conveyance, mortgage, assignment, appointment or other writing, wherein or whereby, or of which Crown Trust Company is named as executor, administrator, trustee, bailee, committee, assignee, liquidator, receiver, guardian, curator or agent, or is named to any other office or position whatsoever wherein any property, interest, possibility or right is vested in, administered or managed by, or put in charge of Crown Trust Company in trust, or in the custody, care or control of Crown Trust Company, for or for the benefit of any person or purpose, and every such document and trust shall be construed and given effect as if Central Trust Company had been named therein in the place and stead of Crown Trust Company.

(2) Notwithstanding any contrary provision in the *Trustee Act*, where an instrument specified or described in subsection (1) names Crown Trust Company to any office or position described in that subsection and the instrument takes effect after the substitution of Central Trust Company for Crown Trust Company, Central Trust Company shall be deemed to be named therein in the place of Crown Trust Company.

Trust property
vests in Central
Trust Company

4 Subject to section 2, and notwithstanding any contrary provision in the *Trustee Act*, all real and personal property and every interest therein that is granted to, or held by, or vested in Crown Trust Company, whether by way of security or otherwise, in trust, or in the custody, care or control of Crown Trust Company, for or for the benefit of any other person or purpose, pursuant to or in respect of every document and trust to which section 3 applies, and whether in the form in which it was originally acquired by Crown Trust Company or otherwise, is vested in Central Trust Company, according to the tenor of and at the time indicated or intended by the document or trust, upon the same trusts, and with the same powers, rights, immunities and privileges and subject to the same obligations and duties as are thereby provided, granted or imposed.

Registration of
Act not required

5 Subject to sections 7, 8 and 9, for the purposes of every Act affecting the title to property, both real and personal, the vesting of title in Central Trust Company of every property affected by section 4 is effective without the registration or filing of this Act, or any further or other instrument, document or certificate showing the change of title in any public office whatsoever within the jurisdiction of the Province of Alberta.

Legal
proceedings

6(1) No suit, action, appeal, application or other proceeding being carried on and no power or remedy being exercised by or against Crown Trust Company in any court of Alberta, or before any tribunal or agency of the Province of Alberta, pursuant to or in respect of a document or trust to which section 3 applies, shall be discontinued or abated on account of this Act, but may be continued in the name of Central Trust Company, which shall have the same rights, shall be subject to the same liabilities, and shall pay or receive the same costs and award as if the suit, action, appeal, application or other proceeding had been commenced or defended in the name of Central Trust Company.

(2) A suit, action, appeal, application or other proceeding, or a power, right, remedy or right of distress that might have been brought or exercised by or against Crown Trust Company pursuant to or in respect of a document or trust to which section 3 applies, may be brought or exercised by or against Central Trust Company, which shall have the same rights, and shall be subject to the same liabilities in respect thereof, as those which Crown Trust Company would have or be subject to if this Act had not been enacted.

(3) In a suit, action, appeal, application or other proceeding that has been continued or commenced in the name of Central Trust Company under subsections (1) or (2), Crown Trust Company and its officers and employees shall be deemed to have been acting on behalf of Central Trust Company in performing any act, whether before or after the commencement of this Act, involving the administration of a document or trust to which section 3 applies, and for the purposes of examination for discovery or production of documents in relation to any such proceeding, Crown Trust Company and its officers and employees shall be subject to the same obligations as if this Act had not been enacted.

Notice

7 Where a person is under an obligation to make payments in relation to property that is vested in Central Trust Company under section 4, the person may make the payments to Crown Trust Company until Central Trust Company gives or causes to be given notice in writing to the person that payment shall be made to Central Trust Company, and thereupon the person's obligation is owed to Central Trust Company.

Instruments
dealing with
property

8(1) Every instrument dealing with property that is vested in Central Trust Company under section 4, but that is registered in the name of Crown Trust Company in any public office of the Province of Alberta or in respect of which Crown Trust Company is shown by a document of title as having legal ownership thereof, shall be executed by Central Trust Company and shall contain a recital referring to the vesting under this Act.

(2) An instrument executed by Central Trust Company containing the recital required by subsection (1) may be accepted for registration by any public office within the jurisdiction of the Province of Alberta without further proof of the accuracy of the recital, and every such instrument shall be deemed to be effective as against Crown Trust Company and Central Trust Company in passing title to the property described in the instrument notwithstanding any inaccuracy contained in the recital.

Interests in
personal property

9 The vesting in Central Trust Company under section 4 of any interest in personal property constitutes a valid assignment of the interest of Crown Trust Company within the meaning of the *Assignment of Book Debts Act*, the *Bills of Sale Act* and the *Conditional Sales Act*.

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.