

1980

c 249 Loan and Trust Corporations Act

Ontario

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CHAPTER 249

— Loan and Trust Corporations Act

1. In this Act,

Interpre-
tation

- (a) "accountant" means a person who is a member of The Canadian Institute of Chartered Accountants or any other person who is an accountant and who, in either case, is acceptable to the Registrar as being competent to audit the accounts and transactions of corporations under this Act and includes a partnership of which the members are accountants;
- (b) "chief agency" means the principal office or place of business in Ontario of a corporation that has its head office out of Ontario;
- (c) "corporation" means a loan corporation or a trust company;
- (d) "due application" includes the furnishing of information, evidence and material required by the Registrar, and the payment of the prescribed fees in respect of any application, certificate or document required or issued under this Act, and also the payment to the Minister of Revenue of all taxes due and payable by the applicant company under any Act;
- (e) "extra-provincial corporation" means a corporation that was not incorporated under the law of Ontario;
- (f) "head office" means the place where the chief executive officers of the corporation transact its business;
- (g) "law of Ontario" includes any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario;
- (h) "loan corporation" means an incorporated company, association or society, constituted, authorized or operated for the purpose of accepting deposits or issuing debentures, notes and like obligations and of lending money on the security of real estate or investing money in mortgages, charges or hypothecs

R.S.O. 1980,
cc. 102, 221

upon real estate or for those and any other purposes, but does not include a chartered bank, an insurance corporation, a trust company, a credit union incorporated under the *Credit Unions and Caisses Populaires Act*, a company referred to in clause 180 (f) or clause 183 (g) and that is controlled by a loan corporation or a trust corporation in accordance with the regulations, or an investment company registered under the *Investment Contracts Act*;

- (i) "Minister" means the member of the Executive Council under whose direction this Act is administered;
- (j) "paid in", as applied to the capital stock of a corporation or to any of its shares, means the amount paid to it on its shares, not including the premium, if any, paid on such shares, whether such shares are or are not fully paid up;
- (k) "provincial corporation" means a corporation incorporated under the law of Ontario;
- (l) "provincial trust company" means a trust company that is a provincial corporation;
- (m) "real estate" includes messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein;
- (n) "registered corporation" means a corporation registered under this Act;
- (o) "Registrar" means the Registrar appointed under this Act;
- (p) "subordinated note" means an instrument evidencing an indebtedness of a corporation that by its terms provides that the indebtedness evidenced by it shall, in the event of the insolvency or winding-up of the corporation, rank equally with the indebtedness evidenced by other subordinated notes of the corporation but be subordinate in right of payment to all other indebtedness of the corporation;
- (q) "trust company" means a company constituted or operated for the purpose of acting as trustee, bailee, agent, executor, administrator, receiver, liquidator,

assignee, guardian of a minor's estate, or committee of a mentally incompetent person's estate. R.S.O. 1970, c. 254, s. 1; 1972, c. 101, s. 1; 1973, c. 128, s. 1; 1974, c. 88, s. 1.

2.—(1) This Act applies, according to its context, to every corporation within the meaning of this Act. Application of Act

(2) With respect to every provincial corporation, whether formed or incorporated before or after the passing of this Act and whether formed or incorporated by or under a special or general Act or by letters patent or otherwise, any provision of the Act or letters patent or other instrument of incorporation that is inconsistent or in conflict with the provisions of this Act does not apply. R.S.O. 1970, c. 254, s. 2 (1, 2). Idem

(3) Sections 4 to 90, except sections 52 and 69, and sections 98 to 102, and sections 123, 126, 127, 128, 186, 191 and 193 apply only to provincial corporations. 1972, c. 101, s. 2, *part*; 1973, c. 128, s. 2. Idem

(4) Sections 91 to 97 apply only to registered corporations having their head office in Ontario. Idem

(5) Sections 155, 156, 166, 184, 185, 194 and 195 and sections 198 to 200 and section 203 apply only to registered corporations. 1972, c. 101, s. 2, *part*. Idem

3. This Act does not apply to,

Non-application of Act

(a) an incorporated company that is authorized, constituted or operated for the purpose of lending money on the security of real estate or investing money in mortgages, charges or hypothecs upon real estate that does not accept deposits, and borrows only by way of,

(i) loans from chartered banks in the usual course of business, or

(ii) the issue of debentures, notes or like obligations of an amount not less than \$100,000 each to any one person on his account, whereby the company is not obligated, or by demand of the holder cannot be obligated, to repay the money secured by such a debenture, note or like obligation within five years from the date of the issue of the said debenture, note or like obligation;

- (b) an incorporated company whose objects do not provide for the lending of money on the security of real estate or leaseholds or the investing of its funds in mortgages or hypothecs on real estate or leaseholds and that acquires the bonds, debentures, debenture stock or other securities of a company that are collaterally secured wholly or in part by a mortgage or hypothec upon real estate or leaseholds. 1974, c. 88, s. 2.

INCORPORATION OF LOAN CORPORATIONS
AND TRUST COMPANIES

Application
for incor-
poration

4.—(1) An application for the incorporation of a loan corporation or a trust company shall be made by petition to the Lieutenant Governor in Council through the Minister in the prescribed form, and shall be delivered to the Registrar.

Notice of
application

(2) The applicants shall for one month next before filing their application with the Registrar publish a notice thereof in *The Ontario Gazette*, and shall also before such filing give a like notice at least once in a newspaper published in the locality in which the head office is to be established.

Contents

(3) The notice shall state the proposed corporate name, the location of the head office, which shall be in Ontario, the purposes of the corporation, and for what amount of permanent capital stock authorization will be asked, with the number of shares and the par value of the shares.

Further
information

(4) The applicants shall furnish such further information as is required by the Minister or the Registrar. R.S.O. 1970, c. 254, s. 3 (1-4).

Application
to be accom-
panied by a
declaration

(5) The application shall be accompanied by the original, or one of the duplicate originals, of a declaration adopted at a general meeting of the promoters, and executed under their respective hands and seals by at least five persons present at the meeting who are subscribers for shares. R.S.O. 1970, c. 254, s. 3 (5); 1974, c. 88, s. 3.

Contents
of declara-
tion

(6) The declaration shall set out the names in full and the address and calling of each of the declarants and shall declare that the declarants assembled at.....
on.....(naming the place and time);
.....being chairman, and
.....being secretary of the meeting (naming them) did there and then agree to constitute themselves a provisional corporation by the name of (mentioning the proposed corporate name) under the *Loan and Trust Corporations Act*

and under the proposed by-laws there and then adopted, and annexed to the declaration, also that the five persons (*naming them*) were elected provisional directors.

(7) The Minister may refer the application or any question arising thereunder to the Registrar for a report, and the Registrar shall report thereon. R.S.O. 1970, c. 254, s. 3 (6, 7). Reference to Registrar

5.—(1) Three copies of the proposed by-laws shall accompany the declaration, one copy duly certified being annexed thereto. By-laws to accompany declaration

(2) Subject to this Act, the by-laws shall,

What they shall provide for

(a) provide for the proposed corporate name, and the location of the head office of the corporation;

(b) set out the purposes for which the corporation is to be constituted;

(c) state the capital of the corporation, the classes, if any, into which it is to be divided, the number of shares of each class and the par value of each share, and where more than one class of shares is provided for, one class shall be common shares designated as such, and the other class or classes shall be preference shares designated as such;

(d) in the case of preference shares, provide for the preferences, rights, conditions, restrictions, limitations or prohibitions attaching thereto including, without limiting the nature thereof, the right of the corporation to purchase for cancellation or at its option to redeem all or part of the preference shares of any class, or provide for conditions, restrictions, limitations or prohibitions on the right to vote;

(e) in the case of a loan corporation, define and regulate the exercise of such general powers of borrowing as are by this Act conferred upon loan corporations and declare within what limits such borrowing powers are to be exercised, and whether by issuing debentures or otherwise;

(f) provide for the holding of general meetings of the shareholders;

(g) provide for the election of directors, prescribe their number, powers, duties, and term of office, and the number necessary to constitute a quorum;

(h) provide that security in amounts satisfactory to the board of directors is to be taken for the fidelity of the person or persons having custody or control of the funds of the corporation; and

(i) provide for amendment of the by-laws by the shareholders in general meeting. R.S.O. 1970, c. 254, s. 4.

Stock
subscription

6. A sworn copy of the stock subscription shall also be filed with the Registrar containing such particulars as he may require. R.S.O. 1970, c. 254, s. 5.

Minister
may direct
amendment
of by-laws

7. If, on receiving an application for incorporation, the Minister finds in the by-laws anything repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. R.S.O. 1970, c. 254, s. 6.

First
by-laws of
corporation

8. The by-laws accompanying the declaration mentioned in section 4, with such amendments as have been required by the Minister, are the first by-laws of the corporation and take effect on the date of the incorporation. R.S.O. 1970, c. 254, s. 7.

Affidavit
as to
subscription
and
payment

9.—(1) For the purpose of incorporation, the applicants shall file with the Registrar an affidavit showing that at least \$1,000,000 of stock has been subscribed for and taken up *bona fide* by at least five responsible subscribers, that each of the applicants holds in his own name and for his own use shares of an aggregate par value of at least \$1,000 and has paid in cash all calls due thereon and all liabilities incurred by him to the corporation, that at least \$1,000,000 of such subscribed stock has been paid in cash by the subscribers into a branch in Ontario of a chartered bank, in trust for the proposed corporation, free from all liability on the part of the proposed corporation or any of the subscribers to make repayment of the same or any part thereof to any person, firm or corporation and that each subscriber has, out of his own money, contributed to the amount so paid in rateably according to the amount of shares subscribed for by him. R.S.O. 1970, c. 254, s. 8 (1); 1973, c. 128, s. 3.

New
corporation
acquiring
assets of
existing
corporation

(2) Where the corporation is to be constituted for the purpose of acquiring the assets of one or more existing corporations and the proposed consideration for the transfer of the assets is to consist wholly or in part of shares of the capital stock of the new corporation, the Lieutenant Governor in Council may dispense with the requirements of subsection (1) as to subscription and payment to such extent as the Lieutenant Governor in Council considers proper. R.S.O. 1970, c. 254, s. 8 (2).

10.—(1) No share shall be issued until it is fully paid and a share is not fully paid until all consideration therefor has been received by the corporation. Fully paid shares

(2) No shares of any class shall be issued at a discount or upon any terms, agreement or understanding that the holder thereof is liable for any lesser amount than the par value thereof. R.S.O. 1970, c. 254, s. 9 (1, 2). No issue of shares at discount

(3) No transfer of shares shall be made that has the effect of reducing the number of shareholders to less than five. R.S.O. 1970, c. 254, s. 9 (3); 1973, c. 128, s. 4 (1). No transfer to reduce number of shareholders to less than 5

(4) Shares without par value shall not be allotted or issued except for such consideration as the by-laws provide. 1973, c. 128, s. 4 (2). Consideration for no par value shares

11.—(1) A grant of incorporation shall be by letters patent. Letters patent

(2) The letters patent shall set forth the name under which, and the date at which, the corporation became incorporated, the location of the head office, the amount of stock authorized, and the business to be undertaken by the corporation, distinguishing between the classes of business mentioned in section 148. R.S.O. 1970, c. 254, s. 10. Contents

12. Incorporation may be granted without limitation of time or for any limited term of years not less than ten. R.S.O. 1970, c. 254, s. 11. Term

13.—(1) Where incorporation is granted for a limited term of years, the letters patent shall specify the first and the last day of the term. Term to be specified if limited

(2) Where incorporation has been granted for a limited term, application may, upon the like notice as is required by section 4, be made on or before the expiry of the term for the renewal or extension of the incorporation, and the incorporation may be renewed or extended by letters patent either without limitation of time or for a limited term. R.S.O. 1970, c. 254, s. 12. Renewal of terminating charter

14.—(1) If a corporation does not go into actual *bona fide* operation and becomes registered under this Act within two years after incorporation or if it does not use its corporate powers for the purposes set forth in its letters patent, the Act or instrument of incorporation, or is not registered under this Act during a period of two consecutive years, its corporate powers, except so far as is necessary for winding up the corporation, shall thereupon cease and determine. Termination of corporate powers where non-user

Onus of
proof of
user

(2) In any action or proceeding where such non-user is alleged, proof of user lies upon the corporation.

Rights of
creditors not
affected

(3) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Charter
may be
revived

(4) The Lieutenant Governor in Council may upon application revive any charter so forfeited, upon compliance with such conditions and upon payment of such fees as the Lieutenant Governor in Council may designate. R.S.O. 1970, c. 254, s. 13.

Consent of
holders to
redemption

15. Unless preference shares, debentures or bonds are issued subject to redemption or conversion, they are not subject to redemption or conversion without the consent of the holders thereof. R.S.O. 1970, c. 254, s. 14.

First
directors
of the
corporation

16. Where incorporation is granted, the provisional directors named in the declaration of the applicants are the first directors of the corporation, and shall continue in office until their successors are duly elected. R.S.O. 1970, c. 254, s. 15.

When letters
patent of
trust or loan
company
may issue

17.—(1) Letters patent of incorporation of a trust or loan company may issue where it is shown to the satisfaction of the Lieutenant Governor in Council that, in the locality in which the head office of the proposed company is to be situate, there exists a public necessity for a trust or loan company or for an additional trust or loan company.

Satisfying
Lieutenant
Governor of
fitness of
applicants

(2) Such letters patent shall not issue unless the Lieutenant Governor in Council is satisfied that the fitness of the applicants to discharge the duties of a trust or loan company is such as to command the confidence of the public and that the public convenience and advantage will be promoted by granting to the company the powers applied for. R.S.O. 1970, c. 254, s. 16.

Application
by loan
corporation
for power to
act as agent

18.—(1) A loan corporation may apply by petition to the Lieutenant Governor in Council for an order authorizing the corporation to act generally as agent for the transaction of business, the collection of loans, rents, interest, dividends, mortgages and other securities for money, as a depository for the safekeeping of securities and personal property and to carry on the business of a mortgage or real estate broker.

Application
authorized
by resolution

(2) An application under subsection (1) shall be authorized by a resolution of the directors.

Amendment
of
registration

(3) Upon the making of an order under subsection (1), the Registrar shall amend the registration of the corporation

kept under clause 148 (1) (a) and subsection 163 (1). R.S.O. 1970, c. 254, s. 17.

19.—(1) A loan corporation incorporated and registered under this Act may apply by petition to the Lieutenant Governor in Council for an order designating it as a mortgage investment company for the purpose of carrying on business as a mortgage investment corporation within the meaning of the *Income Tax Act* (Canada) and such order may be made subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

Mortgage investment company

R.S.C. 1952, c. 148

(2) Notwithstanding section 104, a loan corporation that is designated as a mortgage investment company shall not borrow money on deposit.

Not to take deposits

(3) A loan corporation that is designated as a mortgage investment company shall carry on its undertaking in Ontario and the other provinces and territories of Canada only.

Business confined

(4) A loan corporation that is designated as a mortgage investment company shall not commence business as a mortgage investment company until its by-laws have been amended to conform to the terms and conditions prescribed, the provisions of sections 20 to 24, and the regulations and such by-laws have been filed with and approved by the Registrar.

By-laws must conform

(5) Upon the making of the order under subsection (1) and the amendment and approval of the by-laws under subsection (3), the Registrar shall amend the registration of the loan corporation kept under clause 148 (1) (a) and subsection 163 (1). 1973, c. 128, s. 5, *part*.

Amendment of registration

20.—(1) Notwithstanding sections 178 and 179 and subject to subsection (2), a loan corporation designated as a mortgage investment company shall have and maintain at least 50 per cent of the book value of its assets in one or more of the following forms,

Investments

(a) investments in mortgages or hypothecs on residential property as defined in the *Residential Mortgage Financing Act* (Canada) or loans on the security of such property; and

1973, c. 49 (Can.)

(b) cash on hand or on deposit in a bank or other depository approved by the Registrar.

Idem

(2) The total of,

(a) the book value of the investments of a mortgage investment company in shares of the capital stock of companies at least 85 per cent of whose assets are in the form of residential property as defined in the *Residential Mortgage Financing Act* (Canada); and

1973, c. 49
(Can.)

(b) the book value of the investments of a mortgage investment company in real estate or leaseholds before deducting the amount of any charges or liens thereon but excluding real estate or leaseholds acquired by the company by foreclosure or otherwise after default made on a mortgage, hypothec or agreement of sale in respect thereof,

shall not exceed 25 per cent of the book value of its total assets. 1973, c. 128, s. 5, *part*.

Investment
in real estate
or leaseholds

21.—(1) Notwithstanding sections 178 and 179, a loan corporation designated as a mortgage investment company may invest its funds in real estate or leaseholds in Canada for the production of income, either alone or jointly with any corporation incorporated in Canada or any person administering a trust governed by a registered pension plan or deferred profit sharing plan as those plans are defined in the *Income Tax Act* (Canada), if,

R.S.C. 1952,
c. 148

(a) a lease of the real estate or leasehold is made to, or guaranteed by,

(i) the government, or an agency of the government, of the province in which the real estate or leasehold is situated, a municipality in that province or an agency of such municipality, or

(ii) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause 178 (1) (l) or (m); and

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

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

(2) A loan corporation designated as a mortgage investment company may invest its funds in real estate or leaseholds in Canada for the production of income, either alone or jointly with any corporation incorporated in Canada or any person administering a trust governed by a registered pension plan or deferred profit sharing plan as those plans are defined in the *Income Tax Act* (Canada), if the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and the company may hold, maintain, improve, repair, lease, sell or otherwise deal with or dispose of the real estate or leasehold.

Idem
R.S.C. 1952,
c. 148

(3) Clauses 178 (1) (n) and (o) do not apply in respect of a corporation to which this section applies. 1973, c. 128, s. 5, (n, o) *part.*

Application
of s. 178 (1)
(n, o)

22.—(1) A loan corporation designated as a mortgage investment company may, subject to this section, make investments and loans not authorized by sections 20, 21 and 178, including investments in real estate or leaseholds.

Other
investments
"basket
clause"

(2) Investments in real estate or leaseholds in Canada made under subsection (1) shall be made only for the production of income, and may be made either alone or jointly with any corporation incorporated in Canada or any person administering a trust governed by a registered pension plan or deferred profit sharing plan as those plans are defined in the *Income Tax Act* (Canada); and the company may hold, maintain, improve, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds.

Production
of income

(3) This section shall be deemed not to, Saving

(a) enlarge the authority conferred by section 178 to invest in mortgages or hypothecs and to lend on the security of real estate or leaseholds; or

(b) affect the operation of section 185 with reference to the maximum proportion of common shares and

total shares of any corporation that may be purchased.

Limit

(4) Section 179 does not apply in respect of a company to which subsection (1) applies but the total value of the investments made under subsection (1) and held by the company, excluding those that are or at any time since acquisition have been authorized as investments apart from that subsection, shall not exceed 7 per cent of the book value of the total assets of the company. 1973, c. 128, s. 5, *part*.

Borrowing
powers
limited

23.—(1) Notwithstanding section 109, the aggregate of the sums of money borrowed by a loan corporation designated as a mortgage investment company and outstanding shall not at any time exceed five times the excess of the book value of the assets of the company over its liabilities, but if at any particular time the book value of the assets of the company in the form of,

1973, c. 49,
(Can.)

(a) investments in mortgages or hypothecs on residential property as defined in the *Residential Mortgage Financing Act* (Canada) or loans on the security of such property; and

(b) cash on hand or on deposit in a bank or other depository approved by the Superintendent of Insurance,

are less than two-thirds of the book value of the assets of the company, the aggregate of the sums of money borrowed by the company and outstanding shall not at that time exceed three times the excess of the book value of the assets of the company over its liabilities.

Computing
sums
borrowed

(2) For the purpose of subsection (1), the principal amount of any charges or liens on the real estate or leaseholds remaining unpaid shall be included in the computation of the sums of money borrowed by the corporation. 1973, c. 128, s. 5, *part*; 1974, c. 88, s. 4.

Liquidity
level

24.—(1) A loan corporation designated as a mortgage investment company shall so manage its affairs that the aggregate of,

(a) all repayments of principal on mortgages or hypothecs held by it and reasonably expected to be received within the year;

(b) amounts maturing on its other investments within the year;

(c) such amount of credit from chartered banks in Canada as is acquired in accordance with conditions imposed by the Superintendent of Insurance; and

(d) cash on hand or on deposit in a bank or other depository approved by the Superintendent of Insurance,

shall at all times be equal to or in excess of the aggregate of the sum of all mortgage commitments made by it and falling due within the year and the amount of all debt instruments issued by it and maturing within the year.

(2) In this section, the expression "within the year" means the twelve-month period following the month in which the calculation is made. 1973, c. 128, s. 5, *part*. Meaning of "within the year"

25. Notwithstanding subsection 388 (1) of the *Insurance Act* and sections 178 and 181 of this Act, the shares, debentures and other evidence of indebtedness of a loan corporation designated as a mortgage investment company under this Act or under the *Loan Companies Act* (Canada) are an eligible investment for the funds of insurance companies, trust companies and other loan corporations. 1974, c. 88, s. 5. Shares eligible for investment
R.S.O. 1980, c. 218
R.S.C. 1970, c. L-12

26. The Lieutenant Governor in Council may make regulations with respect to loan corporations designated as mortgage investment companies, Regulations

(a) prescribing limitations on their dealings with companies providing investment advice or management services;

(b) prescribing limitations and restrictions with respect to their purchase or acquisition of assets from or sale of assets to their directors, officers or shareholders;

(c) providing for their redesignation as loan corporations. 1973, c. 128, s. 5, *part*.

STATUTORY MEETINGS

27.—(1) Every corporation shall, within a period of not less than one month and not more than three months from the date at which the corporation is entitled to commence business, hold a general meeting of its shareholders called "the statutory meeting". Statutory meetings

Report to
be sent to
shareholders

(2) The directors shall, at least ten days before the day on which the meeting is to be held, forward to every shareholder of the corporation a report certified by not fewer than two directors of the corporation showing,

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) the total amount of cash received by the corporation in respect of such shares, distinguished as aforesaid;
- (c) an abstract of the receipts and payments of the corporation on capital account to the date of the report, and an account or estimate of the preliminary expenses of the corporation;
- (d) the names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the corporation; and
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

Report to be
certified by
auditors

(3) The report, so far as it relates to the shares allotted by the corporation, and to the cash received in respect of such shares, and to the receipts and payments of the corporation on capital account, shall be certified as correct by the auditors, if any, of the corporation.

Report to be
filed with
Registrar

(4) The directors shall cause a copy of the certified report to be filed with the Registrar forthwith after sending it to the shareholders.

List of
shareholders
to be
produced at
meeting

(5) The directors shall cause a list showing the names and addresses of the shareholders, and the number of shares held by each of them, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder of the corporation during the continuance of the meeting.

Shareholders
may discuss
business of
company at
meeting

(6) The shareholders present at the meeting are at liberty to discuss any matter relating to the formation of the corporation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been duly given shall be passed.

(7) The meeting may adjourn from time to time, and at any such adjourned meeting any resolution of which notice has been duly given, either before or after the former meeting, may be passed, and an adjourned meeting has the same powers as the original meeting. Adjourn-
ments

(8) If default is made in filing the report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Supreme Court for the winding up of the corporation, and the court may either direct that the corporation be wound up or give directions for the report being filed or a meeting being held, or make such other order as is just, and may order that the costs of the petition be paid by the persons who, in the opinion of the court, are responsible for the default. R.S.O. 1970, c. 254, s. 18. Application
to court
if default
made

GENERAL MEETINGS OF SHAREHOLDERS

28.—(1) A corporation shall hold an annual meeting of shareholders at the head office of the corporation or elsewhere in Ontario at least once in each year for the purposes of considering the financial statement of the corporation required to be laid before the meeting by section 101, the election of directors, the appointment of auditors and the transaction of such other business as is permitted or required by law or by the by-laws of the corporation. Annual
meeting

(2) Notice of the time and place of the annual meeting shall be given to each person who on the record date for notice appears on the records of the corporation as a shareholder by delivering or sending the notice by mail to his latest address as shown on the records of the corporation at least ten days before the date of the meeting. R.S.O. 1970, c. 254, s. 19. Notice

29.—(1) The directors of a corporation may at any time by resolution call a general meeting of the shareholders for the transaction of any business specified in the resolution. General
meetings

(2) Shareholders holding not less than 10 per cent of the issued shares of a corporation carrying the right to vote at the meeting may request the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act. Requisition
by
shareholders

(3) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed Form of
requisition

by the requisitionists and deposited at the head office of the corporation, and may consist of several documents in like form signed by one or more requisitionists.

Directors to
call general
meeting

(4) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders for the transaction of the business stated in the requisition.

Notice

(5) Notice of any general meeting of the shareholders shall be given in the manner provided in subsection 28 (2).

Other
business

(6) No business other than that specified in the notice thereof shall be transacted at a general meeting unless all the shareholders are present in person or are represented by proxy and unanimously consent thereto. R.S.O. 1970, c. 254, s. 20.

Offence

30. Every director or officer of a corporation wilfully neglecting or omitting to give or cause to be given the notice for any general meeting required by section 29 is guilty of an offence. R.S.O. 1970, c. 254, s. 21.

Record
dates

31. The by-laws may provide for the fixing in advance of a date as the record date,

(a) for the determination of the shareholders entitled to notice of meetings of the shareholders, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and, where no such record date for notice is fixed by by-law, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and

(b) for the determination of the shareholders entitled to vote at meetings of the shareholders, which record date for voting shall be not more than forty-eight hours, excluding Saturdays and holidays, before the date of the meeting and, where no such record date for voting is fixed by by-law, the record date for voting shall be at the time of the taking of the vote. R.S.O. 1970, c. 254, s. 22.

Voting
rights

32. The holder of each common share and, subject to clause 5 (2) (d), the holder of each preference share who on the record date for voting appears on the records of the corporation as a shareholder is entitled to one vote for each share held by him, upon which he is not in arrear in respect of any call, at all meetings of shareholders of the corporation. R.S.O. 1970, c. 254, s. 23.

33. In this section and in sections 35 to 40,

Interpre-
tation

- (a) "Commission" means the Ontario Securities Commission;
- (b) "company" means a body corporate, including a corporation to which this Act applies;
- (c) "form of proxy" means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (d) "information circular" means the circular referred to in subsection 36 (1);
- (e) "proxy" means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;
- (f) "solicit" and "solicitation" include,

- (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
- (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
- (iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
- (iv) the sending or delivery of a form of proxy to a shareholder pursuant to section 35,

but do not include,

- (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy. 1973, c. 128, s. 6, *part.*

34.—(1) Every shareholder of a corporation, including a ^{Proxies} shareholder that is a company, entitled to vote at a meeting

of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Execution
and
termination

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a company, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

Contents

(3) In addition to the requirements, where applicable, of section 38, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the provincial corporation are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

Revocation

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a company, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the corporation at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

Time limit
for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the provincial corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. 1973, c. 128, s. 6, *part*.

Mandatory
solicitation
of proxies

35.—(1) Subject to section 37, the management of a corporation shall, concurrently with or prior to giving notice of a meeting of shareholders of the corporation, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his last address as shown on the books of the corporation a form of proxy for use at such meeting that complies with section 38.

(2) If the management of a provincial corporation fails to comply with subsection (1), the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and every director or officer of the corporation who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine. 1973, c. 128, s. 6, *part*.

36.—(1) Subject to subsection (2) and section 37, no person shall solicit proxies unless, Information circular

(a) in the case of a solicitation by or on behalf of the management of a corporation, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the corporation whose proxy is solicited at his last address as shown on the books of the corporation; or

(b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the corporation whose proxy is solicited.

(2) Subsection (1) does not apply to,

Where
subs. (1)
does not
apply

(a) any solicitation, otherwise than by or on behalf of the management of a corporation, where the total number of shareholders whose proxies are solicited is not more than fifteen, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder;

(b) any solicitation by a person made under section 48 of the *Securities Act*; and

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c. 466

(c) any solicitation by a person in respect of shares of which he is the beneficial owner.

(3) A person who fails to comply with subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a corporation, every director or officer of such corporation who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine. Offence

(4) A person who effects a solicitation that is subject to this section by means of a form of proxy, information circular or other communication that contains an untrue statement of a material fact or omits to state a material fact necessary in Idem

order to make any statement contained therein not misleading in the light of the circumstances in which it was made is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a like fine.

Saving

(5) No person is guilty of an offence under subsection (4) in respect of any untrue statement of a material fact or omission to state a material fact in a form of proxy or information circular, if the untruth of such statement or the fact of such omission was not known to the person who effected the solicitation and in the exercise of reasonable diligence could not have been known to such person. 1973, c. 128, s. 6, *part*.

Where
s. 35 and
s. 36 (1) do
not apply

37.—(1) Section 35 and subsection 36 (1) do not apply to a corporation that has fewer than fifteen shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder.

Exemption
orders

(2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to the Commission to be just and expedient, exempting any person from the requirements, in whole or in part, of section 35 or of subsection 36 (1).

Hearing of
Commission
R.S.O. 1980,
c. 466

(3) The provisions of the *Securities Act* respecting hearings by the Commission apply, so far as possible, to hearings of the Commission under this section.

Appeal
from
Commissions

(4) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Divisional Court, and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. 1973, c. 128, s. 6, *part*.

Special form
of proxy

38. Where section 35 or 36 is applicable to a solicitation of proxies,

(a) the form of proxy sent to a shareholder by a person soliciting proxies,

(i) shall indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the corporation, and

(ii) shall provide a specifically designated blank space for dating the form of proxy;

(b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the election of directors and the appointment of auditors, provided that a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type how it is intended to vote the shares represented by the proxy in each such case;

(c) a proxy may confer discretionary authority with respect to,

(i) amendments or variations to matters identified in the notice of meeting, or

(ii) other matters which may properly come before the meeting,

provided that,

(iii) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and

(iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;

(d) no proxy shall confer authority,

(i) to vote for the election of any person as a director of the corporation unless a *bona fide* proposed nominee for such election is named in the information circular, or

(ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;

- (e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon under clause (b), the shares shall, subject to section 39, be voted in accordance with the specifications so made;
- (f) the information circular or form of proxy shall indicate in bold-face type that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right; and
- (g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection 34 (1). 1973, c. 128, s. 6, *part*.

Where vote
by ballot
not
required

39. The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person whose proxy is solicited may specify how such person wishes the shares registered in his name to be voted unless,

- (a) a poll is demanded by any shareholder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the shares represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matter or group of matters total more than 5 per cent of all the voting rights attaching to all the shares entitled to be voted and be represented at the meeting. 1974, c. 88, s. 6.

Regulations
re contents
of informa-
tion circular

40. The Lieutenant Governor in Council may make such regulations respecting the form and content of an information circular as he considers necessary or appropriate in the public interest. 1973, c. 128, s. 6, *part*.

Minute
book

41. The transactions of all general meetings of the corporation and of all meetings of the board of directors shall be entered in a book known as the "minute book" of the corporation. R.S.O. 1970, c. 254, s. 25.

INSIDER TRADING

42.—(1) In this section and in sections 43 to 48,

Interpre-
tation

(a) “affiliate” means an affiliated company within the meaning of subsection 106 (3) of the *Corporations Act*; R.S.O. 1980, c. 95

(b) “associate”, where used to indicate a relationship with any person, means,

(i) any company of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,

(ii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity, or

(iii) any relative or spouse of such person or any relative of such spouse who, in any such case, has the same home as such person;

(c) “capital security” means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;

(d) “Commission” means the Ontario Securities Commission;

(e) “company” means a body corporate, including a corporation to which this Act applies;

(f) “equity share” means any share of any class of shares of a company carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

(g) “insider” or “insider of a company” means,

(i) any director or senior officer of a company that has fifteen or more shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder,

(ii) any person who beneficially owns, directly or indirectly, equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or

(iii) any person who exercises control or direction over the equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding;

(h) "senior officer" means,

(i) the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and

(ii) each of the five highest paid employees of a company, including any individual referred to in subclause (i);

(i) "underwriter" has the same meaning as in the *Securities Act*.

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Idem

(2) For the purposes of this section and sections 43 to 48,

(a) every director or senior officer of a company that is itself an insider of another company shall be deemed to be an insider of such other company;

(b) an individual shall be deemed to own beneficially capital securities beneficially owned by a company controlled by him or by an affiliate of such company;

(c) a company shall be deemed to own beneficially capital securities beneficially owned by its affiliates; and

(d) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. 1973, c. 128, s. 7, *part*.

43.—(1) A person who becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation. Report

(2) If a person who is an insider of a corporation, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the corporation, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation. Idem

(3) A person who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over capital securities of the corporation changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within ten days following the end of the month in which such change takes place, provided that he was an insider of the corporation at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the corporation at the end of such month and the change or changes therein that occurred during the month, and giving such details of each transaction as may be required by the regulations made under section 48. 1973, c. 128, s. 7, *part*. Report of subsequent changes

44.—(1) All reports filed with the Commission under section 43 or any predecessor thereof shall be open to public inspection at the offices of the Commission during Reports may be inspected

normal business hours of the Commission, and any person may make extracts from such reports.

Publication
of informa-
tion
contained in
reports

(2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of a reasonable fee therefor the information contained in the reports so filed. 1973, c. 128, s. 7, *part*.

Offence

45.—(1) Every person who is required to file a report under section 43 or any predecessor thereof and who fails so to do is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on conviction is liable to a like fine.

Idem

(2) Every person who files a report under section 43 or any predecessor thereof that is false or misleading by reason of the misstatement or omission of a material fact is guilty of an offence and on conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in the filing of such false or misleading report is also guilty of an offence and on conviction is liable to a like fine.

Saving

(3) No person is guilty of an offence under subsection (2) if he did not know and in the exercise of reasonable diligence could not have known that the report was false or misleading by reason of the misstatement or omission of a material fact.

Consent
to prosecute

(4) No prosecution shall be brought under subsection (1) or (2) without the consent of the Commission. 1973, c. 128, s. 7, *part*.

Liability
of insiders

46.—(1) Every insider of a corporation or associate or affiliate of such insider, who, in connection with a transaction relating to the capital securities of the corporation, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of such transaction, unless such information was known or ought reasonably to have been known to such person at the time of such transaction, and is also accountable to the corporation for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction.

(2) An action to enforce any right created by subsection (1) may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action. 1973, c. 128, s. 7, *part.* Limitation period

47.—(1) Upon application by any person who was at the time of a transaction referred to in subsection 46 (1) or is at the time of the application an owner of capital securities of the corporation, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that, Order to commence action

(a) such person has reasonable grounds for believing that the corporation has a cause of action under section 46; and

(b) either,

(i) the corporation has refused or failed to commence an action under section 46 within sixty days after receipt of a written request from such person so to do, or

(ii) the corporation has failed to prosecute diligently an action commenced by it under section 46,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the corporation to enforce the liability created by section 46.

(2) The corporation and the Commission shall be given notice of any application under subsection (1) and shall have the right to appear and be heard thereon. Notice to corporation and O.S.C.

(3) Every order made under subsection (1) shall provide that the corporation shall co-operate fully with the Commission in the institution and prosecution of such action and shall make available to the Commission all books, records, documents and other material or information known to the corporation or reasonably ascertainable by the corporation relevant to such action. Order to require corporation to co-operate

(4) An appeal lies to the Divisional Court from an order made under subsection (1). 1973, c. 128, s. 7, *part.* Appeal

Regulations

48. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and content of the reports required to be filed under section 43;
- (b) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of sections 42 to 47. 1973, c. 128, s. 7, *part*.

BY-LAWS

Shareholders
may make
by-laws

49. A meeting of the shareholders, called with due notice thereof, may make such lawful and proper by-laws for the government of the corporation, not repugnant to this Act or any other law in force in Ontario, as the majority of the shareholders present in person or by proxy consider proper. R.S.O. 1970, c. 254, s. 27.

To be
sealed

50. Every by-law shall be reduced to writing and shall have affixed thereto the seal of the corporation, and is receivable in evidence without proof of the seal or of the signature or of the official character of the person or persons appearing to have signed it, and without further proof thereof. R.S.O. 1970, c. 254, s. 28.

By-laws
to be
recorded

51.—(1) The by-laws shall be forthwith recorded in a book to be kept by the corporation known as the "by-law book".

Right to
inspect
by-law book

(2) The by-law book shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a guaranteed investment certificate, by himself or his agent, and any such person may make extracts therefrom. R.S.O. 1970, c. 254, s. 29.

Copy of
by-laws,
etc., to be
filed with
Registrar

52. Every corporation shall deliver to the Registrar within one month after the passing thereof a certified copy of its by-laws and of every repeal, or addition thereto, or amendment or consolidation thereof. R.S.O. 1970, c. 254, s. 30.

Delegating
to directors
power to
make or
amend
by-laws

53.—(1) The shareholders in meeting may by by-law, of which, as proposed, notice shall be given to each shareholder with the notice of the meeting, empower the directors to make, amend and repeal by-laws for the corporation.

Confirmation
necessary

(2) Every such by-law of the directors and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the corporation duly called for that purpose, has force only until the next annual meeting

of the corporation, and in default of confirmation thereof, at and from that time, ceases to have force, and in that case no new by-law to the same or the like effect or re-enactment thereof has any force until confirmed at a general meeting.

(3) The corporation may at a general meeting duly called for the purpose or at an annual meeting repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law is prejudicially affected by any such repeal, amendment, variation, or other dealing. R.S.O. 1970, c. 254, s. 31. By-laws may be varied

54. The shareholders at a general meeting may alter or amend such by-laws and may confirm them as so altered and amended. R.S.O. 1970, c. 254, s. 32. Alteration at general meeting

55. The directors of a corporation, authorized as provided by section 53, may make by-laws, not repugnant to this Act or any other law in force in Ontario, to regulate, By-laws for particular purposes

(a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares, and, subject to section 88, the subdivision of existing shares into shares of smaller amount;

(b) the declaration and payment of dividends;

(c) subject to section 98, the appointment, functions, duties and removal of agents, officers and servants of the corporation, and their remuneration;

(d) the calling of meetings of the directors and the procedure at such meetings; and

(e) the conduct in all other particulars of the affairs of the corporation. R.S.O. 1970, c. 254, s. 33.

DIRECTORS

56.—(1) The term of office of the directors of a corporation shall not exceed two years. Term of office

(2) Where the term of office is one year only, the number of directors shall not be fewer than five. Number

(3) Where the term of office is two years, the number of directors shall be an even number not fewer than six, and Idem

one-half of the directors shall retire annually at the general meeting in rotation, but, if otherwise qualified, are eligible for re-election.

**Retirement
by lot**

(4) Where the term of office is two years, the first elected directors shall at their first meeting determine by lot which of them shall retire at the end of the first year. R.S.O. 1970, c. 254, s. 34.

Ballot

57.—(1) The election of directors shall be by ballot. R.S.O. 1970, c. 254, s. 35 (1).

**Qualifica-
tions of
directors**

(2) No person is qualified to be a director unless he is of the full age of eighteen years and he is a shareholder holding, in his own right, shares of the corporation in respect of which, either,

(a) at least \$1,000 has been paid in; or

(b) at the time of purchase had a market value of at least \$2,500,

and he is not in arrears in respect of any call thereon. 1973, c. 128, s. 8.

**Retirement
age**

(3) On and after the 1st day of January, 1972, no person is qualified for appointment or election as a director if he has attained the age of seventy-five years.

**Majority
to be
Canadian
citizens and
residents**

(4) The majority of the directors shall at all times be Canadian citizens ordinarily resident in Canada.

**New
election to
fill director-
ships in
such case**

(5) Where more than the permitted number of non-residents and aliens are elected, a new election shall be held forthwith to fill all the directorships to which non-residents or aliens have been elected, and so on until the number of non-residents and aliens elected is reduced to or below the permitted number.

**Remunera-
tion**

(6) The remuneration of directors shall be fixed by the shareholders in general meeting. R.S.O. 1970, c. 254, s. 35 (3-6).

**Provision
in case of
failure of
election**

58. If at any time an election of directors is not held or does not take effect at the proper time, the corporation is not thereby dissolved, but the election may take place at any general meeting of the corporation duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. R.S.O. 1970, c. 254, s. 36.

59. Vacancies occurring in the board of directors may be filled for the unexpired remainder of the term by the board from among the qualified shareholders of the corporation. R.S.O. 1970, c. 254, s. 37. ^{Interim vacancies}

60. The directors may lawfully exercise all the powers of the corporation except as to such matters as are directed by law or by the by-laws of the corporation to be transacted at a general meeting and have not been delegated to the directors by a general meeting as provided by section 53. R.S.O. 1970, c. 254, s. 38. ^{Powers of directors}

61.—(1) The directors shall from time to time elect from among themselves a president and one or more vice-presidents, and the directors shall in all things delegated to them act for and in the name of the corporation, and, subject to subsection (2), the concurrence of a majority of the directors present at any meeting is at all times necessary to any act of the board. ^{President and vice-president}

(2) Each director has one vote on any question before the board and, in the event of an equality of votes, the president or presiding officer has a second or casting vote. R.S.O. 1970, c. 254, s. 39. ^{Casting vote}

62.—(1) The shareholders of a corporation that has more than six directors may, at a general meeting called for the purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate any of their powers to an executive committee consisting of not fewer than three to be elected by the directors from their number. ^{Executive committee}

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed upon them by such resolution or by the directors. ^{Committee's powers}

(3) Where directors delegate any of their powers to an executive committee, the powers so delegated shall be stated in writing and entered in the minute book of the corporation. R.S.O. 1970, c. 254, s. 40. ^{Delegated powers to be recorded in minute book}

63. In addition to the general powers of delegation authorized by section 62, the shareholders of a corporation may, at a general meeting called for the purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate, with or without the power of subdelegation, to the president of the corporation the exercise of any or all powers or authorities whether discretionary or otherwise, that may arise ^{Powers of president}

through the performance of the corporation of its responsibilities under any will, trust, deed, contract or instrument and the exercise of any such power by the president shall in all instances constitute a performance by the corporation of its responsibilities under any will, trust, deed, contract or instrument. 1974, c. 88, s. 7.

General
powers of
directors

64. Subject to this Act and to the Act or instrument constituting the corporation and to the by-laws of the corporation, the directors may,

- (a) use or cause to be used and affixed the seal of the corporation, and may affix or cause it to be affixed to any document or paper that in their judgment requires it;
- (b) make and enforce calls upon the shares of the respective shareholders;
- (c) declare the forfeiture of all shares on which calls are not paid;
- (d) make any payments and advances of money they consider expedient that are authorized to be made by or on behalf of the corporation, and enter into all contracts for the execution of the purposes of the corporation, and for all other matters necessary to the transaction of its affairs;
- (e) generally deal with, sell, exchange, lease and dispose of the lands, property and effects of the corporation in such manner as they consider expedient and conducive to the benefit of the corporation;
- (f) do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities conferred by the Legislature. R.S.O. 1970, c. 254, s. 41.

Where
directors
have
reasonable
doubts as
to legality
of claim

65.—(1) Where the directors entertain reasonable doubts as to the legality of any claim to or upon any share, bond, debenture or obligation of the corporation, or to or upon any dividend, coupon or the proceeds thereof, they may apply to the Supreme Court, stating such doubt, for an order or judgment adjudicating upon such claim, and awarding such share, bond, debenture, obligation, dividend, coupon or proceeds to the person legally entitled to the same, and the court may restrain any action or proceeding against the corporation, or the directors or officers thereof, for the same subject-matter, pending the determination of the application.

(2) If the order or judgment of the court is obeyed, the corporation and the directors and officers are fully protected and indemnified against all actions, claims and demands in respect of the matters in question in such application and the proceedings thereupon. R.S.O. 1970, c. 254, s. 42.

Order of
court to be
indemnity
to company

66. The secretary or treasurer or secretary-treasurer or other officer of the corporation may be styled "Manager", and, when the officer is also a director, he may be styled "Managing Director". R.S.O. 1970, c. 254, s. 43.

Manager
and
managing
director

67. Every officer or other person appointed to any office in anyway concerning the receipt, safe keeping or proper application of money shall furnish security according to the by-laws of the corporation and to the satisfaction of the directors for the just and faithful execution of the duties of his office, and any person entrusted with the performance of any other service may be required by the directors to furnish similar security. R.S.O. 1970, c. 254, s. 44.

Certain
persons in
service of
corporation
to furnish
security

68. The directors shall not declare or pay any dividend or bonus when the corporation is insolvent, or that renders the corporation insolvent or diminishes its capital; and if any director, present when any such dividend or bonus is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware thereof and is able to do so, enters his written protest against the same, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1970, c. 254, s. 45.

Liability of
directors
declaring a
dividend
when
corporation
is insolvent,
etc.

69.—(1) The directors of any corporation are jointly and severally liable to its labourers, servants and apprentices for all debts not exceeding one year's wages due for services performed for the corporation while they are such directors.

Liability of
directors
for wages

(2) A director is not liable under subsection (1) unless,

Where no
liability

(a) the corporation has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or

(b) the corporation has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved,

and unless he is sued for such debt while a director or within one year after he has ceased to be a director.

Liability for amount unsatisfied on execution

(3) If execution has so issued, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

On payment, director entitled to assignment of judgment, etc.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings, a director, upon payment of the debt, is entitled to any preference that the creditor paid would have been entitled to, and, where a judgment has been recovered, he is entitled to an assignment of the judgment. R.S.O. 1970, c. 254, s. 46.

SHARES, CALLS ON CAPITAL STOCK

Calling in instalments

70.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held at such times and places and in such payments or instalments as the special Act, letters patent, supplementary letters patent or this Act or the by-laws of the corporation require or allow, and interest accrues upon the amount of any unpaid call from the day appointed for payment thereof.

Demand to state liability to forfeiture

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited.

Forfeiture of shares

(3) If after the demand any call is not paid in accordance therewith, the directors, by resolution duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and they thereupon become the property of the corporation and may be disposed of as, by by-law or otherwise, the corporation may determine, but such forfeiture does not relieve the shareholder of any liability to the corporation or to any creditor. R.S.O. 1970, c. 254, s. 47.

Liability of shareholders

71. Every shareholder, until the whole amount of his shares has been paid up, is individually liable to the creditors of the corporation for an amount equal to that not paid up thereon, but is not liable to an action therefor by any creditor before an execution against the corporation has been returned unsatisfied in whole or in part, and the amount due on the execution, but not beyond the amount so unpaid on such shares, is the amount recoverable, with costs, against the shareholder. R.S.O. 1970, c. 254, s. 48.

Set-off

72. In any action under section 71, a shareholder may plead by way of defence, in whole or in part, any set-off that he could set up against the corporation, except a claim for unpaid dividend, or a salary or allowance as a president or a director of the corporation. R.S.O. 1970, c. 254, s. 49.

73. The par value of a share of capital shall be \$1 or any multiple thereof not exceeding \$100. R.S.O. 1970, c. 254, s. 50. Par value of shares

74.—(1) No person holding shares in the corporation as executor, administrator, guardian, committee of a mentally incompetent person, or trustee of or for any estate, trust or person named in the books of the corporation as being so represented by him, is personally subject to any liability as a shareholder, but the estate and funds in his hands are liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be if living and competent to hold the shares in his own name. Representatives, guardians or trustees not to be personally liable

(2) If the trust is for a living person, not under disability, such person also is liable as a shareholder. Liability of beneficiary

(3) If such testator, intestate, ward, mentally incompetent person or person so represented is not named in the books of the corporation, the executor, administrator, guardian, committee or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1970, c. 254, s. 51. Where beneficiary, etc., not named, trustee, etc., liable

75.—(1) Except with the consent of the directors, no payment on account of capital stock shall be made in advance of calls thereon. Payments on shares in advance of calls

(2) In respect of any sum so paid, a shareholder is entitled to participate in any dividend declared, but it shall not bear interest and does not constitute a loan to or a debt of the corporation. Right to participate in dividends

(3) The shareholder is entitled to have any such advance payment credited to him *pro tanto* as against subsequent calls. R.S.O. 1970, c. 254, s. 52. To be credited as against subsequent calls

76. Subject to sections 80 and 83, no by-law shall be passed that in any way restricts the right of a holder of paid up shares to transfer them, but nothing in this section prevents the regulation of the mode of their transfer. R.S.O. 1970, c. 254, s. 53. Restrictions on transfer

77.—(1) In this section and sections 78 to 82,

Interpretation

(a) "company" includes an association, partnership or other organization;

(b) "non-resident" means,

(i) an individual who is not ordinarily resident in Canada,

- (ii) a company incorporated, formed or otherwise organized elsewhere than in Canada,
 - (iii) a company that is controlled directly or indirectly by non-residents as defined in subclause (i) or (ii),
 - (iv) a trust established by a non-resident as defined in subclause (i), (ii) or (iii), or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or
 - (v) a company that is controlled directly or indirectly by a trust mentioned in subclause (iv);
- (c) "resident" means an individual, company or trust that is not a non-resident.

Associated shareholder

(2) For the purposes of sections 78 to 82, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Shares held jointly

(3) For the purposes of sections 78 to 82, where a share of the capital stock of a corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident. R.S.O. 1970, c. 254, s. 54.

Limit on shares held by non-residents

78.—(1) The directors of a corporation shall refuse to allow in the books referred to in section 91 the entry of a transfer of any share of the capital stock of the corporation to a non-resident,

- (a) if, when the total number of shares of the capital stock of the corporation held by non-residents exceeds 25 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by non-residents;
- (b) if, when the total number of shares of the capital stock of the corporation held by non-residents is 25 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the total number of such shares of stock held by non-residents to exceed 25 per cent of the total number of issued and outstanding shares of such stock;
- (c) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding shares of such stock, the entry of the transfer would increase the percentage of such shares held by the non-resident and by other shareholders associated with him, if any; or
- (d) if, when the total number of shares of the capital stock of the corporation held by the non-resident and by other shareholders associated with him, if any, is 10 per cent or less of the total number of issued and outstanding shares of such stock, the entry of the transfer would cause the number of such shares of stock held by the non-resident and by other shareholders associated with him, if any, to exceed 10 per cent of the issued and outstanding shares of such stock.

(2) Notwithstanding subsection (1), the directors of a corporation may allow in the books referred to in section 91 the entry of a transfer of any share of the capital stock of the corporation to a non-resident when it is shown to the directors on evidence satisfactory to them that the share was, immediately prior to the 17th day of June, 1970, held in the right of or for the use or benefit of the non-resident. Exception

(3) The directors of a corporation shall not allot, or allow the allotment of, any shares of the capital stock of the corporation to any non-resident in circumstances where, if the allotment to such non-resident were a transfer of those shares, the entry thereof in the books would be required, under subsection (1), to be refused by the directors. Allotment to non-resident

Penalty

(4) Default in complying with this section does not affect the validity of a transfer or allotment of a share of the capital stock of the corporation that has been entered in the books referred to in section 91, but every director or officer who knowingly authorizes or permits such default is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment. R.S.O. 1970, c. 254, s. 55.

Voting by
non-residents

79.—(1) A non-resident shall not exercise the voting rights attached to shares of a corporation unless he is entered in the books of the corporation as a shareholder in respect of the shares.

Voting
rights of
nominees
suspended

(2) Where a resident holds shares of the capital stock of a corporation in the right of, or for the use or benefit of, a non-resident and in respect of which the non-resident is not entered in the books of the corporation as the holder, the resident shall not, either in person or by proxy or by a voting trust, exercise the voting rights pertaining to those shares.

Change of
status while
entered on
books

(3) Where a person or company who is a resident becomes a non-resident while entered on the books of a corporation as a shareholder and the number of shares of such person or company recorded in such books when added to those entered therein as owned by other non-residents exceed the limit set out in section 78, the person or company shall not exercise, directly, by proxy or by a voting trust, any voting rights in respect of its shares that exceed the limit set out in section 78.

Voting
rights
of single
non-resident
owner

(4) Notwithstanding subsections (1), (2) and (3), where any shares of the capital stock of a corporation are held in the name of or for the use or benefit of a non-resident, other than shares in respect of which the non-resident was entered in the books of the corporation before the 17th day of June, 1970 or is entered in the books under subsection 78 (2), no person shall, either as proxy or by a voting trust or in person, exercise the voting rights pertaining to such shares held by the non-resident or in his right or for his use or benefit, if the total of such shares so held, together with such shares held in the name or right of or for the use or benefit of,

(a) any shareholders associated with the non-resident;
or

(b) any persons who would, under subsection 77 (2), be deemed to be shareholders associated with the non-resi-

dent were such persons and the non-resident themselves shareholders,

exceed in number 10 per cent of the issued and outstanding shares of such stock.

(5) Every person who knowingly contravenes this section ^{Penalty} is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

(6) If any provision of this section is contravened at a ^{Effect of} general meeting of the corporation, no proceeding, matter or ^{contra-}thing at that meeting is void by reason only of such contraven-^{vention}tion, but any such proceeding, matter or thing is, at any time within one year from the day of commencement of the general meeting at which the contravention occurred, voidable at the option of the shareholders by a resolution passed at a special general meeting of the corporation. R.S.O. 1970, c. 254, s. 56.

80.—(1) The directors of a corporation may make such ^{By-laws} by-laws as they consider necessary to carry out the intent of sections 77 to 79 and in particular, but without restricting the generality of the foregoing, the directors may make by-laws,

- (a) requiring any person holding any share of the capital stock of the corporation to submit written declarations,
 - (i) with respect to the ownership of such share,
 - (ii) with respect to the place in which the shareholder and any person for whose use or benefit the share is held are ordinarily resident,
 - (iii) as to whether the shareholder is associated with any other shareholder, and
 - (iv) with respect to such other matters as the directors consider relevant for the purposes of sections 77 to 79;
- (b) prescribing the times at which and the manner in which any declarations required under clause (a) are to be submitted; and
- (c) requiring any person desiring to have a transfer of a share to him entered in the books referred to in

section 91 to submit such a declaration as may be required under this section in the case of a shareholder. R.S.O. 1970, c. 254, s. 57 (1); 1972, c. 101, s. 3.

Where
declaration
pending

(2) Where by or under any by-law made under subsection (1) any declaration is required to be submitted by any shareholder or person in respect of the transfer of any share, the directors may refuse to enter such transfer in the books referred to in section 91 until the required declaration has been completed and submitted.

Penalty

(3) Any person who makes any wilfully false or deceptive statement in a declaration required by a by-law made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both such fine and imprisonment. R.S.O. 1970, c. 254, s. 57 (2, 3).

Report
to the
Registrar

81. No transfers or issue of shares of a corporation shall be entered in the books maintained under section 91 until thirty days after notice thereof has been deposited with the Registrar, if,

- (a) the transfer or issue relates to 10 per cent or more of the issued shares of the corporation for the time being enjoying voting rights; or
- (b) the directors have reason to believe that the transfer or issue would result in a majority of the issued shares of the corporation for the time being enjoying voting rights being beneficially owned by any one person. 1972, c. 101, s. 4, *part*.

Liability of
directors

82. In determining, for the purposes of sections 77 to 81, whether a person is a resident or a non-resident, by whom a corporation is controlled or any other circumstances relevant to the performance of their duties under those sections, the directors of the corporation and any other person acting as proxy for a shareholder of the corporation may rely upon any statement made in any declarations made under section 80 or rely upon their own knowledge of the circumstances; and the directors and any such person are not liable in any action for anything done or omitted by them in good faith as a result of any conclusions made by them on the basis of any such statements or knowledge. 1972, c. 101, s. 4, *part*; 1974, c. 88, s. 8.

When
directors'
consent
required

83.—(1) No transfer of shares, the whole amount whereof has not been paid, shall be made without the consent of the directors.

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, the directors are, subject to subsection (3), jointly and severally liable to the creditors of the corporation in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been. Directors' liability

(3) If any director present when such a transfer is allowed forthwith, or, if any director then absent, within twenty-four hours after he becomes aware of such transfer and is able to do so, enters his written protest against the transfer, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. Relief from liability by entering protest

(4) Where a share upon which a call is unpaid is transferred with the consent of the directors, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share if the call remains unpaid as if he had been the holder when the call was made, and the transferor remains liable also for the call until it has been paid. Liability where call remains unpaid

(5) Where the letters patent, supplementary letters patent or by-laws of a corporation confer the power on the directors, they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. R.S.O. 1970, c. 254, s. 60. Where transferor indebted

84. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding 25 cents, and on such terms, if any, as to evidence and indemnity as the directors think fit. R.S.O. 1970, c. 254, s. 61. Lost certificate

85. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, is, until entry thereof has been duly made, valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the corporation and its creditors until entry thereof has been duly made in the books of the corporation. R.S.O. 1970, c. 254, s. 62. Transfer valid only after entry

86.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer. Transferor may be notified

Owner
may lodge
caveat

(2) The owner may lodge a caveat against the entry of the transfer and thereupon the transfer shall not be made for a period of forty-eight hours.

Transfer
may be
entered if
no order
served

(3) If no order of a competent court enjoining the entry of the transfer is served upon the corporation within one week from the giving of the notice or the expiration of the period of forty-eight hours, whichever last expires, the transfer may be entered.

Corporation
not liable
if section
complied
with

(4) Where a transfer is entered after the proceedings mentioned in this section, the corporation is, in respect of the shares so transferred, free from liability to a person whose rights are purported to be transferred, but without prejudice to any claim that the transferor may have against the transferee. R.S.O. 1970, c. 254, s. 63.

Deposit of
foreign
probate,
letters of
adminis-
tration, etc.,
with officer
of cor-
poration

87.—(1) Where,

- (a) a transmission of shares or other securities of a corporation takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy; and
- (b) the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by a court or authority in Canada, or in the Commonwealth, or in any foreign country,

the probate of the will or the letters of administration or the document testamentary or, in the case of a transmission by notarial will in the Province of Quebec, a copy thereof duly certified in accordance with the laws of Quebec, or the other judicial or official instrument, or an authenticated copy thereof or official extract therefrom under the seal of the court or other authority, without any proof of the authenticity of the seal or other proof whatever, shall be produced, and a true copy thereof, together with a declaration in writing showing the nature of the transmission, signed and executed by such one or more of the persons claiming by virtue thereof as the corporation requires, or, if any such person is a company, signed and executed by an officer thereof, shall be deposited with an officer of the corporation or other person authorized by the directors of the corporation to receive them.

(2) Such production and deposit is sufficient justification and authority to the directors for paying the amount or value of any dividend, coupon, bond, debenture, deposit, guaranteed investment certificate, obligation or share, or transferring, or consenting to the transfer of any bond, debenture, deposit, guaranteed investment certificate, obligation or share, in pursuance of, and in conformity to such probate, letters of administration or other such document aforesaid. R.S.O. 1970, c. 254, s. 64, *revised*.

Transmission of interest on death

INCREASE OR DECREASE OF CAPITAL STOCK AND SUBDIVISION OF SHARES

88.—(1) The directors of a corporation may by by-law provide for the increase or decrease of its capital and, where the corporation has been registered under this Act for a continuous period of five years, for the increase of its capital by authorizing no par value shares.

Increase or decrease of capital

(2) The by-laws shall state the number, class and par value of shares with par value and for shares without par value the stated amount as consideration for which such shares might be issued, by which the capital is so increased or decreased.

Contents of by-laws

(3) The directors may by by-law provide upon the terms therein stated for the conversion of partly paid-up shares into paid-up shares, for subdividing shares, altering the par value of shares, and subject to section 89 for the conversion of its shares. 1973, c. 128, s. 9.

Conversion

(4) The liability of shareholders to persons who, at the time the capital is increased or decreased or shares are converted or altered, are creditors of the corporation remains as though the capital had not been increased or decreased or the shares had not been converted or altered.

Rights of creditors preserved

(5) Where a by-law under this section would have the effect of increasing or decreasing the capital of a corporation or altering the liability of any shareholder thereof, a copy of the proposed by-law shall be delivered to the Registrar and no such by-law shall be passed for at least one month thereafter.

Copy to Registrar

(6) No by-law under this section has any force or effect until it has been submitted to a general meeting of the shareholders of the corporation duly called for that purpose at which the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights

Confirmation of by-law by shareholders and by order in council

are present in person or represented by proxy and is confirmed thereat, with or without variation, by a resolution passed by the affirmative votes of the holders of at least two-thirds of the shares represented at the meeting, and has thereafter been confirmed by order of the Lieutenant Governor in Council.

Notice to
shareholders

(7) Notice of such general meeting of the shareholders shall be given as provided in subsection 28 (2) and such additional notice as the Registrar may direct.

When con-
firmation
may be
granted

(8) The Lieutenant Governor in Council may grant the confirmation required by subsection (6) if the Lieutenant Governor in Council is satisfied of the *bona fide* character of the changes provided for in the by-law, unless it appears that the confirmation of the by-law would not be in the public interest.

Varying
by-law on
confirmation

(9) With the consent of the corporation, evidenced by a resolution of the directors, the changes provided for in any by-law under this section may be varied or amended by the confirming order in council, and may be made subject to such conditions as the Lieutenant Governor in Council considers proper.

Evidence of
confirmation

(10) A copy of the order in council confirming a by-law under this section, certified by the Clerk of the Executive Council, shall be received in evidence as *prima facie* proof of the confirmation.

Effective
date of
by-law

(11) A by-law under this section becomes effective on the date specified in the confirming order in council. R.S.O. 1970, c. 254, s. 65 (4-11).

Prohibition
re purchase
of common
shares

(12) A corporation may purchase its own common shares if the purchase is made,

(a) for the purpose of eliminating fractions of shares;
or

(b) for the purpose of collecting or compromising indebtedness to the corporation.

Not to
redeem if
insolvent

(13) A corporation shall not redeem or purchase its own preference shares if,

(a) the corporation is insolvent or if the redemption or purchase would render the corporation insolvent; or

(b) the effect of the redemption or purchase would reduce the corporation's unimpaired capital and reserve to

an amount that would place the corporation in contravention of section 109 or 118.

(14) The authorized and issued capital of the corporation is decreased when it redeems or purchases its own preference shares by the number and par value of the shares so purchased or redeemed and subsections (1) to (3) and (5) to (12) do not apply thereto. 1972, c. 101, s. 5.

Decrease in
capital by
redemption

89.—(1) The by-laws of a corporation may provide for the conversion of shares with par value into other shares with par value provided that the aggregate par value of the shares being converted is equal to the aggregate par value of the shares into which they are converted.

Conversion of
par shares to
par shares

(2) Where, in accordance with the by-laws, shares with par value are converted into shares without par value, the issued capital of the corporation attributable to the shares resulting from the conversion shall be equal to the aggregate par value of the shares converted.

Par shares to
no par shares

(3) Where the by-laws provide for the conversion of shares without par value into shares with par value, no such shares shall be converted unless that part of the issued capital attributable to the shares being converted is equal to the aggregate par value of the shares resulting from the conversion. 1973, c. 128, s. 10, *part*.

No par shares
to par shares

90.—(1) Where all the shares of a corporation are with par value, its issued capital shall be expressed in Canadian currency, and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act.

Issued capital;
par value
shares, how
expressed

(2) Where the shares of a corporation are without par value or where part of the shares of a corporation are with par value and part are without par value, its issued capital shall be expressed in Canadian currency, and in an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the corporation may be transferred thereto and less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act. 1973, c. 128, s. 10, *part*.

No par value
shares, how
expressed

BOOKS

Record
books to
be kept, and
contents
thereof

91.—(1) Every corporation having its head office in Ontario shall cause the secretary, or some other officer specially charged with the duty, to keep a book or books wherein shall be kept recorded,

- (a) a copy of the letters patent and of any supplementary letters patent issued to the corporation and, if incorporated by special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;
- (b) the names, post office addresses, so far as known, of all persons who are or have been directors of the corporation, with the date on which each became and ceased to be a director;
- (c) the names, alphabetically arranged, of all persons who are shareholders of the corporation;
- (d) the post office address, so far as known, of every such person while he is a shareholder;
- (e) the number of shares held by each shareholder;
- (f) the amounts paid in, and remaining unpaid, on the shares of each shareholder; and
- (g) the date and other particulars of all transfers of shares in the order in which they were made.

Books to be
kept at
head office

(2) Such books shall be kept at the head office of the corporation.

Offence

(3) Every director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section is guilty of an offence and on conviction is liable to a fine of \$200.

Relief from
operation
of section

(4) Upon necessity therefor being shown and adequate assurance given that such books may be inspected in Ontario by any person entitled thereto after application for such inspection to the Registrar, the Lieutenant Governor in Council may relieve any corporation from the provisions of subsection (2) upon such terms as he sees fit.

Books to be
open for
inspection

(5) Such books shall, without the payment of any fee or charge, be open during business hours for inspection by any shareholder, depositor, debenture holder or holder of a

guaranteed investment certificate, by himself, his agent or his personal representative, and any such person may make extracts therefrom.

(6) Every such corporation that neglects to keep such book or books is liable to forfeit its registry under this Act, and, if a provincial corporation, is also liable to forfeit its corporate franchise and rights. Forfeiture for neglect

(7) No auditor, director, officer or servant of the corporation shall knowingly make or assist in making any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein. False entries

(8) Every person contravening this section is liable in damages for all loss or injury that any person interested may have sustained thereby. Liability for damages R.S.O. 1970, c. 254, s. 66.

92.—(1) Any person, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent the affidavit referred to in subsection (2), may require a corporation, or its transfer agent, to furnish within ten days from the filing of the affidavit a list setting out the names alphabetically arranged of all persons who are shareholders of the corporation, the number of shares owned by each such person and the address of each such person as shown on the records of the corporation made up to a date not more than ten days before the date of filing the affidavit. Where list of shareholders to be furnished

(2) The affidavit referred to in subsection (1) shall be made by the applicant and shall be in the following form: Form of affidavit

FORM OF AFFIDAVIT

Province of Ontario
County of

In the Matter of
(Insert name of corporation)

I, of the of
in the of
make oath and say:

(Where the applicant is a body corporate, indicate office and authority of deponent).

1. I hereby apply for a list of the shareholders of the above-named corporation.
2. I require the list of shareholders only for purposes connected with the above-named corporation.
3. The list of shareholders and the information contained therein will be used only for purposes connected with the above-named corporation.

Sworn, etc.

Idem, where
applicant
a body
corporate

(3) Where the applicant is a body corporate, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the body corporate.

Use
of list

(4) No person shall use a list of all or any of the shareholders of a corporation obtained under this section,

(a) for the purpose of delivering or sending to all or any of the shareholders advertising or other printed matter relating to securities other than the securities of the corporation; or

(b) for any purpose not connected with the corporation.

Furnishing
list

(5) Every corporation or transfer agent shall furnish a list in accordance with subsection (1) when so required.

Purposes
connected
with
corporation
defined

(6) Purposes connected with the corporation include any effort to influence the voting of shareholders at any meeting thereof, any offer to acquire shares in the corporation or any effort to effect an amalgamation or reorganization. 1973, c. 128, s. 11.

Register of
securities

93. Every corporation shall keep a register or registers of all securities held by the corporation. R.S.O. 1970, c. 254, s. 67.

Application
of s. 91 (6-8)

94. Subsections 91 (6) to (8) apply to the registers prescribed by section 93. R.S.O. 1970, c. 254, s. 68.

Property in
books of
account

95.—(1) The books used by an auditor, officer, collector or agent for verifying or recording money received for the corporation are the property of the corporation.

Idem

(2) Neither the foregoing persons, nor any solicitor, counsel or other person shall have in or upon these or any other of the books of account or record of the corporation any ownership or proprietary right or any right of lien.

Offence

(3) Every person who, in contravention of this section, withdraws, withholds or detains any of such books from the possession or control of the directors, or from the receiver or liquidator of the corporation, is guilty of an offence. R.S.O. 1970, c. 254, s. 69.

After
decease,
bankruptcy,
etc., of
officer,
books, etc.,
to be
delivered to
corporation

96. Where a person who has been but has ceased to be a director, manager, auditor, officer, agent, collector, servant or employee of a corporation, or any other person unlawfully retains possession of any accounts, books, money,

securities, papers, matters or things that are the property of the corporation, a judge of the Supreme Court or of a county or district court, on application of the corporation or any depositor or shareholder therein or of the Registrar, and upon notice to the person affected, may order that such accounts, books, money, securities, papers, matters and things be forthwith delivered to such person as the judge directs and in default that the person so retaining possession shall be imprisoned for such period as the judge directs or until he complies with the direction of the order, and may authorize the sheriff of any county or district in which the same may be found forthwith to seize and take such accounts, books, money, securities, papers, matters and things and deliver them to the person to whom they have been directed to be delivered. R.S.O. 1970, c. 254, s. 70.

97.—(1) In any action or proceeding against a corporation, the books mentioned in sections 91 and 93 are *prima facie* evidence of the facts purported to be thereby stated. Books as evidence

(2) The books of a corporation are *prima facie* evidence of the truth of all matters purporting to be therein recorded as between the corporation and its shareholders and as between its shareholders. R.S.O. 1970, c. 254, s. 71. Idem

AUDIT, STATEMENT TO SHAREHOLDERS

98.—(1) The shareholders of a corporation at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments. Auditors

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in the office until a successor is appointed. Appointment annually

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. Casual vacancy

(4) The shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. Removal of auditor

Notice to
auditor

(5) Before calling a general meeting for the purpose specified in subsection (4), the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right of
auditor to
make repre-
sentations

(6) The auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

Remunera-
tion

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment
by Registrar

(8) If for any reason no auditor is appointed, the Registrar may appoint one or more auditors to hold office until the close of the next annual meeting and fix the remuneration to be paid by the corporation for his or their services.

Notice of
appointment

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made.

Notice to
auditor of
proposal to
appoint
another

(10) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the corporation not less than fifteen days before the meeting at which the auditor is to be appointed and, where such notice is given, the corporation shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the shareholders in the manner specified in section 28.

Right of
incumbent
auditor to
make repre-
sentations

(11) The incumbent auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the corporation, at its expense, shall forward with the notice of the

meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. R.S.O. 1970, c. 254, s. 72.

99.—(1) In this section, “related person” means,

Interpre-
tation

- (a) any spouse, son or daughter of that person;
- (b) any relative of such person or of his spouse, other than a relative referred to in clause (a), who has the same home as such person; or
- (c) any body corporate of which such person and any of the persons referred to in clause (a) or (b) or the partner or employer of such person, either alone or in combination, beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of the body corporate for the time being outstanding.

(2) An auditor of a registered corporation shall be an accountant.

Who may
be auditor

(3) No person shall be appointed auditor of a registered corporation if he or any member of his firm is a shareholder, director, officer or employee of such corporation, or of any company in which such corporation has invested its funds under section 180 or 183.

Persons
disqualified
as auditors

(4) A registered corporation shall, where possible, cause its auditor or one of its auditors to be appointed auditor of any company in which such corporation has invested its funds under section 180 or 183 and where such appointment is not possible the corporation shall inform the Registrar of the circumstances that prevent such appointment.

Auditor
appointment

(5) Subsection (3) does not apply to a person, partner, employer or related person who is not empowered to decide whether securities of the registered corporation or its holding company, as the case may be, are to be beneficially owned, directly or indirectly, by him, or if he is not entitled to vote in respect thereof.

Application
of subs. (3)

(6) Where, on the 13th day of November, 1970 an auditor or his partner, employer or related person owns securities as set out in subsection (3), notwithstanding subsection (3), he may for a period of two years from the 13th day of November, 1970 continue to act as auditor if he discloses in the report required under subsection 100 (2) that he or his partner, employer or related person so owns such securities but, at the expiration of such period

Idem

he shall cease to act as auditor unless he or his partner, employer or related person, as the case may be; has disposed of such securities.

Auditors
not to be
appointed
receivers, etc.

(7) No person shall be appointed a receiver or a receiver and manager or liquidator of any registered corporation of which he or a related person is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator.

Trustee in
bankruptcy
not to be
appointed
auditor
R.S.C. 1970,
c. B-3

(8) No person who is appointed a trustee of the estate of a registered corporation under the *Bankruptcy Act* (Canada) or a related person shall be appointed or act as auditor of the registered corporation. R.S.O. 1970, c. 254, s. 73.

Auditor's
examination

100.—(1) The auditor shall make such examination as will enable him to make the reports required under subsection (2).

Auditor's
reports

(2) The auditor of a registered corporation shall make reports,

(a) to the shareholders on the financial statement of the corporation referred to in sections 28 and 101; and

(b) to the Registrar on the annual statement filed with the Registrar under section 196.

Idem

(3) In the reports required by subsection (2), the auditor shall state,

(a) whether he has obtained all the information and explanations he has required;

(b) whether in the opinion of the auditor the financial statement presents fairly the financial position of the corporation as at the date of the balance sheet included therein and the results of the operations of the corporation for the financial period ended on that date; and

(c) whether the financial statements are in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any,

in accordance with the information he has obtained and the explanations given to him and as shown by the books of the corporation.

Qualified
report

(4) When the opinion expressed in a statement under subsection (2) is not an unqualified opinion, the auditor shall state in his report the reasons therefor.

(5) Where facts come to the attention of the officers or directors which, if known prior to the date of the last annual general meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

Facts discovered after statement

(6) On the receipt of facts furnished under subsection (5) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection (4) and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the shareholders.

Amendment of auditor's report

(7) The auditor in his reports shall make such statements as he considers necessary,

Auditor's statement

(a) if the corporation's financial statement or annual statement is not in agreement with its accounting records;

(b) if the corporation's financial statement or annual statement is not in accordance with any requirements of this Act or as prescribed by the Registrar; or

(c) if proper accounting records have not been kept so far as appears from his examination. R.S.O. 1970, c. 254, s. 74 (1-7).

(8) Where a corporation is a holding corporation and the financial statement to be presented to its shareholders is not on a consolidated basis, the auditor in his report to the shareholders of the corporation shall state the additional amount, if any, that in his opinion is necessary to make full provision for,

Statement not on a consolidated basis

(a) where there is only one subsidiary of the corporation, the corporation's proportion of any loss of its subsidiary since it acquired shares of the subsidiary;

(b) where there is more than one such subsidiary, the corporation's proportion of the aggregate losses of its subsidiaries since it acquired shares of the subsidiaries that is in excess of its proportion of any undistributed profits of its subsidiaries since it acquired shares of the subsidiaries. 1972, c. 101, s. 6; 1974, c. 88, s. 9.

(9) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers

Right of access, etc.

and employees of the corporation such information and explanations as in his opinion are necessary to enable him to report as required by subsection (2).

Idem

(10) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of all subsidiaries of the corporation and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanations as in his opinion are necessary to enable him to report as required by subsection (2).

Idem

(11) Where a subsidiary of the corporation is a body corporate to which this Act does not apply, the holding corporation shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary, and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanations required by subsection (9).

Auditor's
right to
attend
meetings

(12) The auditor of a corporation is entitled to attend any meeting of the shareholders of the corporation, to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business that concerns him as auditor.

Shareholder
may require
auditor's
attendance
at share-
holders'
meetings

(13) Any shareholder of a corporation, whether or not he is entitled to vote at meetings of shareholders, may, by notice in writing to the corporation given five days or more before any meeting of shareholders, require the attendance of the auditor at such meeting at the corporation's expense, and in such event the auditor shall attend the meeting.

Auditor
may attend
shareholders'
meetings

(14) At any meeting of shareholders the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection (2).

Registrar
may enlarge
scope

(15) The Registrar may direct that the scope of the annual audit of a corporation be enlarged or extended and may appoint for such purpose an accountant as an auditor of the corporation and the expenses incurred by reason of such appointment are payable by the corporation. R.S.O. 1970, c. 254, s. 74 (8-14).

Annual
financial
statement

101.—(1) The directors shall lay before each annual meeting of shareholders,

(a) a financial statement for the period that commenced on the date of incorporation and ended not more than

six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, made up of,

- (i) a statement of profit and loss for such period,
- (ii) a statement of retained earnings, or surplus for such period,
- (iii) a statement of general reserve,
- (iv) a statement of accumulated reserves for investments,
- (v) a balance sheet as at the end of such period,

and if the Registrar so directs, showing in each case the corresponding figures for the last preceding financial period of the corporation;

(b) the report of the auditor to the shareholders;

(c) such further information respecting the financial position of the corporation, as its letters patent, supplementary letters patent, or by-laws, require.

(2) The Lieutenant Governor in Council may make regulations prescribing the form and content of the financial statement required under subsection (1). ^{Form}

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection at the meeting by any shareholder. ^{Auditor's report to be read}

(4) The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statement. ^{Approval by directors}

(5) A corporation shall, at least ten days before the date of the annual meeting of the shareholders, send by prepaid mail to each shareholder entitled to notice of the meeting at his latest address shown on the records of the corporation a copy of the financial statement and a copy of the auditor's report. ^{Copy to shareholders}

Copy to
debenture
holders

(6) A copy of the financial statement and auditor's report shall be mailed or delivered without charge to any holder of a debenture or guaranteed investment certificate of the corporation or to any depositor of the corporation who requests the same. R.S.O. 1970, c. 254, s. 75.

Audit
committee

102.—(1) The directors of a corporation shall elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three directors, of whom the majority shall not be officers or employees of the corporation or an affiliate of the corporation, to hold office until the next annual meeting of the shareholders.

Chairman

(2) The members of the audit committee shall elect a chairman from among their number.

Review

(3) The corporation shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors.

Hearing of
auditor

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

Idem

(5) Upon the request of the auditor, the chairman of the audit committee shall convene a meeting of the committee to consider any matter the auditor believes should be brought to the attention of the directors or shareholders. R.S.O. 1970, c. 254, s. 76.

Exemption

(6) This section does not apply to a loan corporation that does not accept money by way of deposit or issue debentures. 1972, c. 101, s. 7.

BORROWING POWERS OF LOAN CORPORATIONS

Application
of ss. 104-109

103. Sections 104 to 109 apply to every loan corporation incorporated under the law of Ontario or having its head office in Ontario and also to every loan corporation borrowing in Ontario by taking deposits or issuing debentures or like obligations. R.S.O. 1970, c. 254, s. 77.

Amount of
capital
subscribed
and paid in
before
borrowing

104.—(1) No loan corporation shall exercise any of its borrowing powers unless and until it has a capital paid in and unimpaired of at least \$1,000,000. R.S.O. 1970, c. 254, s. 78 (1); 1974, c. 88, s. 10 (1).

(2) Subject to the qualifications, limitations and restrictions contained in this Act, a registered loan corporation, if authorized by by-law, may, ^{Borrowing powers}

(a) borrow money by way of loan or on deposit at such rates of interest and upon such terms as the directors may from time to time determine;

(b) issue subordinated notes to evidence any such borrowing referred to in clause (a) subject to regulations respecting the issuance of subordinated notes;

(c) issue debentures, bonds and other securities to evidence any such borrowing; and

(d) charge, mortgage, hypothecate or pledge all or any of the real or personal property of the corporation present or future, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any such debentures, bonds or other securities or any money borrowed. R.S.O. 1970, c. 254, s. 78 (2); 1974, c. 88, s. 10 (2).

(3) No by-law for any of the purposes mentioned in subsection (2) takes effect unless such by-law, ^{Confirming by-law}

(a) has been passed by the affirmative vote of the holders of two-thirds of the shares for the time being carrying voting rights and present or represented by proxy at a general meeting of the shareholders of the corporation duly called to consider such by-law; or

(b) has been passed by the directors and confirmed at a general meeting of the shareholders of the corporation duly called to consider such by-law by resolution passed by the affirmative vote of the holders of at least two-thirds of the shares for the time being carrying voting rights present or represented by proxy at such meeting. R.S.O. 1970, c. 254, s. 78 (3).

(4) Subsection (1) applies to loan corporations registered on or after the 1st day of January, 1968 and subsection 71 (1) of *The Loan and Trust Corporations Act*, being chapter 222 of the Revised Statutes of Ontario, 1960, as re-enacted by subsection 5 (1) of *The Loan and Trust Corporations Amendment Act, 1966*, ^{Application of subs. (1)} 1966, c. 81 applies to loan corporations registered before the 1st day of January, 1968. 1972, c. 101, s. 8.

Ranking of
holders of
deposits
and
debentures

105. Subject to the terms and conditions of any charge, mortgage, hypothec or pledge given by a registered loan corporation to secure any particular borrowing, the holders of deposits and the holders of debentures, bonds or other securities rank *pari passu* on the assets of such corporation and are ordinary creditors thereof. R.S.O. 1970, c. 254, s. 79.

Denomin-
ation and
term of
debentures

106. Debentures, bonds or other securities of a registered loan corporation shall,

- (a) be for such individual amounts not less than \$100;
- (b) be payable in such currency and at such place;
- (c) mature on such date;
- (d) bear such rate of interest; and
- (e) in all other respects be in such form and terms,

as the directors of the corporation shall from time to time determine. R.S.O. 1970, c. 254, s. 80; 1972, c. 101, s. 9.

Features
of sub-
ordinated
note

107.—(1) A subordinated note,

- (a) shall be issued only on application to the head office of the corporation;
- (b) shall have a denomination of \$50,000 or more, or such other amount as may be prescribed by the Lieutenant Governor in Council by regulation;
- (c) shall be clearly designated on its face and in its terms as a subordinated note;
- (d) shall have a fixed term to maturity of seven years or more, but with the approval of the Registrar may be for a lesser term or include a provision making it subject to earlier redemption at the option of the corporation; and
- (e) shall be evidenced by a certificate, and the form and contents of such certificate are subject to the prior approval of the Registrar.

References
to subor-
dinated
notes

(2) The corporation, or any person acting on its behalf, shall not, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the corporation refer to such note otherwise than as a subordinated note. 1974, c. 88, s. 11.

108.—(1) Every registered loan corporation shall at all times ^{Reserves required on deposits} maintain,

- (a) cash on hand or on deposit in a chartered bank or other depository approved by the Registrar;
- (b) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;
- (c) loans payable on demand and fully secured by securities referred to in clause (b); and
- (d) subject to the approval of the Registrar and to such conditions as the Registrar may impose, a credit from chartered banks in Canada,

to an aggregate of at least 20 per cent of the amount of deposits and of obligations of the corporation payable in less than 100 days. R.S.O. 1970, c. 254, s. 81 (1); 1972, c. 101, s. 10.

(2) Of the amount maintained under clauses (1) (a), (b) and (c), ^{Composition of reserves}

- (a) at least 25 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in three years or less; and
- (b) at least 50 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in ten years or less. R.S.O. 1970, c. 254, s. 81 (2).

109.—(1) The total amount borrowed by a registered ^{Limit on borrowing} loan corporation, by way of the issue of debentures, bonds or other securities, including subordinated notes, and by way of deposits shall not at any time, except as authorized by subsection (5), exceed an amount equal to four times the excess of its assets over its liabilities, including subordinated notes, but the Lieutenant Governor in Council may, on the report of the Registrar, and on such terms and conditions as the Lieutenant Governor in Council may prescribe,

- (a) increase the total amount that may be borrowed by a corporation, other than by subordinated notes, to an amount equal to such greater multiplier in excess of four times as the corporation may petition and is supported by a by-law under section 104, which by-law shall not increase the limit beyond twenty times the excess of its assets over its liabilities, excluding subordinated notes, unless the financial condition of the loan corporation complies with the standards established by the regulations; and
- (b) prescribe the portion of the total amount that may be borrowed by such corporation by way of deposits.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing the financial standards of loan corporations for the purpose of subsection (1).

Limit on subordinated notes

(3) Where the Lieutenant Governor in Council has approved a by-law under subsection (1), the corporation shall not have outstanding subordinated notes issued by the corporation in an amount greater than the excess of the corporation's assets over its liabilities, including subordinated notes.

Subordinated notes for term of year or more

(4) Subject to subsection (3), where the Lieutenant Governor in Council has approved a by-law that increases the limit of the total amount that may be borrowed, beyond twenty times the excess of the corporation's assets over its liabilities, as provided for in subsection (1), the corporation shall maintain subordinated notes that have more than one year to run to maturity in an amount being not less than a percentage of the amount by which the total amount borrowed exceeds twenty times the excess of the assets over the liabilities, as determined under subsection (1), such percentage to be fixed by the Registrar.

Restrictions on limit

(5) The aggregate of the amounts of money borrowed by a corporation may, if approved by a by-law in accordance with section 104, at any time exceed the limit otherwise imposed by this section by an amount not greater than the amount by which the aggregate of,

- (a) the cash owned by the corporation and held on hand or on deposit in a chartered bank or other depository approved by the Registrar; and

- (b) the market value of the unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of a province of Canada and maturing within three years, owned by the corporation,

exceeds 20 per cent of the amount of deposits and of obligations of the corporation payable in less than 100 days.

(6) Where a loan corporation passes a by-law under section 104 that enables the corporation to borrow moneys in excess of twenty times the excess of its assets over its liabilities or that authorizes the issue of subordinated notes, the corporation shall file with the Registrar a return in the form and at such intervals as is required by the Registrar relating to outstanding subordinated notes and to the financial condition of the corporation and compliance thereof with the standards prescribed by the regulations.

Returns

(7) A loan corporation that issues subordinated notes shall at all times maintain unencumbered investments in addition to those investments required to be held under section 108 that,

Subordinated
notes

(a) in the aggregate equal the principal amount of the outstanding subordinated notes;

(b) are in securities authorized under clauses 178 (1) (e) to (k); and

(c) that mature within six months of the date that the subordinated notes mature.

(8) Subsections (1) to (7) do not apply to registered loan corporations incorporated and licensed under the *Loan Companies Act* (Canada).

Not applicable
to federal
corporations
R.S.C. 1970,
c. L-12

(9) Each loan corporation registered in Ontario and incorporated and licensed under the *Loan Companies Act* (Canada) shall file with the Registrar copies of all applications filed under the *Loan Companies Act* (Canada) for any increase in the amount that it may borrow, and shall also file with the Registrar a copy of any approval of such application within seven days of filing or receipt, as the case may be. 1974, c. 88, s. 12, *part*.

Requirements
of federal
corporations

POWERS OF TRUST COMPANIES

Powers
conferred
on trust
companies

110. Subject to sections 113, 115 and 116, a provincial trust company may and any other registered trust company that has capacity to do so may,

- (a) take, receive and hold all estates and real and personal property that may be granted, committed, transferred or conveyed to the company with its consent, upon any trust or trusts whatsoever not contrary to law, at any time or times, by any person or persons, body or bodies corporate, or by any court of competent jurisdiction;
- (b) take and receive as trustee or as bailee, upon such terms and for such remuneration as are agreed upon, deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;
- (c) receive and store for safe keeping all kinds of securities and personal property and rent spaces or compartments for the storage of securities or personal property and enter into legal contracts for regulating the terms and conditions upon which such business is to be carried on;
- (d) act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;
- (e) act as agent for the purpose of issuing or counter-signing certificates of stock, bonds or other obligations of any association or municipal or other corporation, and to receive, invest and manage any sinking fund therefor on such terms as are agreed upon;
- (f) accept and execute the offices of executor, administrator, trustee, receiver, liquidator, assignee, custodian, trustee in bankruptcy, or of trustee for the benefit of creditors, and of guardian of any minor's estate, or committee of any mentally incompetent person's estate, and to accept the duty of and act generally in the winding up of estates, partnerships, companies and corporations;
- (g) invest any trust money in the hands of the company in any securities in which private trustees may by law invest trust money;

- (h) guarantee any investment made by the company as trustee, agent or otherwise;
 - (i) sell, pledge or mortgage any mortgage or other security, or any other real or personal property held by the company, and make and execute all requisite conveyances and assurances in respect thereof;
 - (j) make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the company, and promote its objects and business;
 - (k) charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses for all such services, duties and trusts.
- R.S.O. 1970, c. 254, s. 84.

111.—(1) In this section, “common trust fund” means a fund maintained by a trust company in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment. Interpretation

(2) Notwithstanding this or any other Act, any provincial trust company and any other registered trust company that has capacity to do so may, unless the trust instrument otherwise directs, invest trust money in one or more common trust funds of the company, and, where trust money is held by the company as a co-trustee, the investment thereof in a common trust fund may be made by the company with the consent of its co-trustees whether the co-trustees are individuals or corporations. Common trust funds authorized

(3) The Lieutenant Governor in Council may make regulations with respect to the establishment and operation of common trust funds and the investment of trust money in such funds. Regulations

(4) A trust company may at any time, and shall when required in writing by the Registrar so to do under subsection (5), file and pass an account of its dealings with respect to a common trust fund in the office of the surrogate court of the county or district in which the fund is being administered, and the judge of the surrogate court, on the passing of such account, has, subject to this section, the same duties and powers as in the case of the passing of executors' accounts. Passing of accounts

(5) An account filed with the Registrar pursuant to the regulations, except so far as mistake or fraud is shown, is When account final

binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust company's administration of the common trust fund for the period covered by the account, unless within six months after the date upon which the account is so filed the Registrar requires in writing that such account be filed and passed before a judge of the surrogate court.

Accounting only necessary under this section or regulations

(6) Notwithstanding any other Act or law, a trust company shall not be required to render an account of its dealings with a common trust fund except as provided in this section or the regulations.

Time and place for passing of account

(7) Upon the filing of an account pursuant to this section, the judge of the surrogate court shall fix a time and place for the passing of the account, and the trust company shall cause a written notice of such appointment and a copy of the account to be served upon the Registrar at least fourteen days before the date fixed for the passing, and the trust company shall not be required to give any other notice of the appointment.

Form of account

(8) For the purposes of any such accounting, an account may be filed in the form of audited accounts filed with the Registrar pursuant to regulations made under this section.

Registrar to represent persons having interest in fund

(9) Upon the passing of an account pursuant to this section, the Registrar shall represent all persons having an interest in the funds invested in the common trust fund, but any such person has the right at his own expense to appear personally or to be separately represented.

Approval of judge

(10) Where an account filed pursuant to this section has been approved by the judge of the surrogate court, such approval, except so far as mistake or fraud is shown, is binding and conclusive upon all interested persons as to all matters shown in the account and as to the trust company's administration of the common trust fund for the period covered by the account.

Costs

(11) The costs of passing an account pursuant to this section shall be charged to principal and income of the common trust fund in such proportions as the judge of the surrogate court considers proper. R.S.O. 1970, c. 254, s. 85.

Pooled trust fund defined

112.—(1) In this section, "pooled trust fund" means a trust fund maintained or operated by a trust company in which moneys belonging to various participants are combined for the purpose of investment and entitling the participant to receive on demand, or after a specified period after demand,

an amount computed by reference to the value of a proportionate interest in the assets of such trust fund, but does not include a trust fund operated where participation is limited to less than fifty persons.

(2) The assets of a pooled trust fund shall be held and managed in trust under a trust document for the purpose that complies with the regulations made under subsection (8)

(3) No trust company shall offer to any person units or other interests in a pooled trust fund until there has been filed with the Registrar the form of the documents evidencing the trust and such other material as to the reporting to participants, advertising, and training of personnel as the Registrar requires in respect of such offering and a receipt therefor has been obtained from the Registrar.

(4) The Registrar may, when in his opinion such action is in the public interest, require a trust company to file with him an information folder in the form prescribed by the regulations with respect to a pooled trust fund and no application or moneys for participation in the pooled trust fund shall be received by the trust company from a prospective purchaser until the trust company has delivered to the prospective purchaser a copy of the information folder that has been filed and the trust company shall obtain from each prospective purchaser with his application a statement in writing acknowledging that he has received a copy of the information folder.

(5) The information folder shall provide brief and plain disclosure of all material facts relating to the pooled trust fund, shall comply as to form and content with the requirements of the regulations and shall be so certified by the president, vice-president, or managing director or other director appointed for such purpose and by the secretary or manager of the trust company.

(6) A trust company that has filed an information folder in respect of a pooled trust fund shall, as long as the trust company continues to offer participation in the pooled trust fund, file with the Registrar a copy of a new information folder in respect of its contracts,

(a) forthwith upon any material changes in any facts set out in the information folder filed in respect of such pooled trust fund; and

(b) within one year and one month after the date of the latest information folder filed with the Registrar in respect of such pooled trust fund.

Prohibition
order

(7) When it appears to the Registrar that,

- (a) the information folder, or any other document filed with the Registrar by a trust company under this Act or the regulations,
 - (i) fails to comply in any substantial respect with the requirements of this Act or the regulations,
 - (ii) contains any promise, estimate, illustration or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it is made; or
- (b) the condition or method of operation of the trust company in connection with its pooled trust fund will render its operations hazardous to the public or to its participants in Ontario,

the Registrar shall report the same to the Minister and the Minister, if he concurs in the report and after hearing the trust company, may order the Registrar to prohibit the trust company from continuing to offer participation in such pooled trust fund.

Regulations

(8) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the form and content of the trust instrument establishing a pooled trust fund;
- (b) prescribing investment restrictions and reserves in respect of pooled trust funds;
- (c) prescribing the form and content of information folders;
- (d) prescribing the qualifications and training of persons who may sell interests in pooled trust funds;
- (e) governing the furnishing of information and advertising to the public in connection with a pooled trust fund;
- (f) requiring trust companies to furnish the Registrar with such information, returns and reports respecting pooled trust funds as is prescribed. R.S.O. 1970, c. 254, s. 86.

113.—(1) A provincial trust company does not have power to borrow money by taking deposits or by issuing debentures but may, subject to the regulations, borrow money by the issue of subordinated notes. 1974, c. 88, s. 13 (1).

Trust companies not to borrow by accepting deposits

(2) A provincial trust company may borrow money and charge, mortgage, hypothecate or pledge all or any of the real or personal property, present or future, of the company other than property deemed by this Act to be held by the company as trustee or received for investment under sections 115 and 116, to secure any moneys so borrowed. R.S.O. 1970, c. 254, s. 87 (2).

Trust companies may borrow on own funds

(3) A provincial trust company shall not borrow money under subsections (1) and (2) unless it is authorized to do so by by-law and such by-law does not take effect unless it,

Borrowing by-law

(a) has been passed by the affirmative vote of the holders of two-thirds of the shares for the time being carrying voting rights and present or represented by proxy at a general meeting of the shareholders of the trust company duly called to consider such by-law; or

(b) has been passed by the directors and confirmed at a general meeting of the shareholders of the trust company duly called to consider such by-law by resolution passed by the affirmative vote of the holders of at least two-thirds of the shares for the time being carrying voting rights present or represented by proxy at such meeting. 1972, c. 101, s. 11; 1974, c. 88, s. 13 (2).

114.—(1) A subordinated note,

Features of subordinated note

(a) shall be issued only on application to the head office of the company;

(b) shall have a denomination of \$50,000 or more or such other amount as may be prescribed by the Lieutenant Governor in Council by regulation;

(c) shall be clearly designated on its face and in its terms as a subordinated note;

(d) shall have a fixed term to maturity of seven years or more, but with the approval of the Registrar may be for a lesser term or include a provision making it subject to earlier redemption at the option of the company; and

- (e) shall be evidenced by a certificate; and the form and contents of such certificate are subject to the prior approval of the Registrar.

References
to sub-
ordinated
notes

(2) The trust company, or any person acting on its behalf, shall not, in any offering circular, advertisement, correspondence or literature relating to a subordinated note issued or to be issued by the company refer to such note otherwise than as a subordinated note. 1974, c. 88, s. 14.

Deposits,
power to
receive

115.—(1) Subject to section 181, a provincial trust company and any other registered trust company that has capacity to do so may receive deposits of money repayable upon demand or after notice and may pay interest thereon at such rates and on such terms as the company from time to time may establish, and the company is entitled to retain the interest and profit resulting from the investment or loaning of such deposit money in excess of the amount of interest payable to depositors.

to be
deemed
trust
moneys
and to be
guaranteed

(2) Every trust company receiving deposits in the manner authorized by subsection (1) shall be deemed to hold the deposits as trustee for the depositors and to guarantee repayment thereof, and there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities.

record

(3) Every trust company receiving moneys on deposit under this section shall keep a record in the form approved by the Registrar, in which shall be entered all sums so received and the names and addresses, so far as known, of the persons from whom they are received. R.S.O. 1970, c. 254, s. 88.

Money for
investment

116.—(1) Subject to section 181, a provincial trust company and any other registered trust company that has capacity to do so may receive money for the purpose of its being invested by the company and may guarantee the repayment of money so received and the payment of the interest thereon at such rate as is agreed upon on fixed days.

Guarantee

(2) Such guarantee by the company shall not be deemed to be a debenture and the money shall not be deemed to be money borrowed by the company by issuing debentures but to be money received in trust, and in such cases the company is entitled to retain the interest and profits resulting from the investment or loaning of such moneys in excess of the amount of interest payable thereon.

(3) Where it is provided by the agreement under which moneys are received by the company for guaranteed investment as mentioned in subsection (1) that specific securities shall be allocated in respect thereof, such securities shall be ear-marked and definitely set aside in respect thereof, and in respect of all other moneys received for guaranteed investment as mentioned in subsection (1) there shall be ear-marked and definitely set aside in respect thereof securities, or cash and securities, equal to the full aggregate amount thereof, and for the purposes of this subsection "cash" includes moneys on deposit and "securities" includes loans made upon securities. R.S.O. 1970, c. 254, s. 89.

Securities
allocated to
guaranteed
investment

117. A provincial trust company shall not exercise any of the powers contained in sections 115 and 116 unless it is authorized to do so by by-law and such by-law does not take effect unless it,

Deposit and
investment
by-law

- (a) has been passed by the affirmative vote of the holders of two-thirds of the shares for the time being carrying voting rights and present or represented by proxy at a general meeting of the shareholders of the trust company duly called to consider such by-law; or
- (b) has been passed by the directors and confirmed at a general meeting of the shareholders of the trust company duly called to consider such by-law by resolution passed by the affirmative vote of the holders of at least two-thirds of the shares for the time being carrying voting rights present or represented by proxy at such meeting. 1972, c. 101, s. 12.

118.—(1) The total of the moneys received by a registered trust company as deposits under section 115 and for investment under section 116 or borrowed under section 113 shall not at any time, except as authorized by subsection (5), exceed an amount equal to twelve and one-half times the excess of its assets over its liabilities, including subordinated notes, but the Lieutenant Governor in Council may, on the report of the Registrar and on such terms and conditions as the Lieutenant Governor in Council may prescribe,

Limit on
guaranteed
funds

- (a) increase the total amount that may be so received or borrowed other than by subordinated notes by a company to an amount equal to such greater multiplier in excess of twelve and one-half times as the company may petition and is approved by a by-law under section 113, which by-law shall not increase the limit beyond twenty times the excess of its assets over its liabilities, excluding sub-

ordinated notes, unless the financial condition of the trust company complies with the standards established by the regulations; and

- (b) prescribe the portion of the total amount that may be so received or borrowed by such company that may be borrowed by way of deposits.

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing the financial standards of trust companies for the purposes of subsection (1).

**Limit on
subordinated
notes**

(3) Where the Lieutenant Governor in Council has approved a by-law under subsection (1), the company shall not have outstanding subordinated notes issued by the company in an amount greater than the excess of the company's assets over its liabilities, including subordinated notes.

**Subordinated
notes for
term of year
or more**

(4) Subject to subsection (3), where the Lieutenant Governor in Council has approved a by-law that increases the limit of the total amount that may be borrowed, beyond twenty times the excess of the company's assets over its liabilities, as provided for in subsection (1), the company shall maintain subordinated notes that have more than one year to run to maturity in an amount being not less than a percentage of the amount by which the total amount borrowed exceeds twenty times the excess of the assets over the liabilities, as determined under subsection (1), such percentage to be fixed by the Registrar.

**Restrictions
on limit**

(5) The aggregate of the amounts of money so received and borrowed by a trust company may, if approved by a by-law in accordance with section 113, at any time exceed the limit otherwise imposed by this section by an amount not greater than the amount by which the aggregate of,

- (a) the cash held by the company in its own right and for guaranteed investment and held on hand or on deposit in a chartered bank or other depository approved by the Registrar; and
- (b) the market value of the unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of a province of Canada and maturing within three years held by the company in its own right and received for guaranteed investment,

exceeds 20 per cent of the amount of deposits and of funds received for guaranteed investment coming due in less than 100 days.

(6) Where a trust company passes a by-law under section 113 that enables the company to receive and borrow moneys in excess of twenty times the excess of its assets over its liabilities or that authorizes the issue of subordinated notes, the trust company shall file with the Registrar a return in such form and at such intervals as is required by the Registrar relating to outstanding subordinated notes and to the financial condition of the company and compliance thereof with the standards prescribed by the regulations. Returns

(7) A trust company that issues subordinated notes shall at all times maintain unencumbered investments in addition to those investments required to be held under section 121 that, Subordinated notes

(a) in the aggregate equal the principal amount of the outstanding subordinated notes; .

(b) are in securities authorized under clauses 178 (1) (e) to (k); and

(c) mature within six months of the date that the subordinated notes mature.

(8) Subsections (1) to (7) do not apply to companies incorporated under the provisions of the *Trust Companies Act* (Canada). Not applicable to federal companies
R.S.C. 1970, c. T-16

(9) Each trust company registered in Ontario and incorporated under the *Trust Companies Act* (Canada) shall file with the Registrar copies of all applications and supporting documents filed under the *Trust Companies Act* (Canada) respecting applications for any increase in the amount it may borrow or receive as deposits or for guaranteed investment, and shall also file with the Registrar a copy of any approval of such application within seven days of filing or receipt, as the case may be. 1974, c. 88, s. 15. Requirements of federal companies

119. Notwithstanding anything in this Act, a provincial trust company may, with the approval of the Registrar, hypothecate, mortgage or pledge the cash and securities earmarked and set aside under sections 115 and 116 of this Act to the Canada Deposit Insurance Corporation for a loan from that Corporation. R.S.O. 1970, c. 254, s. 91; 1972, c. 101, s. 13. Pledge of securities to Canada Deposit Insurance Corporation

Extent of
liability

120.—(1) The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee is the same as if the estate had been held by a private person in the like capacity, and the company's powers are the same.

Approval of
company as
executor,
etc.

(2) Where a trust company is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant Governor in Council approves of the company being accepted as a trust company for the purposes of the Supreme Court, every court or judge having authority to appoint such an officer may, with the consent of the company, appoint the company to exercise any of such offices in respect of any estate or person under the authority of such court or judge, or may grant to the company probate of any will in which the company is named as an executor; but no company that has issued or has authority to issue debentures or debenture stock, or that has received or has authority to receive deposits, except in the manner authorized by this Act, shall be approved.

Appointment
of company
as sole
trustee

(3) A trust company so approved may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

Idem

(4) A trust company so approved may be appointed to any of the offices mentioned in subsection (2) jointly with another person.

When
appointment
may be made
by court
R.S.O. 1980,
c. 512

(5) Such appointment may be made whether the trustee is required under a deed, will or document creating a trust or whether the appointment is under the *Trustee Act* or otherwise.

Security not
required

(6) Notwithstanding any rule or practice or any provision of any Act requiring security, it is not necessary for the company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless otherwise ordered.

Revocation
of approval

(7) The Lieutenant Governor in Council may at any time revoke the approval given under this section. R.S.O. 1970, c. 254, s. 92.

Reserves
required on
deposits

121.—(1) Every registered trust company shall at all times maintain,

(a) cash on hand or on deposit in a chartered bank or other depository approved by the Registrar;

(b) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;

(c) loans payable on demand and fully secured by securities referred to in clause (b); and

(d) subject to the approval of the Registrar and to such conditions as the Registrar may impose, a credit from chartered banks in Canada,

to an aggregate of at least 20 per cent of the amount of deposits and of funds received for guaranteed investment coming due in less than 100 days. R.S.O. 1970, c. 254, s. 93 (1); 1972, c. 101, s. 14.

(2) Of the amount maintained under clauses (1) (a), (b) and (c), Composition of reserves

(a) at least 25 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in three years or less; and

(b) at least 50 per cent shall be maintained in cash on hand or on deposit in a chartered bank or other depository approved by the Registrar and in unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada, maturing in ten years or less. R.S.O. 1970, c. 254, s. 93 (2).

GENERAL POWERS

122.—(1) Every corporation may establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or former employees of the corporation, or its predecessors in business, or the dependants or connections of such persons, and to grant pensions and allowances and make payments towards insurance or for any object similar to those set forth in this subsection, and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object. Powers of corporation as to benefit funds, etc., for employees and their families

Declaration
as to
powers of
corporation

(2) Every provincial corporation shall be deemed to have possessed since the date of its incorporation the powers set forth in subsection (1) including the power to exercise such powers jointly with any registered corporation, by whatever authority incorporated, possessing the same or similar powers, in such a way as to benefit the employees, or former employees, of such corporations or predecessors in business of such corporations or the dependants or connections of such persons. R.S.O. 1970, c. 254, s. 94.

Suspension
or revoca-
tion of
charter

123. The charter or other instrument of incorporation of a corporation may at any time, for cause shown to the satisfaction of the Lieutenant Governor in Council, be suspended or revoked by the Lieutenant Governor in Council. R.S.O. 1970, c. 254, s. 95.

Capacity of
corpora-
tions

124. Every provincial corporation, unless it is otherwise expressly declared in the Act or instrument creating it, has and shall be deemed from its creation to have had the general capacity that the common law ordinarily attaches to corporations created by charter. R.S.O. 1970, c. 254, s. 96.

Extension of
business
beyond
Ontario

125. Every provincial corporation, unless it is otherwise expressly provided in the Act or instrument creating it, may exercise its powers beyond Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1970, c. 254, s. 97.

Reserve
fund

126. A corporation may maintain a reserve fund out of its earnings or other income not required to meet its present liabilities. R.S.O. 1970, c. 254, s. 98.

Prohibition
or limitation
of loans
upon shares

127.—(1) A corporation may pass a by-law prohibiting the loaning to shareholders upon the security of their shares, or, subject to the limitations contained in this section, may pass a by-law fixing the aggregate amount that may be loaned on such shares, and neither of such by-laws shall be repealed until all liabilities of the corporation are discharged.

Limitation
as to loans
on its own
stock

(2) Subject to subsection (1), the corporation may lend upon its own paid up stock to an amount not exceeding at any one time in the aggregate of all such loans 10 per cent of the corporation's paid up stock.

Margin

(3) No such loan shall exceed 80 per cent of the market price of the stock. R.S.O. 1970, c. 254, s. 99.

Not to lend
on own
stock

128. A corporation shall not, except in the manner provided in section 127, lend on its own shares with or without collateral security. R.S.O. 1970, c. 254, s. 100.

129.—(1) No corporation, and no director, officer or employee thereof, either personally or on behalf of such corporation, and no other company the majority of the capital stock of which is owned or controlled by such corporation, its shareholders, directors, officers or employees, shall, either directly or indirectly, transact the business of or act as insurance agent or broker within the meaning of the *Insurance Act*, or exercise pressure upon any borrower or mortgagor to place insurance for the security of such corporation, in or through any particular agency or brokerage office, but nothing in this section prevents such corporation from stipulating in its contract of loan that any required insurance must be effected with an approved insurer.

Prohibition
against
acting as
insurance
agent

R.S.O. 1980,
c. 218

(2) Subsection (1) does not apply to the director of a corporation who is able to satisfy the Superintendent of Insurance that the business of insurance is his major occupation. R.S.O. 1970, c. 254, s. 101.

Exception

130. A person not of the full age of eighteen years may deposit money with a registered corporation in his own name, and the money so deposited may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority. R.S.O. 1970, c. 254, s. 102; 1971, c. 98, s. 4, Sched., par. 20.

Minors
may make
deposits

131.—(1) A corporation is not bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock, or any deposit, guaranteed investment certificate or debenture is subject.

Trusts

(2) The receipt of the person in whose name any such share, deposit, guaranteed investment certificate or debenture stands in the books of the corporation is a sufficient discharge to the corporation for any payment made in respect thereof, and a direction to transfer, signed by the person in whose name any such share, deposit, guaranteed investment certificate or debenture stands in the books of the corporation, is sufficient authority to the corporation for any transfer made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of the trust.

Sufficient
discharge

(3) A corporation is not bound to see to the application of the money paid upon such receipt. R.S.O. 1970, c. 254, s. 103.

Application
of money
paid

132. A provincial corporation may, by writing under its seal, empower any person, either generally or in respect of

Power of
attorney by
corporation

any specified matters, as its attorney, to execute on its behalf, deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney, on behalf of the corporation and under his seal, binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1970, c. 254, s. 104.

Official
seal for use
abroad

133.—(1) A provincial corporation may have a seal to be known as the “official seal” for use in any territory, district or place outside Ontario, which shall be a facsimile of the seal of the corporation, with the addition on its face of the name of the territory, district or place where it is to be used.

Authority
to agent to
affix seal

(2) A corporation having an official seal may, by writing under its seal, authorize any person appointed for the purpose in any territory, district or place outside Ontario, to affix it to any deed or other document to which the corporation is party in any capacity in that territory, district or place.

Certifying
date and
period of
sealing

(3) The person affixing an official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing it.

Effect of
official seal

(4) A deed or other document to which an official seal is duly affixed binds the corporation as if it had been sealed with the seal of the corporation. R.S.O. 1970, c. 254, s. 105.

AMALGAMATION OF CORPORATIONS AND PURCHASE AND SALE OF ASSETS

Power to
unite with
other cor-
porations and
to purchase
or sell assets

134.—(1) Any registered loan corporation may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any loan corporation or, subject to subsection 144 (3), with those of any trust company in Canada, or may purchase the assets of any other loan corporation in Canada, or may sell its assets to any registered corporation, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the liabilities of the vendor corporation, and may enter into such bond or agreement of indemnity with the corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the contracts and agreements necessary to such union, merger, amalgamation, consolidation, sale or purchase. 1973, c. 128, s. 12.

(2) Sections 135 to 142 do not apply to the purchase by a registered extra-provincial corporation of the assets of a corporation that is not registered under this Act. R.S.O. 1970, c. 254, s. 106 (2). Where ss. 135-142 do not apply

135—(1) The directors of any corporation mentioned in section 134 may enter provisionally into a joint agreement under the seal of each of the corporations for the union, merger, amalgamation or consolidation of the corporations, or for the sale or purchase by the one corporation of the assets of the other corporation. Directors may make agreement for amalgamation or for purchase or sale of assets

(2) The agreement shall prescribe the terms and conditions of the proposed transaction and the mode of carrying it into effect. R.S.O. 1970, c. 254, s. 107 (1, 2). Matters to be specified in agreement

(3) If the two corporations are to be merged into one corporation, the agreement shall specify the name of the new or of the continuing corporation, and the number of directors and the officers thereof, and shall state who are to be the first directors and officers, the capital stock, the number of shares into which such stock is divided, the par value, if any, of the shares and the manner of converting the capital stock of each of the existing corporations into that of the new or continuing corporation. R.S.O. 1970, c. 254, s. 107 (3); 1973, c. 128, s. 13. Idem

(4) The agreement shall contain such other details as the directors of the corporations consider necessary to perfect the new organization, and the union, merger, amalgamation and consolidation, and the after management and working thereof, and to complete the terms and mode of payment for the assets of one corporation purchased or acquired by the other. Other details

(5) In an agreement for the purchase and sale of assets, the consideration may consist wholly or in part of partly paid or of paid up shares of the permanent capital stock of the purchasing corporation. Consideration

(6) Such agreement or, if no agreement has been entered into but an offer has been made by a corporation under its seal for the purchase of the assets of another corporation, such offer shall be submitted to the shareholders of each corporation at a meeting thereof to be held separately for the purpose of taking the agreement or the offer into consideration. Agreement to be subject to approval of shareholders

(7) Notice of the time and place of the meeting of the corporation in which he holds shares and the objects thereof Notice of meeting to consider agreement

shall be given by written or printed notice addressed to every shareholder, together with a copy of the proposed agreement, at his last known post office address, and also by a general notice in a newspaper published at the chief place of business of the corporation once a week for six successive weeks.

Notice to
Registrar

(8) A like notice, together with two copies of the proposed agreement, shall be delivered to the Registrar at least one month before the date of either of the meetings of shareholders called to consider it. R.S.O. 1970, c. 254, s. 107 (4-8).

Proceedings
to ratify
agreement

136. At each of the meetings of shareholders the agreement or offer shall be considered, and if at each meeting the holders of at least 50 per cent of the issued shares of the corporation for the time being carrying voting rights are present in person or represented by proxy and the agreement or offer is ratified or accepted by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting, that fact shall be certified upon the agreement or offer by the secretary or manager of each corporation under the seal of such corporation. R.S.O. 1970, c. 254, s. 108.

Dispensing
with
ratification

137. The Lieutenant Governor in Council, in the case of a proposed purchase of assets, may dispense with the ratification or acceptance of the agreement or offer by the shareholders of the purchasing corporation where it is shown to his satisfaction that the shareholders, after due notice thereof, have ratified a general resolution or by-law authorizing the purchase of the assets of any loan corporation upon the basis and within the limits specified in such agreement or offer. R.S.O. 1970, c. 254, s. 109.

Ratified
agreement
to be filed

138.—(1) If the agreement is ratified or the offer is accepted at the meeting of the shareholders of each of the corporations, or in the case provided for in section 137 at the meeting of the shareholders of the selling corporation, the agreement or offer, with the certificates or certificate thereon, shall be filed with the Registrar.

Assent

(2) The Registrar shall submit the agreement or offer for the assent of the Lieutenant Governor in Council.

Effect of
assent

(3) If the Lieutenant Governor in Council assents thereto, the agreement or offer shall be deemed to be the agreement and act of union, amalgamation and consolidation of the corporations, or the agreement and deed of purchase and

acquisition of the assets of the selling corporation by the purchasing corporation. R.S.O. 1970, c. 254, s. 110.

139.—(1) Upon proof that the foregoing requirements have been duly complied with, the Minister shall issue a certificate under his hand and seal certifying the assent of the Lieutenant Governor in Council and the date thereof, and declaring the purchase and the sale of the assets and the names of the corporations who are parties thereto, or, in the case of amalgamation, declaring the amalgamation of the corporations, naming them, and the name of the new or of the continuing corporation, together with such other matters, if any, as appear to him necessary or desirable in the public interest. Certificate of assent

(2) The certificate of the Minister is for all purposes and in all courts conclusive evidence of all matters therein certified or declared. Effect as evidence

(3) The Registrar shall give public notice in *The Ontario Gazette* of the issue of the Minister's certificate. Notice

(4) It is sufficient to register a certified copy of the Minister's certificate in each registry division or land titles division in which instruments affecting lands or interests in lands, included or intended to be included in the transfer or amalgamation, are registered. Registration of certificate of assent

(5) Any document under the hand or purporting to be under the hand of the Registrar, certifying the document to be or to contain a true copy of the Minister's certificate or of any instrument referred to in the certificate, shall be registered in any registry division or land titles division by the land registrar thereof upon it being tendered to him for registration accompanied by the proper fee. Certificate of Registrar

(6) The certificate shall be entered in the general register of the registry division or in the book kept in the land titles division. Registration in general register

(7) Copies so certified of any such certificate or instrument shall be received by the proper land registrar under the *Land Titles Act* as conclusive evidence of all matters therein certified or declared. Certified copies of certificate R.S.O. 1980, c. 230

(8) For the purpose of any instrument required to be registered under the *Personal Property Security Act*, it is sufficient in order to show the transmission of title in respect of any personal property or interest in personal property included or intended to be included in a transfer or amalgamation, such as is mentioned in Security interest R.S.O. 1980, c. 375

section 138 and this section, if the instrument affecting such property or interest recites the certificate registered as provided in subsection (4) and states the registry division or land titles division in which it is registered and its registration number.

Application
of section

(9) This section extends to and includes any such certificate or certified copy issued or purporting to have been issued after the 13th day of April, 1897, under *The Loan Corporations Act*, being chapter 205 of the Revised Statutes of Ontario, 1897. R.S.O. 1970, c. 254, s. 111.

Evidence of
assent of the
Lieutenant
Governor
in Council

140. The Registrar may, by a certificate under his hand and seal endorsed upon or identifying the agreement or offer mentioned in subsection 135 (6), or any counterpart or copy thereof, certify that the agreement or offer has been assented to by the Lieutenant Governor in Council, and his certificate with a copy of the order in council attached is *prima facie* evidence of such assent. R.S.O. 1970, c. 254, s. 112.

Assets of
selling
corporation
to vest in
purchasing
corporation

141.—(1) In the case of a purchase and sale of assets so assented to, the assets of the selling corporation become vested in the purchasing corporation on and from the date of such assent without any further conveyance, and the purchasing corporation thereupon becomes and is responsible for the liabilities of the selling corporation.

Disposal of
assets by
purchasing
corporation

(2) In dealing with the assets of the selling corporation, it is sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant Governor in Council thereto, with the date of the assent.

Rights of
creditors

(3) No such transfer affects the rights of any creditor of the transferring corporation.

Privity of
contract
between
purchasing
corporation
and each
creditor
of selling
corporation

(4) By every such agreement made or purporting to be made under this Act, the purchasing corporation shall be deemed to covenant and agree with each creditor of the selling corporation that the purchasing corporation will pay to him the sum in which the selling corporation is indebted to him at such time and place as such sum would have been payable had such agreement not been made.

Dissolution
of selling
corporation

(5) Where the Lieutenant Governor in Council assents to an agreement for the sale of the assets of a corporation, the selling corporation is, from the date of the assent, dissolved, except so far as is necessary to give full effect to the agreement. R.S.O. 1970, c. 254, s. 113.

142.—(1) In the case of an amalgamation, the parties thereto are, from the date of the assent of the Lieutenant Governor in Council, consolidated and amalgamated and they shall continue thereafter as one corporation under the jurisdiction specified in the amalgamation agreement and by the name stated in the Minister's certificate. Amalgamation

(2) From the date of the assent, all the business and real and personal property, and all the rights and incidents appurtenant thereto, all stock, mortgages and other securities, subscriptions and other debts due, and other things in action belonging to each of the amalgamating corporations are vested in the amalgamated corporation without further act or deed. Business and property vested in amalgamated corporation

(3) All rights of creditors and liens upon the property of each of the amalgamating corporations are unimpaired by the amalgamation. Creditors' rights

(4) All debts, liabilities and duties of each of the amalgamating corporations attach to the amalgamated corporation from the date of the assent and may be enforced against it to the same extent as if they had been incurred or contracted by it. Debts and liabilities

(5) Where the amalgamated corporation is to continue as a provincial corporation, the Lieutenant Governor shall, by letters patent, issue to the amalgamated corporation a charter, as at the date of the assent, confirming the amalgamation agreement and continuing the amalgamated corporation as if it had been incorporated under this Act. Charter

(6) Where the amalgamated corporation is to continue as other than a provincial corporation and one or more, but not all, parties to the amalgamation agreement are provincial corporations, the parties to the amalgamation agreement may apply to the proper officer of the jurisdiction of continuation specified in the amalgamation agreement for an instrument amalgamating and continuing them as an amalgamated corporation under the laws of that jurisdiction and as incidental thereto a provincial corporation may apply for letters patent or other instrument continuing it as if it had been incorporated under the laws of that jurisdiction. To permit continuation of amalgamated company under another jurisdiction
R.S.O. 1970, c. 254, s. 114.

143.—(1) In addition to its powers under section 134, a registered loan corporation may, for the purpose of either acquiring the assets of any other loan corporation in Canada or uniting, merging or amalgamating with any such corporation under sections 134 to 142, purchase not less than Acquisition or amalgamation by registered loan corporation by purchase of shares

67 per cent of the outstanding shares of any such corporation, subject to the following:

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar supported by evidence that,

(a) an offer to purchase has been accepted,

(i) in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation, or

(ii) by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such corporation at a general meeting of the shareholders thereof; and

(b) the purchase has been submitted to a general meeting of the shareholders of the purchasing corporation at which the holders of at least 50 per cent of the issued shares of such corporation for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.

3. The power to purchase shares under this section is in addition to the powers set forth in section 178, and the limitations and provisos contained in section 185 do not apply to any such purchase of shares.
4. Where a corporation has purchased shares under this section, it shall within a period of two years after the purchase has been authorized by the Lieutenant Governor in Council proceed under sections 134 to 142 either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or to unite, merge or amalgamate with such other corporation, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such

period from time to time and, after the expiration of such period and any such extension thereof, the shares so purchased shall not be allowed as assets of the purchasing corporation in the annual report prepared by the Registrar for the Minister, and the Registrar may direct the corporation to sell or otherwise absolutely dispose of such shares.

(2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing corporation or in part cash and in part shares of the purchasing corporation or such other consideration as is agreed upon. Consideration for shares

(3) Nothing in this section shall be construed as authorizing a corporation to purchase or acquire its own shares. No power to purchase own shares

(4) Any provisions in any letters patent or special Act by which a purchasing corporation was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing corporation for the purpose of subsection (2). R.S.O. 1970, c. 254, s. 115. Allotment rights not to apply

144.—(1) In this section, “fiduciary” includes a trustee, bailee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent, and “instrument” includes every will, codicil, or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, an Act of the Legislature, and a judgment, decree, order, direction and appointment of any court, judge, or other constituted authority. R.S.O. 1970, c. 254, s. 116 (1). Interpretation

(2) Any registered trust company may unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any loan corporation or trust company in Canada, or may purchase the assets of any corporation in Canada or may sell its assets to any registered trust company, and for the purpose of carrying out such purchase or sale the purchasing corporation shall assume the liabilities of the vendor corporation, and may enter into such bond or agreement of indemnity with the vendor corporation or the individual shareholders thereof, or both, as may be necessary, and the corporations may enter into the agreements necessary to such union, merger, amalgamation, consolidation, sale or purchase, and subsection 134 (2) and sections 135 to 142, apply, with necessary modifications, thereto. Power of trust companies to unite with other corporations and to purchase or sell assets

Where trust
company
purchases
assets of loan
corporation

(3) In any case of a union, merger, amalgamation or consolidation of a trust company with a loan corporation or a purchase of assets of a loan corporation by a trust company, the new, continuing or purchasing corporation, as the case may be, shall be a trust company, and it shall forthwith earmark and set aside in respect of any debentures and deposits of the loan corporation, securities, or cash and securities, equal to the full aggregate amount of such debentures and deposits, and for the purpose of this subsection, "cash" includes moneys on deposit and "securities" includes loans made upon securities. 1973, c. 128, s. 14.

Trusts to
pass to new
companies

(4) On and from the assent of the Lieutenant Governor in Council, as provided in subsection 139 (1), to the purchase and sale, or to the amalgamation, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon either of the corporations, parties to the purchase and sale, or to the amalgamation, are vested in and bind and may be enforced against the purchasing or new or continuing corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument.

Subject-
matter of
trust to
vest in new
company

(5) Wherever 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 corporation or of either of the amalgamated corporations as the fiduciary, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation, and such instrument vests the subject-matter therein described in the new or continuing corporation according to the tenor of, and at the time indicated or intended by the instrument, and the new or continuing corporation shall be deemed to stand in the place and stead of the old corporation.

References
in will or
codicil

(6) Where the name of the selling corporation or of either of the amalgamated corporations appears as executor, trustee, guardian, or curator in a will or codicil, such will or codicil shall be read, construed and enforced as if the new or continuing corporation was so named therein, and it has, in respect of the will or codicil, the same status and rights as the selling or amalgamating corporation.

Duties of
old corpora-
tion not
completed

(7) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem* issued or made by any court in Ontario to the selling corporation or to either of the amalgamated corporations, from

which at the date of such assent it had not been finally discharged, the new or continuing corporations shall *ipso facto* be substituted therefor. R.S.O. 1970, c. 254, s. 116 (4-7).

145.—(1) In addition to its powers under section 144, a registered trust company may, for the purpose of either acquiring the assets of any corporation in Canada or uniting, merging or amalgamating with any other trust company in Canada under section 144, purchase not less than 67 per cent of the outstanding shares of any such corporation or trust company, subject to the following:

Acquisition
or amalga-
mation by
registered
trust
company by
purchase of
shares

1. No such purchase shall be made unless authorized by the Lieutenant Governor in Council.
2. The Lieutenant Governor in Council may authorize such purchase on the report of the Registrar, supported by evidence that,

(a) an offer to purchase has been accepted,

(i) in writing by the holders of at least 67 per cent of the outstanding shares of such other corporation or trust company, or

(ii) by resolution or resolutions carried by the affirmative vote of the holders of at least 67 per cent of the outstanding shares of each class of such other corporation or trust company at a general meeting of the shareholders thereof; and

(b) the purchase has been submitted to a general meeting of the shareholders of the registered trust company at which the holders of at least 50 per cent of the issued shares of such company for the time being carrying voting rights are present in person or represented by proxy and the purchase is approved by resolution carried by the affirmative vote of the holders of at least three-fourths of the shares represented at such meeting.

3. The power to purchase shares under this subsection is in addition to the powers that a registered trust company has under section 181, and the limitations and provisos contained in section 185 do not apply to any such purchase of shares.

4. Where a trust company has purchased shares under this section it shall within a period of two years after such purchase has been authorized by the Lieutenant Governor in Council proceed under section 144 either to acquire the assets and assume the duties, obligations and liabilities of the other corporation or to unite, merge or amalgamate with such other trust company, but the Lieutenant Governor in Council, on being satisfied that the circumstances so warrant, may extend such period from time to time and, after the expiration of such period and any such extension thereof, the shares so purchased shall not be allowed as assets of the purchasing trust company in the annual report prepared by the Registrar for the Minister, and the Registrar may direct such trust company to sell or otherwise absolutely dispose of such shares.

Consideration

- (2) The consideration for the shares acquired under the authority of this section may be cash or shares in the capital stock of the purchasing company or in part cash and in part shares of such purchasing company or such other consideration as is agreed upon.

No power to purchase own shares

- (3) Nothing in this section shall be construed as authorizing a company to purchase or acquire its own shares.

Allotment rights not to apply

- (4) Any provisions in any letters patent or special Act by which a purchasing company was incorporated, or in any other statute or law, granting any shareholders or other persons a primary right to an allotment of shares, do not apply to the issue of any shares by the purchasing company for the purposes of subsection (2). R.S.O. 1970, c. 254, s. 117.

REGISTRAR

Appointment

- 146.**—(1) There shall be a Registrar and an assistant registrar who shall be appointed by the Lieutenant Governor in Council.

Assistant registrar, duties

- (2) The assistant registrar shall perform the duties of the Registrar in the case of the latter's absence or illness, or of a vacancy in the office of Registrar, and shall also perform such other duties as may be assigned to him by the Lieutenant Governor in Council, by the Minister or by the Registrar.

Protection from personal liability

- (3) No action or other proceeding for damages shall be instituted against the Registrar or assistant registrar, or anyone acting under the authority of the Registrar or assistant

registrar, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. R.S.O. 1970, c. 254, s. 118.

147. The Registrar shall have a seal of office, which shall bear upon its face the words "Registrar of Loan and Trust Corporations". R.S.O. 1970, c. 254, s. 119.

Official
seal

148.—(1) The Registrar shall keep,

Registers:

(a) a register to be called the "Loan Companies' Register", wherein shall be recorded the names of the loan corporations that are from time to time entitled to registry; and

Loan
companies'
register

(b) a register to be called the "Trust Companies' Register", wherein shall be recorded the names of the trust companies that are from time to time entitled to registry.

Trust
companies'
register

(2) A corporation shall not be registered on more than one of such registers, and shall not transact or undertake business in Ontario other than the business for which it is registered. R.S.O. 1970, c. 254, s. 120.

No corpora-
tion to be
registered on
more than
one register

149.—(1) The duty of determining, distinguishing and registering the corporations that under this Act are required to be registered and are entitled to registry, and of granting registry accordingly, is upon the Registrar, subject to appeal as provided in section 168.

Duties of
Registrar

(2) For the purposes of his duties, the Registrar may require to be made or may take and receive affidavits or depositions and may examine witnesses upon oath.

Power to
require
evidence

(3) The evidence and proceedings in any matter before the Registrar may be reported by a stenographer who has taken an oath before the Registrar faithfully to report the same. R.S.O. 1970, c. 254, s. 121.

Employment
of
stenographer

150.—(1) The Registrar shall prepare for the Minister, from statements filed by the corporations and from any inspection or inquiries made, an annual report, showing particulars of the business of each corporation as ascertained from such statements, inspection and inquiries, and the report shall be printed and published forthwith after completion.

Annual
report

Only
authorized
investments
allowed as
assets

(2) In the report, the Registrar shall allow as assets only such of the investments of the several corporations as are authorized by this Act or by their Acts of incorporation or by the general Acts applicable to such investments.

Corrections
in annual
statements

(3) In the report, the Registrar shall make all necessary corrections in the annual statements made by the corporations herein provided and is at liberty to increase or diminish the assets or liabilities of the corporations to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office or any branch thereof or otherwise.

Appraise-
ment of
over-valued
real estate

(4) If it appears to the Registrar or if he has any reason to suppose from the statements prepared and delivered to him by the corporations or otherwise that the value placed by any corporation upon the real estate owned by it, or any parcel thereof, is too great, or that the amount secured by mortgage or hypothec upon any parcel of real estate, together with interest due and accrued thereon is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, or that the value of any investments of the funds of the corporation or of its trust funds is less than the amount of the value of the investments shown in the books of the corporation, he may require the corporation to secure an appraisement of such real estate or other security by one or more competent valuers or he may himself procure such appraisement at the expense of the corporation, and, if it is made to appear that the value of such real estate or other security held is less than the amount at which it is carried on the books of the corporation or is not adequate security for the loan and interest, he may write off such real estate, loan and interest, or investment, a sum sufficient to reduce its book value to such amount as may fairly be realized therefrom, such amount in no case to exceed the appraised value, and may insert such reduced amount in the report. R.S.O. 1970, c. 254, s. 122.

Registrar
may
examine
corporation
books, etc.

151.—(1) The Registrar or any person authorized under his hand and seal may, with the approval of the Minister, at any time within business hours, examine the books, vouchers, securities and documents of a corporation, and any officer or person in charge, possession, custody or control of the books, vouchers, securities or documents refusing or neglecting to afford such examination is guilty of an offence, and the corporation, if registered, is liable to have its registry suspended.

Cancellation
of registry
for refusing
examination

(2) The corporation, on continued refusal or neglect to afford such examination, is liable to have its registry can-

celled or not renewed after termination of the current certificate.

(3) Where,

Special
audits

~~(a)~~ a corporation is three months in default in the delivery of the annual statement required by section 196; or

(b) for eighteen consecutive months there has been no audit of the books and accounts of the corporation; or

(c) there is filed with the Registrar a requisition for audit bearing the signatures and addresses of at least twenty-five shareholders of the corporation holding shares upon which not less than \$10,000 in the aggregate has been paid in, alleging specific fraudulent or illegal acts or repudiation of contracts or alleging that the accounts of the corporation have been materially and wilfully falsified and accompanied by a deposit of \$1,000 or such other sum as the Registrar may fix as security for the cost of the audit,

the Registrar may appoint an accountant who shall under his direction make a special audit of the books, accounts and securities of the corporation and make to the Registrar a written report thereon.

(4) A special auditor so appointed is sufficiently accredited if he delivers to the secretary or to any managing officer of the corporation a written statement under the hand and seal of the Registrar to the effect that the Registrar has nominated him to audit the books, accounts and securities of the corporation.

Credentials
of auditor

(5) The expense of a special audit shall be borne by the corporation, and the auditor's account therefor when approved in writing by the Registrar is conclusive and shall be paid forthwith.

Expenses
of special
audit

(6) Where the facts alleged in the requisition appear to the Registrar to have been partly or wholly disproved by the audit, and he considers it just, he may pay the costs of the audit partly or wholly out of the deposit.

Payment of
costs out
of deposit

(7) The deposit or the balance, if any, remaining after payment of such costs shall be returned to the requisitioning shareholders upon the order of the Registrar.

Return of
balance of
deposit

Where corporation resists or obstructs audit

(8) Where a corporation, by its officer, employee, servant or agent having in his custody, possession or power the funds, books, vouchers, securities or documents of the corporation, refuses to have them duly audited as provided by section 100, or by this section or by section 152, or obstructs an auditor or examiner in the performance of his duties, the Registrar, upon proof of the fact, may suspend or cancel the registry of the corporation, or may terminate the registry upon the expiry of the current certificate of registry.

Report of special auditor

(9) If the report of the special auditor appears to the Registrar to disclose fraudulent or illegal acts or repudiation of contracts or that the accounts of the corporation have been materially and wilfully falsified, he shall notify the corporation accordingly and furnish to it a copy of the report and the corporation shall within two weeks thereafter file a statement with the Registrar replying to such report.

Registrar's decision

(10) Upon consideration of the report and the corporation's statement in reply and such further evidence, documentary or oral, as he may require, the Registrar shall by a decision in writing continue, suspend or cancel the registry of the corporation or impose such terms or conditions upon the registry of the corporation, as he considers appropriate. R.S.O. 1970, c. 254, s. 123.

Appointment of examiner

152.—(1) The Minister, of his own motion or upon an application being made to him in writing, may appoint any competent person to make a special examination and audit of a corporation's books, accounts and securities, and to inquire generally into the conduct of its business.

Evidence upon which inquiry to be ordered

(2) The application shall be supported by such evidence as the Minister may require for the purpose of showing that there is good reason for requiring the investigation to be made and that it is not prompted by malicious motives.

Security for costs

(3) The Minister may require security for the payment of the costs of the inquiry to be given before appointing the examiner. R.S.O. 1970, c. 254, s. 124 (1-3).

Powers of examiner as to summoning witnesses, etc.
R.S.O. 1980, c. 411

(4) The examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and inquiry, has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such examination, audit or inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 254, s. 124 (4); 1971, c. 49, s. 18.

Report to Minister

(5) Upon the conclusion of the examination, audit and inquiry, the examiner shall make his report in writing to the Minister.

(6) The Registrar may, by notice in writing, whenever he sees fit, require a corporation to make, in addition to its annual or other returns required by this Act, a return verified by affidavit of one of its officers, or to furnish information verified in the same manner upon any subject connected with its affairs, and it shall make the return within the time mentioned in the notice. Additional information

(7) The notice may be given to the president, secretary, managing director or other officer or officers having apparent control of the books of the corporation, or any of them in Ontario, and non-compliance with the notice is an offence. R.S.O. 1970, c. 254, s. 124 (5-7). Notice

153.—(1) A notice published in *The Ontario Gazette* over the name of the Registrar or assistant registrar is, without further proof, *prima facie* evidence of the facts set forth in the notice. R.S.O. 1970, c. 254, s. 125 (1). Notice to be evidence

(2) All copies of returns, reports or other official publications of the Registrar purporting to be printed by the Queen's Printer, or to be printed by order of the Assembly, shall, without further proof, be admitted as evidence of such publication and printing and as true copies of the originals. R.S.O. 1970, c. 254, s. 125 (2); 1973, c. 2, s. 4 (3). Official publications

(3) A certificate under the hand of the Registrar or assistant registrar and the Registrar's seal of office that on a stated day the corporation mentioned therein was or was not registered, or that the registry of a corporation was originally granted, or was renewed, suspended, revived or cancelled, on a stated day, is *prima facie* evidence of the facts stated in the certificate. Certificate as to registry

(4) Copies of, or extracts from, any book, record, instrument or document in the office of the Registrar or of or from any official instrument or document issued under this Act shall, if certified by him or by the assistant registrar to be true copies or extracts and sealed with the Registrar's seal of office, be held as authentic and are *prima facie* evidence of the same legal effect as the original. R.S.O. 1970, c. 254, s. 125 (3, 4). Copies of or extracts from official documents

154.—(1) The Registrar personally shall visit or cause a duly qualified member of his staff to visit at least once annually the head office of each registered corporation, other than a corporation as to which he adopts the inspection of another government, and he shall inspect and examine the statements of the condition and affairs of each corporation and make such inquiries as are necessary to ascertain its Annual inspection of registered corporations

condition and ability to provide for the payment of its liabilities as and when they become due, and whether or not it has complied with this Act, and the Registrar shall report thereon to the Minister as to all matters requiring his attention and decision.

Further
inspection

(2) Where the Registrar considers it necessary and expedient to make a further examination into the affairs of a corporation and so reports to the Minister, the Minister may in his discretion instruct the Registrar to visit or cause a duly qualified member of his staff to visit any branch office or offices of the corporation to inspect and examine into its affairs and to make such further inquiries as the Minister may require.

Material to
be furnished
on
inspection

(3) For the purpose of an examination, the corporation shall prepare and submit to the Registrar such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in this Act, as the Registrar may require, and the officers, agents and servants of the corporation shall cause their books to be open for inspection and shall otherwise facilitate such examination so far as it is in their power.

Production
of books

(4) In order to facilitate the examination of the books and records of a corporation, the corporation may be required by the Registrar, with the approval of the Minister, to produce the books and records at the head office or chief office of the corporation in Ontario, or at such other convenient place as the Registrar may direct.

Examination

(5) The Registrar, or any person authorized by the Minister, may examine under oath the officers, agents or servants of the corporation for the purpose of obtaining any information that he considers necessary for the purpose of the examination.

Expense of
further
inspection

(6) Where an examination is made under subsection (2) of any branch or other office situated outside Ontario, the corporation shall pay the account in connection with the examination upon the certificate of the Registrar approved by the Minister. R.S.O. 1970, c. 254, s. 126.

Inquiries by
Registrar

155.—(1) The Registrar may address any inquiries to a registered corporation or to the president, manager or secretary thereof for the purpose of ascertaining its condition and ability to meet its obligations or as to the conduct of its business and it is the duty of any corporation or officer so addressed to reply promptly in writing to any such inquiry.

(2) The Registrar may require a corporation to forward a copy of any letter addressed to the corporation by the Registrar and any answer thereto to each director of the corporation and upon such requirement being made the president of the board of directors shall instruct the secretary of the corporation to include a copy of such letter and the answer thereto in the minutes of the meeting of the directors next following the requirement of the Registrar.

Notice to directors

(3) The Registrar may, in his discretion, embody in his annual report to the Minister the inquiries and requirement made by him under this section and the answers thereto.

Answers may be included in Registrar's annual report

R.S.O. 1970, c. 254, s. 127.

156.—(1) If, as the result of the examination, the Registrar is of opinion that the assets of the corporation are insufficient to justify its continuance in business, he shall make a special report to the Minister on the condition of the corporation.

Special report where condition unsound

(2) If the Minister, after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry and investigation as he sees fit to make, reports to the Lieutenant Governor in Council that he agrees with the opinion of the Registrar, the Lieutenant Governor in Council may, if the Lieutenant Governor in Council also concurs in the opinion, suspend or cancel the registry of the corporation, and the corporation shall thereupon cease to transact further business, but the Minister may, during such suspension or cancellation, issue such conditional registry as he considers necessary for the protection of the public.

Power to cancel or suspend registry

(3) If the Minister considers it advisable, the conditional registry may provide that the corporation shall, during the continuance of the conditional registry, arrange for the sale of its assets and for the transfer of its liabilities.

Sale and transfer under conditional registry

(4) If upon the expiration of the conditional registry no arrangement satisfactory to the Minister has been made for such sale and transfer, and if in the opinion of the Minister the corporation's condition is not then such as to warrant the restoration of the corporation's registry, the registration shall be cancelled.

When registration cancelled

R.S.O. 1970, c. 254, s. 128.

157.—(1) Where it comes to the attention of the Registrar that a provincial corporation may not be able to account satisfactorily for any assets that appear on its books and, upon investigation, the Registrar is satisfied that any such assets cannot be satisfactorily accounted for and that the circumstances so warrant, he may immediately take possession

Assets not accounted for

and control of the assets of such corporation and maintain such control on his own initiative for a period of seven days and, with the concurrence of the Minister, for any longer period that the Minister may order for the purpose of the Registrar's report under subsection 158 (1).

Release of
assets

(2) The Registrar may release any assets under his possession and control that he considers advisable for the purposes of the corporation. R.S.O. 1970, c. 254, s. 129.

Report to
Minister

158.—(1) Where the Registrar is of the opinion that the assets of a provincial corporation are not sufficient to meet its liabilities in respect of moneys received in trust or borrowed he shall so report to the Minister.

Remedial
powers
of the
Minister

(2) Where the Minister, after full consideration of the matter and after a reasonable time has been given to the corporation to be heard by him, and upon such further inquiry or investigation as he sees fit to make, agrees with the opinion of the Registrar under subsection (1), the Minister may do one or both of the following,

- (a) make the corporation's registry subject to such limitations or conditions as he considers appropriate;
- (b) prescribe a time within which the corporation shall make good any deficiency of assets.

Subsequent
action

(3) If the corporation fails to make good any deficiency of assets within the time that has been prescribed under clause (2) (b), or any extension thereof subsequently given by the Minister, the Minister shall submit the report of the Registrar to the Lieutenant Governor in Council and the Lieutenant Governor in Council, if the Lieutenant Governor in Council agrees with the report, may order the Registrar to take possession and control of the assets of the corporation and the Registrar shall deliver a copy of the order to an officer of the corporation.

Appoint-
ment of
appraisers

(4) For the purposes of this section, the Minister may appoint such persons as he considers necessary to value and appraise the assets and liabilities of the corporation and report upon its condition and its ability, or otherwise, to meet its liabilities. R.S.O. 1970, c. 254, s. 130.

Power of
Registrar
upon taking
control

159.—(1) If so ordered by the Lieutenant Governor in Council under section 158, the Registrar shall take possession and control of the assets of a provincial corporation and shall thereafter conduct its business and take such steps as in his opinion should be taken toward its rehabilitation,

and for such purposes the Registrar has all the powers of the board of directors of the corporation, and, without limiting the generality of the foregoing, the Registrar may,

(a) exclude the directors, officers, servants and agents of the corporation from the premises, property and business of the corporation; and

(b) carry on, manage and conduct the operations of the corporation and in the name of the corporation preserve, maintain, realize, dispose of and add to the property of the corporation, receive the incomes and revenues of the corporation and exercise all the powers of the corporation.

(2) While the Registrar has possession and control of the assets of a corporation under this section, the Minister may direct the Registrar to apply to the court for an order for the winding up of the corporation under Part VI of the *Corporations Act*. Application to court
R.S.O. 1980,
c. 95

(3) Where the Registrar is in possession and control of the assets of a corporation and is conducting its business, he may appoint one or more persons to manage and operate the business of the corporation, and, Appointment of managers

(a) each person so appointed is a representative of the Registrar; and

(b) the remuneration of any such person, other than an employee of the office of the Registrar, shall be fixed by the Minister.

(4) Whenever the Minister believes that a corporation whose assets are in the possession and control of the Registrar meets all the requirements of this Act and that it is otherwise proper for the corporation to resume possession and control of its assets and the conduct of its business, the Minister may, in writing, direct the Registrar to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Registrar under this section cease. Relinquishing control

(5) If the Minister, on the report of the Registrar, considers that further efforts to rehabilitate a corporation whose assets are in the possession and control of the Registrar would be futile, he may, in writing, direct the Registrar to relinquish to the corporation the possession and control of its assets, and from and after the date specified in such direction the powers of the Registrar under this section cease. Where rehabilitation efforts futile

Expenses of
proceedings

(6) The expenses of the Registrar incurred in rehabilitation proceedings under this section and sections 157 and 158 shall be paid,

- (a) where the corporation that is the subject of the proceedings is a loan corporation, by all loan corporations; or
- (b) where the corporation that is the subject of the proceedings is a trust company, by all trust companies,

and the share of each shall be in the same proportion as its total net income earned in Ontario in its last preceding fiscal year bears to the total net income earned in Ontario of all loan corporations or trust companies, as the case may be, in the last preceding fiscal year of each.

Advisory
committee

(7) The corporations required to bear the said expenses of the Registrar may appoint a committee of not more than six members to advise the Registrar in respect of all matters pertinent to the rehabilitation of the corporation whose assets are in the possession and control of the Registrar. R.S.O. 1970, c. 254, s. 131.

Appeal

160.—(1) Notwithstanding section 159, a provincial corporation may appeal to the Divisional Court from any order made by the Lieutenant Governor in Council under section 158 within thirty days after the delivery of a copy of the order to an officer of the provincial corporation, in accordance with the rules of court. R.S.O. 1970, c. 254, s. 132 (1), *revised*.

Stay

(2) An order of the Lieutenant Governor in Council under section 158 shall take effect immediately, but where there is an appeal, the Divisional Court may grant a stay until any appeal is disposed of.

Material
on appeal

(3) The Minister shall certify to the Registrar of the Supreme Court,

- (a) the decision of the Lieutenant Governor in Council;
- (b) the reports of the Registrar to the Minister or the Lieutenant Governor in Council;
- (c) the record of any hearing; and
- (d) all written submissions by the appellant to the Registrar, the Minister or the Lieutenant Governor in Council.

(4) The Minister is entitled to be heard, by counsel or ^{Representation} otherwise, upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the ^{Order} court may by order direct the Registrar to take such action as the court considers proper or refrain from taking any action specified in the order and the Registrar shall act accordingly.

(6) The order of the court is final and there is no appeal ^{Further decision} therefrom, but, notwithstanding the order, the Minister and the Lieutenant Governor in Council have power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to appeal under this section. R.S.O. 1970, c. 254, s. 132 (2-6).

REGISTRATION

161.—(1) Applications for initial registry shall be made ^{Applications for initial registry} according to a form to be supplied by the Registrar, and the applicant shall deliver to the Registrar the application duly completed, together with such information, material and evidence as the form may require.

(2) The applicant shall, if required, furnish such further ^{Material to be furnished} information, material and evidence, and give such public notice of the application as the Registrar may direct.

(3) The applicant shall file with the application a state- ^{Financial statement to accompany application} ment in the form required by the Registrar of the financial condition and affairs of the corporation on the 31st day of December next preceding or on the last day of the fiscal year of the corporation, if the last day is not more than twelve months before the filing of the statement, and the statement shall be signed and verified as prescribed by section 101. R.S.O. 1970, c. 254, s. 133.

162.—(1) Where a corporation applying for registry has ^{Registration of extra-provincial corporations} its head office outside Ontario, the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario.

(2) The power of attorney shall be under the seal of the ^{Execution of power of attorney} corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness who shall make oath as to its due execution.

(3) The official positions in the corporation held by the ^{Authen- tication} officers signing the power of attorney shall be verified by the oath of a person cognizant of the facts.

Contents of
power of
attorney

(4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is, or is to be established, and shall expressly authorize the agent or agents to receive service of process in all actions and proceedings against the corporation in Ontario for any liability incurred by the corporation therein, and also to receive from the Registrar all notices that the law requires to be given, or that it is thought advisable to give, and shall declare that service of process for or in respect of such liability on any of the agents and receipt of the notices at the chief agency or personally by any of the agents is legal and binding on the corporation.

Filing of
power of
attorney

(5) The power of attorney and the affidavit of execution shall be filed with the Registrar.

Authority
conferred by
power of
attorney

(6) The power of attorney may confer upon the agent or agents any further or other powers that the corporation considers advisable.

Effect of
copy as
evidence

(7) The production of a copy of the power of attorney certified by the Registrar is sufficient evidence for all purposes of the power and authority of the person or persons therein named to act on behalf of the corporation in the manner and for the purposes set forth in the certified copy.

Changes in
chief agent
or agency

(8) Whenever the corporation changes any of its agents or the chief agency in Ontario, it shall file with the Registrar a similar power of attorney, stating the change or changes and containing a similar declaration as to service of process and notices.

Service of
process
thereafter

(9) After the power of attorney is filed, any process in any action or proceeding against the corporation for a liability incurred in Ontario may be validly served on the corporation at its chief agency, but nothing in this section renders invalid service in any other mode in which a corporation may be lawfully served.

Application
of section

(10) This section applies notwithstanding any special or other legislation of Ontario affecting any registered corporation. R.S.O. 1970, c. 254, s. 134.

Recording
registry,
entries on
register

163.—(1) The Registrar shall cause to be entered on the proper register the name of every corporation entitled to registry, together with the date of the commencement of the registry and the term for which the registry is to endure.

Term of
registry

(2) The term begins on the date of such commencement and ends not later than the 30th day of June next ensuing.

(3) The Registrar shall also cause to be entered on the register the place where the head office and the chief agency, if any, are situate, and if there is a chief agency, the name and address of the chief agent and of the agent or agents appointed under section 162. Particulars to be entered

(4) If the registry is suspended, revived, revoked or cancelled, the date of and authority for such suspension, revivor, revocation or cancellation shall also be entered. Entering suspension, etc., of registry

(5) The Registrar shall issue under his hand and seal of office to every registered corporation a certificate of registry, setting forth that the corporation is entitled to registry as a (*describing the corporation*) under this Act, and that the corporation is accordingly registered for the term stated in the certificate. Issue of certificate of registry

(6) Every certificate of registry shall specify the first day and the last day of the term for which the corporation is registered, and the corporation so registered shall be deemed to be registered from the commencement of the first day to the end of the last day so specified. Commencement and end of term

(7) A certificate of registry that does not specify an earlier date of expiry, unless sooner suspended or cancelled, remains valid until the next ensuing 30th day of June, when, if the corporation has complied with the law and continues solvent, it is entitled to a certificate of renewed registry, and so on every succeeding 30th day of June thereafter. Duration of registry

(8) Notwithstanding failure to comply with this Act within the prescribed time, the Registrar may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. Interim certificate
R.S.O. 1970, c. 254, s. 135.

164.—(1) No corporation shall be registered under a name identical with that under which any other existing corporation is registered, or under any other name likely, in the opinion of the Registrar, to deceive, mislead or confuse the public as to its identity. Restrictions upon use of names

(2) No registered corporation shall be registered under a new or different name except upon proof that such new or different name is authorized by law. New names

(3) Where a provincial corporation desires to adopt a name different from that by which it was incorporated, or where, in the opinion of the Registrar, the name by which the Change of corporate name

corporation was incorporated may be confused with that of another existing corporation, the Lieutenant Governor in Council may change the name of the corporation to some other name to be stated in the order in council.

Not to affect
rights or
obligations

(4) No change of name affects the rights or obligations of the corporation. R.S.O. 1970, c. 254, s. 136 (1-4).

Change of
head office

(5) The location of the head office of a provincial corporation may be changed in like manner. R.S.O. 1970, c. 254, s. 136 (5); 1972, c. 101, s. 15.

Notice

(6) Such public notice shall be given of any change of name or head office, and of any application for such change, in *The Ontario Gazette* and otherwise as the Registrar may direct. R.S.O. 1970, c. 254, s. 136 (6).

What
admissible
to registry

165.—(1) Trust companies whose powers do not include that of buying and selling land as beneficial owner except as authorized by this Act and do not exceed the powers that are conferred upon trust companies under this Act and loan corporations that are solvent and fall within one of the following classes, may, upon due application, be admissible to registry:

1. Corporations duly constituted under the law of Ontario.
2. Corporations which, being duly incorporated or constituted under the laws of any other province of Canada, or of Canada, or of the United Kingdom, were in actual, active and *bona fide* operation in Ontario on the 16th day of April, 1912, but such corporations are admissible to registry only on due application and with the approval of the Minister and on such terms and conditions as he may prescribe.
3. Corporations duly constituted as joint stock corporations under the laws of any other province of Canada or of Canada that issue permanent shares having capital paid in and unimpaired of at least \$1,000,000, together with such surplus as the Minister in the circumstances may require, and who undertake to comply with and be bound by the provisions of sections 77 to 82 to the same extent as if they were a provincial corporation. R.S.O. 1970, c. 254, s. 137 (1); 1974, c. 88, s. 16.

Registry
validated

(2) Any registry purporting to have been made before the 1st day of May, 1914, by any corporation mentioned in

paragraph 2 of subsection (1) shall be deemed for all purposes to have been a registry under this Act from the date of commencement of such purported registry. R.S.O. 1970, c. 254, s. 137 (2).

(3) Upon the application for registration of a corporation, other than a provincial corporation, the Registrar may recommend to the Minister that the corporation be admitted to registry on terms and conditions and the Minister, if he so approves, may direct that the corporation be admitted to registry on such terms and conditions as he may prescribe, including a deposit of approved securities with him to such amount as he considers necessary from time to time and, so long as such conditions are satisfied and no final judgment against the corporation or order for its winding up or for distribution of its assets is given to the Minister, the corporation is entitled to receive the interest upon the securities forming the deposit. 1972, c. 101, s. 16. Registry on terms

(4) A trust company duly constituted as a joint stock corporation under the laws of any other province of Canada shall not be registered unless it is shown to the satisfaction of the Registrar that, in the locality in which the company proposes to carry on business, there exists a public necessity for a trust company or for an additional trust company and the Registrar is satisfied that the fitness of the applicant to discharge the duties of a trust company is such as to command the confidence of the public and that the public convenience and advantage will be promoted by granting registration to the company. When extra-provincial trust company may be registered

(5) Any trust company authorized by a special Act of Ontario to carry on business in Ontario is not barred from registry merely because its powers exceed those conferred upon trust companies by this Act. R.S.O. 1970, c. 254, s. 137 (4, 5). Company authorized by special Act

(6) No other corporation shall be registered. R.S.O. 1970, c. 254, s. 137 (7). No others

166.—(1) Upon proof that registry or a certificate of registry has been obtained by fraud or mistake, or that a corporation exists for an illegal purpose, or is insolvent, or has failed to pay its obligations, or has wilfully and after notice from the Registrar contravened any of the provisions of this Act, or of the Act or instrument incorporating it, or of any law in force in Ontario, or has ceased to exist, its registry may be suspended or cancelled by the Registrar. Suspension or cancellation of registry

Notice to be given to the corporation

(2) On the suspension or cancellation of the registry of any existing corporation, the Registrar shall cause notice in writing thereof to be delivered to it.

Notice

(3) Where the corporation has ceased to exist, the notice shall be published in *The Ontario Gazette*.

Corporation to cease business except for winding-up purposes

(4) After such suspension or cancellation, or after termination of registry without renewal, the corporation shall, unless again registered, cease to transact or undertake business in Ontario, except so far as is necessary for the winding up of its business, but any liability incurred by it may be enforced against it as if such suspension, cancellation or termination had not taken place. R.S.O. 1970, c. 254, s. 138.

Decision of Registrar to be in writing and to be delivered to corporation

167. Where in any disputed case the Registrar decides that a corporation is or is not legally entitled to registry, or to renewal of registry, or where he suspends, revives or cancels the registry of a corporation, his decision, except as otherwise provided, shall be given in writing, and he shall cause a copy thereof certified under his seal of office to be delivered to the corporation. R.S.O. 1970, c. 254, s. 139.

Review

168.—(1) Any corporation whose registration or right to registration is affected by a decision of the Registrar may, by notice in writing served upon the Registrar within thirty days after the delivery of the copy of the decision under section 167, request a hearing and review of the matter by the Registrar.

Notice of hearing

(2) Where a hearing and review is requested, the Registrar shall send a notice in writing to the corporation notifying it of the time and place of the hearing.

Evidence

(3) Upon a review, the Registrar may hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and he is not bound by any law respecting the admissibility of evidence, and all oral evidence submitted shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Registrar form the record.

Powers on review

(4) Upon a review, the Registrar may confirm or revoke his former decision or make alterations therein or addition thereto as he considers proper.

Decision to be delivered

(5) Notice of his decision made upon a review shall be delivered forthwith to the corporation that requested the review.

(6) Where the Registrar has reviewed a decision and ^{Appeal} given his decision upon the review, the corporation that requested the review may appeal to the Divisional Court in accordance with the rules of court. R.S.O. 1970, c. 254, s. 140 (1-6), *revised*.

(7) The Registrar shall certify to the Registrar of the ^{Certificate of Registrar} Supreme Court,

(a) the decision that has been reviewed by the Registrar;

(b) the decision of the Registrar upon the review, together with any statement of reasons therefor;

(c) the record of the review; and

(d) all written submissions to the Registrar and other material that in the opinion of the Registrar are relevant to the appeal. R.S.O. 1970, c. 254, s. 140 (8).

(8) The Attorney General may designate counsel to assist ^{Counsel} the court upon the hearing of any appeal taken under this section. R.S.O. 1970, c. 254, s. 140 (9); 1972, c. 1, s. 9 (7).

(9) Where an appeal is taken under this section, the court may by its order direct the Registrar to make such ^{Order of court} decision as the Registrar is authorized to do under this Act and as the court considers proper, and thereupon the Registrar shall act accordingly.

(10) The order of the court is final and there is no appeal ^{Further decision} therefrom, but, notwithstanding the order, the Registrar has power to make any further decision upon new material or where there is a material change in the circumstances, and every such further decision is subject to this section. R.S.O. 1970, c. 254, s. 140 (10, 11).

169. The Registrar may at the request of the corporation, ^{Cancellation of registry on request of corporation} evidenced as he may direct, cancel its registry. R.S.O. 1970, c. 254, s. 141.

170. If on receiving an application for registry the Minister finds in the by-laws of the applicant anything ^{Minister may direct amendment of by-law} repugnant to this Act or to the law of Ontario, he may direct an amendment of the by-laws, and, upon their being amended as directed and returned certified as having been

so amended, the application may be proceeded with. R.S.O. 1970, c. 254, s. 142.

Return of
evidence as
to by-laws

171.—(1) Every corporation doing business in Ontario, if required so to do by the Registrar, shall furnish satisfactory evidence that any by-law has been duly passed and is a legal and valid by-law according to the Act or instrument incorporating the corporation and also that the by-law conforms to the law of Ontario.

Refusal to
furnish
evidence

(2) A corporation refusing or failing to furnish such evidence promptly is liable to have its registry suspended or cancelled. R.S.O. 1970, c. 254, s. 143.

Capital
requirement
before
registration

172. No trust company that was not registered on the 1st day of January, 1968, shall be registered to transact business in Ontario unless it has a capital paid in and unimpaired of at least \$1,000,000. R.S.O. 1970, c. 254, s. 144.

Representa-
tions that
standing of
corporation
is vouched
for by
Registrar

173.—(1) No corporation shall, under the penalty of becoming disentitled to registry or of having its registry suspended or cancelled, make, print, publish, circulate, authorize or be a party or privy to the making, printing, publishing or circulating of any statement or representation that its solvency or financial standing is vouched for by the Registrar or that the publication of its statement in his report is a warranty or representation of the solvency of the corporation or of the truth or accuracy of the statement in any particular.

Offence

(2) Any director, auditor, officer, servant, employee or agent of a corporation who makes or uses or authorizes or is party or privy to the making or using of any such statement or representation is guilty of an offence. R.S.O. 1970, c. 254, s. 145.

UNREGISTERED CORPORATIONS

No unregis-
tered cor-
poration to
undertake
business

174.—(1) No incorporated body or person acting in its behalf, other than a registered corporation and a person duly authorized by it to act in its behalf, shall undertake or transact in Ontario the business of a loan corporation or of a trust company. R.S.O. 1970, c. 254, s. 146 (1).

Matters
deemed
undertaking
business

(2) Any setting up or exhibiting of a sign or inscription containing the name of the corporation, or any distribution or publication of any proposal, circular, card, advertisement,

printed form or like document in the name of the corporation, or any written or oral solicitation on the corporation's behalf, or the advancing of funds of others in the purchase or lending on the security of mortgages that are assigned or registered in the name of the corporation, shall, both as to the corporation and as to the person acting or purporting to act on its behalf, be deemed undertaking the business of the corporation within the meaning of this section. 1972, c. 101, s. 17.

(3) Any promoter, organizer, manager, director, officer, ^{Offence} collector, agent, employee or person who undertakes or transacts any business of a corporation that is not registered under this Act is guilty of an offence. R.S.O. 1970, c. 254, s. 146 (3).

175. Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under the *Insurance Act*, assuming or using in Ontario a name that includes any of the words "Loan", "Mortgage", "Trust", "Trusts", or "Guarantee", in combination or connection with any of the words "Corporation", "Company", "Association" or "Society", or "Limited", or "Incorporated" or any abbreviations thereof, or in combination or connection with any similar collective term, or assuming or using in Ontario any similar name, or any name or combination of names that is likely to deceive or mislead the public is guilty of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation is also guilty of an offence, but where any of such combinations of words formed part of the corporate name of a corporation duly incorporated by or under the authority of an Act of Ontario or of the Parliament of Canada before the 1st day of July, 1900, the combination may continue to be used in Ontario as part of the corporate name. R.S.O. 1970, c. 254, s. 147.

^{Use of certain words in name of company while un-registered}
R.S.O. 1980, c. 218

176.—(1) In this section, "contract" means any contract, ^{Interpretation} agreement, undertaking or promise,

- (a) to pay to or for the contract holder any money or money's worth;
- (b) to sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or
- (c) to construct or procure the construction of any house or building,

made upon any consideration that includes an entrance or membership fee, or expense contribution, initial, renewal,

periodical or recurrent, or that includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract, and includes any contract, agreement, undertaking or promise, the benefit of which to the contract holder paying any such consideration is to be wholly or partly postponed or deferred until other contract holders have been provided for, or is to depend upon the number or the persistence of the other contract holders, or upon the accession of new contract holders, or upon the order or sequence of the contract.

Prohibition
of certain
contracts
R.S.O. 1980,
c. 218

(2) Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under the *Insurance Act*, undertaking or effecting, or offering to undertake or effect, any contract is guilty of an offence, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, is also guilty of an offence, and the convicting provincial offences court, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such order for the restitution of the money that was unlawfully taken as to the court seems just, and, in default of compliance with such order, the offender is liable to imprisonment for a term of not more than twelve months. R.S.O. 1970, c. 254, s. 148.

Use of sign,
name or
document
inducing
illegal
contract

177. Where in any case arising under section 174, 175 or 176 it is found by the provincial offences court that the person, partnership, organization, society, company or corporation charged or his or its agent is exhibiting or using any sign, inscription or name, or distributing, using or publishing any document, including any proposal, circular, card, advertisement, notice, application, contract or printed form that, in the opinion of the court, induces, or tends to induce, a contravention of any such section, or is likely to deceive or mislead the public either as to the party or the status of the party undertaking the contract, or as to the nature, terms or effect of the contract, the court may summarily order the discontinuance of such sign, inscription, name or document, and non-compliance with such order is an offence. R.S.O. 1970, c. 254, s. 149.

INVESTMENTS

Investments
of loan
corporations

178.—(1) A registered loan corporation may purchase or invest in,

mortgages

(a) ground rents, mortgages, charges or hypothecs upon improved real estate or leaseholds in Ontario or

elsewhere where the corporation is carrying on business, but the amount paid for the mortgage, charge or hypothec, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the purchase or investment is made, shall not exceed three-quarters of the value of the real estate or leasehold to which the mortgage, charge or hypothec relates;

- (b) mortgages, charges or hypothecs upon improved real estate or leaseholds in Canada, notwithstanding that the amount paid for the mortgage, charge or hypothec exceeds three-quarters of the value of the real estate or leasehold, if the loan for which the mortgage, charge or hypothec is security is an approved loan or an insured loan under the *National Housing Act* (Canada). N.H.A. mortgages
R.S.C. 1970,
c. N-10
- (c) mortgages, charges or hypothecs on improved real estate or leaseholds in Canada or in any country where the corporation is carrying on business, or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the mortgage, charge or hypothec exceeds the amount that the corporation is otherwise authorized to invest if the excess is guaranteed or insured by or through an agency of the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada) or the *Insurance Act* or similar legislation of any province or territory of Canada; insured mortgages
R.S.C. 1970,
cc. I-15, I-16
R.S.O. 1980,
c. 218
- (d) mortgages or assignments of such life insurance policies as have at the date of the purchase or investment an ascertained cash surrender value admitted by the insurer; mortgages and assignments of life insurance policies
- (e) the debentures, bonds, stock or other securities of or guaranteed by the Government of Canada or of or guaranteed by the government of any province of Canada, or of or guaranteed by the government of the United Kingdom, or of any of Her Majesty's dominions, colonies or dependencies, or of any state forming part of any such dominion, colony or dependency, or of or guaranteed by any foreign government bonds

country or state forming part of such foreign country where the interest on the securities of such foreign country or state has been paid regularly for the previous ten years, or of any municipality or school corporation in Canada or elsewhere where the corporation is carrying on business, or guaranteed by any municipal corporation in Canada, or secured by rates or taxes levied under the authority of the government of any province of Canada on property situated in such province and collectable by the municipalities in which the property is situated;

bonds, etc.,
issued or
guaranteed
by the
Inter-
national
Bank, etc.

- (f) the bonds, debentures or other securities issued or guaranteed by,
 - (i) the International Bank for Reconstruction and Development,
 - (ii) Inter-American Development Bank or by Asian Development Bank, or
 - (iii) the government of any country in which the corporation is carrying on business or a province or state thereof;

bonds
secured by
trust deed

- (g) the bonds, debentures, debenture stock, notes or other securities of any company that are secured by a mortgage or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such company or other assets of such company of the classes mentioned in clauses (a), (b), (c), (d) and (e);

federal
subsidy
bonds

- (h) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity;

provincial
subsidy
bonds

- (i) the bonds or debentures of a company or institution incorporated in Canada that are secured by the assignment to a trust company in Canada of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds or debentures outstanding and to meet the principal amount of the bonds or debentures upon maturity;

(j) obligations or certificates issued by a trustee to finance, for a company incorporated in Canada or for a company owned or controlled by a company so incorporated, the purchase of transportation equipment to be used on railways or public highways, if the obligations or certificates are fully secured by, ^{transportation equipment security}

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the company;

(k) the bonds, debentures or other evidences of indebtedness of or guaranteed by, ^{debentures}

(i) any company if, at the date of investment, the preferred shares or the common shares of the company are authorized as investments by clause (l) or (m), or

(ii) any company where the earnings of the company in a period of five years ending less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least $1\frac{1}{2}$ times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it other than indebtedness classified as a current liability in the balance sheet of the company, and if the company at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another company, the earnings of the companies during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the companies shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the company; and for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

preferred
shares

(l) the preferred shares of a company if,

(i) the company has paid a dividend in each of the five years preceding the date of investment at least equal to the specified annual rate upon all its preferred shares, or

(ii) the common shares of the company are, at the date of investment, authorized as investments by clause (m);

common
shares

(m) the fully paid common shares of a company that during a period of five years that ended less than one year before the date of purchase or investment has either,

(i) paid a dividend in each year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the company during the year in which the dividend was paid or in which the company had earnings available for the payment of dividends, as the case may be;

real estate
for the
production
of income

(n) real estate or leaseholds for the production of income in Canada or in any country in which the corporation is carrying on business, either alone or jointly with any other corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, if,

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the government, or an agency of the government of the country in which the real estate or leasehold is situated, or of a province, state or municipality of that country, or

(B) a company, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause (l) or (m),

- (ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested by the corporation in the real estate or leasehold within the period of the lease, but not exceeding thirty years from the date of investment,
- (iii) the total investment of the corporation in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the corporation, and
- (iv) the book value of the investments of the corporation in real estate or leaseholds for the production of income under this clause and clause (o) do not exceed 10 per cent of the book value of the total assets of the corporation,

and the corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

(o) real estate or leaseholds for the production of income in Canada or in any country in which the corporation is carrying on business, either alone or jointly with any other corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, if, other real estate for the production of income

- (i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and
- (ii) the total investment of a corporation in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the corporation,

and the corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold; but the book value of the investments of the corporation in real estate or leaseholds for the production of income and subject to subclause (n) (iv) shall not exceed 5 per cent of the book value of the total assets of the corporation;

guaranteed
investment
certificates
of trust
companies

- (p) guaranteed investment certificates of a trust company incorporated in Canada, if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause (l) or (m);

credit union
term
deposits
R.S.O. 1980,
c. 102

- (q) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*. R.S.O. 1970, c. 254, s. 150 (1); 1972, c. 101, s. 18; 1980, c. 6, s. 4.

Investment
in national
housing

R.S.C. 1970,
c. N-10

- (2) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate pursuant to the *National Housing Act* (Canada), or any predecessor thereof, a registered loan corporation may invest its funds to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Registrar in any other classes or types of investments pursuant to the said Acts, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. R.S.O. 1970, c. 254, s. 150 (2).

Loans on
securities
by loan
corporations

- (3) A registered loan corporation may lend money on the security of,

- (a) any of the securities mentioned in clauses (1) (a), (b), (c), (d), (e) and (g);
- (b) improved real estate or leaseholds in Ontario or elsewhere where the corporation is carrying on business, but the amount of the loan, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the loan shall not exceed three-quarters of the value of the real estate or leasehold;
- (c) improved real estate or leaseholds in Ontario or elsewhere where the corporation is carrying on business, notwithstanding that the amount of the loan exceeds three-quarters of the value of the real estate or leasehold, if the loan is an approved loan or an insured loan under the *National Housing Act* (Canada);

- (d) real estate or leaseholds in Canada or in any country in which the corporation is carrying on business, notwithstanding that the loan exceeds the amount that the corporation is otherwise authorized to lend, if the excess is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situate or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada), the *Insurance Act*, or similar legislation of any province or territory of Canada; and

R.S.C. 1970,
cc. I-15, I-16R.S.O. 1980,
c. 218

- (e) the bonds, debentures, notes, shares or other securities mentioned in clause (1) (f), (h), (i), (j), (k), (l), (m) or (p), if the market value of the securities on which the loan is made at all times is not less than the amount of the loan and if also the amount loaned on the security of the shares of any one company does not at any time exceed 10 per cent of the market value of the total outstanding shares of such company. R.S.O. 1970, c. 254, s. 150 (3); 1973, c. 128, s. 16.

(4) If a registered loan corporation is designated a bank or lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) or the *Small Businesses Loans Act* (Canada), the corporation may make guaranteed loans under and in accordance with the provisions of any of those Acts for which it has been designated a bank or lender. R.S.O. 1970, c. 254, s. 150 (4).

Special
guaranteed
loansR.S.C. 1952,
cc. S-17, F-3,
F-22, S-10

179. A registered loan corporation may make investments and loans not authorized by section 178 and not prohibited by any other section, subject to the following provisions,

"Basket
clause"
for loan
corporations

- (a) investments in real estate or leaseholds under this section shall be made only for the production of income, and may be made by the corporation in Canada or in any country in which the corporation is carrying on business, either alone or jointly with any corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, and the corporation may hold, maintain, improve, develop, repair, lease, sell or

otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a corporation under this section in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the book value of the total assets of the corporation;

(b) the total book value of the investments and loans made under this section and held by the corporation, excluding those that are, or at any time since acquisition have been, authorized as investments apart from this section, shall not exceed the larger of,

(i) 15 per cent of the corporation's unimpaired capital and reserve, or

(ii) such percentage as the Registrar may approve, not in excess of 7 per cent, of the book value of the total assets of the corporation; and

(c) this section shall be deemed not to,

(i) enlarge the authority conferred by this Act to invest in mortgages, charges or hypothecs or to lend on the security of real estate or leaseholds, or

(ii) affect the operation of clause 178 (3) (e) as to the amount that may be loaned on the security of the shares of any one company. R.S.O. 1970, c. 254, s. 151.

Power of
loan
corporations
to invest in
shares of
certain
companies

180. Notwithstanding anything in section 178 or 185, a registered loan corporation may invest its funds in the fully paid shares of,

(a) any company incorporated outside Canada to exercise the powers that a loan corporation incorporated in Ontario possesses;

(b) any company incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or to act as agent in the sale or purchase of real estate or leaseholds;

(c) any company incorporated to offer public participation in an investment portfolio;

(d) any company incorporated to provide a company mentioned in clause (c) with advisory, management or sales distribution services;

(e) with the prior approval of the Minister, any company incorporated to carry on any other business activity reasonably ancillary to the business of a loan corporation; or

(f) any company incorporated to provide financing by mortgage or otherwise on real property in the course of construction,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 254, s. 152; 1973, c. 128, s. 17.

181.—(1) A registered trust company may invest its own funds and moneys received for guaranteed investment or as deposits in any of the investments mentioned in subsection 178 (1), except that at all times at least 50 per cent of moneys received for guaranteed investment or as deposits shall be invested in or loaned upon such securities only as are authorized for trustees by section 26 of the *Trustee Act*.

Investments
by trust
companies

R.S.O. 1980,
c. 512

(2) The total book value of the investments of a registered trust company in real estate or leaseholds for the production of income under clause 178 (1) (n) shall not exceed in the case of its own funds 10 per cent of the book value of the total assets of such funds and, in the case of moneys received for guaranteed investment or as deposits, 10 per cent of such moneys and under clause 178 (1) (o), shall not exceed in the case of its own funds 5 per cent of the book value of the total assets of such funds and, in the case of moneys received for guaranteed investment or as deposits, 5 per cent of such moneys or 25 per cent of the unimpaired capital and reserve of the company, whichever is the greater, but the total amount invested under clauses (n) and (o) shall not exceed the maximum amount provided in clause (n), and the amount so invested in any one parcel of real estate or leaseholds for the production of income shall not exceed 2 per cent of the aggregate of the total assets of the corporation and the moneys received by it for guaranteed investment or as deposits.

Restriction
on amounts
of investment
in
real estate

(3) In addition to investments it may make by lending on the security of or by purchasing mortgages, charges or hypothecs upon real estate under the *National Housing Act* (Canada) or any predecessor thereof, a registered trust company may invest its own funds to an aggregate amount not exceeding 5 per cent of its unimpaired capital and reserve and may, notwithstanding subsection (1), invest moneys received for guaranteed investment or as deposits to an aggregate amount not

Investments
in national
housing

R.S.C. 1970,
c. N-10

exceeding 5 per cent of such moneys in any other classes or types of investments pursuant to the said Act, including the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings.

Loans by
registered
trust
companies

(4) Subject to subsection (1), a registered trust company may lend its own funds and moneys received for guaranteed investment or as deposits on the security of,

- (a) any of the securities mentioned in clauses 178 (1) (a), (b), (c), (d), (e) and (g);
- (b) improved real estate or leaseholds in Ontario or elsewhere where the company is carrying on business, but the amount of the loan, together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the loan, shall not exceed three-quarters of the value of the real estate or leasehold;
- (c) improved real estate or leaseholds in Ontario or elsewhere where the company is carrying on business, notwithstanding that the amount of the loan exceeds three-quarters of the value of the real estate or leasehold, where the loan is an approved loan or an insured loan under the *National Housing Act* (Canada);
- (d) mortgages, charges or hypothecs on improved real estate or leaseholds in Canada or in any country where the company is carrying on business, or bonds or notes secured by such mortgages, charges or hypothecs, notwithstanding that the amount secured by the mortgage, charge or hypothec exceeds the amount that the company is otherwise authorized to invest, if the excess is guaranteed or insured by, or through an agency of, the government of the country in which the real estate or leasehold is situated or of a province or state of that country or is insured by a policy of mortgage insurance issued by an insurance company licensed or registered under the *Canadian and British Insurance Companies Act* (Canada), the *Foreign Insurance Companies Act* (Canada), the *Insurance Act* or similar legislation of any province or territory of Canada; and

R.S.C. 1970,
c. N-10

R.S.C. 1970,
cc. I-15, I-16

R.S.O. 1980,
c. 218

(e) the bonds, debentures, notes, shares or other securities mentioned in clause 178 (1) (f), (h), (i), (j), (k), (l), (m) or (p), if the market value of the securities on which the loan is made at all times is not less than the amount of the loan, and if the amount loaned on the security of the shares of any one company does not at any time exceed 10 per cent of the market value of the total outstanding shares of such company.

(5) If a registered trust company is designated a bank or lender, as the case may be, under the *Canada Student Loans Act*, the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada), it may lend its own funds and moneys received for guaranteed investment or as deposits in guaranteed loans under and in accordance with the provisions of any of those Acts for which it has been designated a bank or lender. R.S.O. 1970, c. 254, s. 153.

Loans by
trust
companies
R.S.C. 1970,
cc. S-17, F-3,
F-22

182. A registered trust company may, with respect to its own funds and with respect to moneys received for guaranteed investment or as deposits, make investments and loans not authorized by section 181 and not prohibited by any other section, subject to the following provisions,

"Basket
clause" for
registered
trust
companies

(a) investments in real estate or leaseholds under this section shall be made only for the production of income, and may be made by the company in Canada or in any country in which the company is carrying on business, either alone or jointly with any corporation incorporated in Canada or with any insurance company transacting the business of insurance in Canada, and the company may hold, maintain, improve, develop, repair, lease, sell or otherwise deal with or dispose of such real estate or leaseholds, but the total investment of a company under this section in any one parcel of real estate or in any one leasehold shall not exceed 1 per cent of the aggregate of the unimpaired capital and reserve of the company and the moneys held by it for guaranteed investment or as deposits;

(b) the total book value of the investments and loans made under this section and held by the company, excluding those that are or at any time since acquisition have been authorized as investments apart from this section, shall not exceed the larger of,

(i) 15 per cent of the company's unimpaired capital and reserve, or

- (ii) such percentage as the Registrar may approve, not in excess of 7 per cent, of the aggregate of the unimpaired capital and reserve of the company and the moneys held by it for guaranteed investment or as deposits; and

(c) this section shall be deemed not to,

- (i) enlarge the authority conferred by this Act to invest in mortgages, charges or hypothecs or to lend on the security of real estate or leaseholds, or
- (ii) affect the operation of subsections 181 (1) and (2) or the operation of clause 181 (4) (e) as to the amount that may be loaned on the security of the shares of any one company. R.S.O. 1970, c. 254, s. 154.

Power of
registered
trust
companies
to invest
in shares
of certain
companies

183. Notwithstanding anything in section 181 or 185, a registered trust company may invest its own funds in the fully paid shares of,

- (a) any company incorporated outside Canada to exercise the powers set forth in section 110;
- (b) any company incorporated to acquire, hold, maintain, improve, lease or manage real estate or leaseholds or act as agent in the sale or purchase of real estate or leaseholds;
- (c) any company incorporated to offer public participation in an investment portfolio;
- (d) any company incorporated to provide a company mentioned in clause (c) with advisory, management or sales distribution services;
- (e) a loan corporation within the meaning of this Act;
- (f) with the prior approval of the Minister, any company incorporated to carry on any other business activity reasonably ancillary to the business of a trust company; or
- (g) any company incorporated to provide financing by mortgage or otherwise on real property in the course of construction,

subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 254, s. 155; 1973, c. 128, s. 18.

184.—(1) A corporation may take personal security as collateral for any advance or for any debt due to the corporation in addition to the security required by this Act. Personal security as collateral

(2) The corporation may do all acts that are necessary for advancing sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing due thereon, and the observance and fulfilment of any conditions annexed to the advance, and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions or, of conditions entered into for delay of payment. Power to do acts and to exercise remedies

(3) No director or other officer of a corporation and no member of a committee of a corporation shall accept or be the beneficiary of any consideration or benefit for or on account of the negotiation of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of the corporation. R.S.O. 1970, c. 254, s. 156. Receipt by directors, etc., of consideration for negotiating loans, etc.

185.—(1) On and after the 14th day of April, 1925, no corporation shall, Restrictions on amount of investments

(a) except as to securities issued or guaranteed by the Government of Canada or the government of any province of Canada or by any municipal corporation in Ontario,

(i) subject to subclause (iii), invest in any one security an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or

(ii) make a total investment in any one bank or company or in companies that to the knowledge of the corporation are associated maturing in more than one year, including the purchase of its stock or other securities and the lending to it on the security of its debentures, mortgages or other assets or any part thereof, of an amount exceeding 15 per cent of its own paid in capital stock and reserve funds, or

(iii) make an investment referred to in subclause (ii) maturing in one year or less in an amount that together with the amount invested to

which subclause (ii) applies exceeds in the case of a registered loan corporation the aggregate of 20 per cent of its own paid in capital stock and reserve funds and $2\frac{1}{2}$ per cent of moneys borrowed on debentures and by way of deposit under section 104 and, in the case of a registered trust company, the aggregate of 20 per cent of its own paid in capital stock and reserve funds and $2\frac{1}{2}$ per cent of moneys received as deposits and for guaranteed investment under sections 115 and 116;

- (b) make any investment the effect of which will be that the corporation will hold more than 20 per cent of the stock or more than 20 per cent of the debentures of any one corporation, company or bank;
- (c) make any investment in common shares the effect of which will be that the corporation will hold in the aggregate common shares carried on its books at more than 25 per cent of the book value of the total assets of the corporation if a loan corporation, or more than 25 per cent of the aggregate of the unimpaired capital and reserve of the company and the moneys held by it for guaranteed investment or as deposits if a trust company. R.S.O. 1970, c. 254, s. 157 (1); 1972, c. 101, s. 19.

Trust
company

(2) In the case of a trust company, subsection (1) applies only to the investment of its funds and of moneys received for guaranteed investment or as deposits under sections 116 and 115.

Not to
apply to
certain
companies

(3) This section does not apply to an investment in the paid up capital stock of a trust company having its head office in Ontario if the investment has been authorized by the Lieutenant Governor in Council.

Interpre-
tation

(4) For the purposes of this section,

- (a) one company is associated with another if,
 - (i) one of the companies controls the other,
 - (ii) both of the companies are controlled by the same person or group of persons,
 - (iii) each of the companies is controlled by one person and the person who controls one of the companies is related to the person who con-

trols the other, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the companies,

(iv) one of the companies is controlled by one person and that person is related to each member of a group of persons that controls the other company, and one of those persons owns directly or indirectly one or more shares of the capital stock of each of the companies, or

(v) each of the companies is controlled by a related group and each of the members of one of the related groups is related to all of the members of the other related group, and one of the members of one of the related groups owns directly or indirectly one or more shares of the capital stock of each of the companies; and

(b) whether a person is related to another or whether a group of persons is a related group shall be determined in the same manner as set out in Part XVII of the *Income Tax Act* (Canada). R.S.O. 1970, c. 254, R.S.C. 1952, c. 148 s. 157 (2-4).

186.—(1) The Lieutenant Governor in Council may authorize the acceptance by a corporation of bonds, notes, stocks, debentures or other assets not fulfilling the requirements of this Act, Other investments authorized

(a) obtained in payment or part payment for securities sold by the corporation; or

(b) obtained under a *bona fide* arrangement for the reorganization of a company whose securities were previously owned by the corporation; or

(c) obtained under an amalgamation with another company of the company whose securities were previously owned by the corporation; or

(d) obtained for the *bona fide* purpose of protecting investments previously made by the corporation; or

(e) obtained by virtue of the purchase by the corporation of the assets of another corporation,

but the bonds, notes, stocks or debentures or other assets whose acceptance is so authorized shall be sold and disposed

of within five years after the acquisition thereof, or within such further time not exceeding one year as the Lieutenant Governor in Council, on report of the Minister, may fix and determine, unless it can be shown to the satisfaction of the Minister that the bonds, notes, stocks, debentures or other assets whose acceptance is so authorized are not inferior in status or value to the securities for which they have been substituted.

Stocks of
reorganized
companies

(2) For the purpose of determining the eligibility as investments under this Act of the preferred or common stocks of a company that has been voluntarily reorganized without the impairment of the status or value of its securities, dividends paid on the preferred and common stocks of the company before the reorganization may be counted as dividends paid on such stocks respectively of the reorganized company. R.S.O. 1970, c. 254, s. 158.

May hold
certain
estates and
interests in
land; and
may dispose
of same

187.—(1) A registered corporation may hold real estate which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real estate, and may sell or otherwise dispose of, as it considers advisable, any mortgage or security that it has lawfully acquired. R.S.O. 1970, c. 254, s. 159 (1).

Powers and
rights of
grantors and
grantees

(2) The Corporation may give receipts, acquittances and discharges, either absolutely and wholly or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or resale into effect, and the grantee or assignee in any such instrument stands in the place of, and is entitled to, and has all the same rights, powers and remedies, and is subject to the same obligations and liabilities as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made. R.S.O. 1970, c. 254, s. 159 (3).

Power to
hold real
estate for
business

188.—(1) A registered corporation may hold to its own use and benefit such real estate as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real estate.

Power to
hold real
estate on
relocation of
employee

(2) The corporation may acquire, hold, sell or dispose of real estate acquired in connection with the relocation by the corporation of the place of employment of an employee, if the

real estate serves as the residence of the employee immediately after the relocation or served as the residence of the employee immediately before the relocation but the real estate shall not be allowed as an asset of the corporation in the annual report prepared by the Registrar for the Minister if it is held for more than two years following its acquisition. R.S.O. 1970, c. 254, s. 160.

189. A registered corporation, when so authorized by its letters patent or by the Lieutenant Governor in Council, may acquire or may construct, on any lands held pursuant to section 188, a building larger than is required for the transaction of its business and may lease any part of the building not so required or, subject to the approval of the Lieutenant Governor in Council, may lease the whole building with a lease back to the corporation of the part of the building required by the corporation for the transaction of its business. R.S.O. 1970, c. 254, s. 161.

Power to acquire larger building and to lease part or lease whole with lease back

190. A provincial corporation shall not make or undertake any investment under section 188 or 189 that will cause the total amount at which such investments are carried on its books to exceed 35 per cent of its unimpaired capital, surplus and reserves. R.S.O. 1970, c. 254, s. 162; 1973, c. 128, s. 19.

Limit of amount of investments in buildings

191.—(1) A corporation shall not knowingly make an investment,

Prohibited investments

(a) by way of a loan to,

(i) a director or officer of the corporation or a spouse or child of such director or officer, or

(ii) an individual, his spouse or any of his children under twenty-one years of age if either the individual or a group consisting of the individual, his spouse and such children is a substantial shareholder of the corporation;

(b) in a company that is a substantial shareholder of the corporation; or

(c) in a company in which,

(i) an individual mentioned in subclause (a) (i),

(ii) an individual who is a substantial shareholder of the corporation,

(iii) another corporation that is a substantial shareholder of the corporation, or

(iv) a group consisting exclusively of individuals mentioned in subclause (a) (i),

has a significant interest.

Disposition

(2) The corporation shall not knowingly retain an investment mentioned in subsection (1). R.S.O. 1970, c. 254, s. 163 (1, 2).

Interpre-
tation

(3) For the purpose of this section,

significant
interest

(a) a person has a significant interest in a company, or a group of persons has a significant interest in a company, if,

(i) in the case of a person, he owns beneficially, either directly or indirectly, more than 10 per cent, or

(ii) in the case of a group of persons, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the shares of the company for the time being outstanding;

substantial
shareholder

(b) a person is a substantial shareholder of a corporation, or a group of persons is a substantial shareholder of a corporation, if that person or group of persons owns beneficially, either individually or together and either directly or indirectly, equity shares to which are attached more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding; and in computing the percentage of voting rights attached to equity shares owned by an underwriter, there shall be excluded the voting rights attached to equity shares acquired by him as an underwriter during the course of distribution to the public by him of such shares;

equity
share

(c) "equity share" means a share of any class to which are attached voting rights exercisable under all circumstances and a share of any class to which are attached voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

(d) "investment" means,

investment

(i) an investment in a company by way of purchase of bonds, debentures, notes or other evidences of indebtedness thereof or shares thereof, or

(ii) a loan to a person or persons, but does not include an advance or loan, whether secured or unsecured, that is made by a corporation to a company and that is merely ancillary to the main business of the corporation;

(e) "officer" means the president, vice-president, general ^{officer} manager, secretary, assistant secretary, comptroller, treasurer and assistant treasurer of a corporation and any other person designated as an officer of the corporation by by-law or by resolution of the directors thereof. R.S.O. 1970, c. 254, s. 163 (3); 1973, c. 128, s. 20 (1).

(4) For the purposes of this section, where a person or a ^{"Down-stream"} group of persons owns beneficially, directly or indirectly, ^{investment} shares of a company, that person or group of persons shall be deemed to own beneficially that proportion of the shares of any other company that is owned beneficially, directly or indirectly, by the first-mentioned company, that is equal to the proportion of the shares of the first-mentioned company that is owned beneficially, directly or indirectly, by that person or group of persons.

(5) Notwithstanding subsection (4), a corporation is not ^{Exception} prohibited from making an investment in a company only because a person or a group of persons that owns beneficially, directly or indirectly, or is deemed to own beneficially, equity shares of the corporation is by reason thereof deemed to own beneficially equity shares of the company. R.S.O. 1970, c. 254, s. 163 (4, 5).

(6) Where any person or group of persons is a substantial ^{Exemption} shareholder of a corporation and, as a consequence thereof and of the application of this section, certain investments are prohibited for the corporation, the Minister may, on the advice of the Registrar, and on application by the corporation, exempt from such prohibition any particular investment or investments of any particular class if he is satisfied,

(a) that the decision of the corporation to make or hold any investment so exempted has not been and is not likely to be influenced in any significant way by that

person or group, and does not involve in any significant way the interests of that person or group apart from their interests as a shareholder of the corporation; and

- (b) that the investment is to be made under the power granted to the corporation by sections 134, 143, 144, 145, 178, 179, 180, 181, 182 and 183. R.S.O. 1970, c. 254, s. 163 (6); 1973, c. 128, s. 20 (2).

Idem

(7) Any exemption made by the Minister under subsection (6) may contain any conditions or limitations considered by the Minister to be appropriate and may be revoked by the Minister at any time. R.S.O. 1970, c. 254, s. 163 (7).

Exception

(8) Notwithstanding the provisions of this section, a corporation is not prohibited from making a *bona fide* mortgage loan on the security of a residence of one of its officers who is not a director, where the loan is authorized by the directors of the corporation. 1972, c. 101, s. 21.

Assets in
Canada

192.—(1) A provincial corporation shall at all times retain in Canada assets at least equal to its liabilities incurred in Canada and to the moneys for which it is accountable as a trustee in Canada.

Safekeeping

(2) The custody of securities registered in the name of or held by a provincial corporation is subject to such regulations respecting their safekeeping, including registration and the bonding of directors, officers and employees of the corporation, as the Lieutenant Governor in Council may prescribe. R.S.O. 1970, c. 254, s. 164.

Corporation
may be
required to
dispose of
unauthor-
ized
investments

193. The Registrar may request any corporation to dispose of and realize any of its investments that are not authorized by this Act, and it shall within sixty days after receiving the request dispose of and realize such investments, and if the amount realized therefrom falls below the amount paid by it for such investments, its directors are jointly and severally liable for the payment to it of the amount of the deficiency, but if any director present when any such investment is authorized, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such investment, and is able to do so, enters his written protest against such investment, and within eight days thereafter notifies the Registrar in writing of his protest, the director may thereby, but not otherwise, exonerate himself from liability. R.S.O. 1970, c. 254, s. 165.

RETURNS

194.—(1) Every trust company shall prepare a statement in the form prescribed by the Registrar as at the last day of June and of December in each year showing the changes in investments and loans of the company during the preceding half-year. ^{Semi-annual return}

(2) Every trust company shall prepare a statement in the form prescribed by the Registrar as at the last day of March, June, September and December in each year showing the amount of cash and securities required to be maintained under section 121 and the amount of deposits and of funds received for guaranteed investment coming due in less than 100 days. ^{Quarterly statement}

(3) The statements mentioned in subsections (1) and (2) shall be verified by a certificate of a responsible officer of the trust company and shall be filed with the Registrar within thirty-one days after the date as at which they are made up. R.S.O. 1970, c. 254, s. 166 (2-4). ^{Verification of statements}

195.—(1) Every loan corporation shall make a quarterly return in the form prescribed by the Registrar showing the amount of cash and securities required to be maintained under section 108 and the amount of deposits and of obligations of the corporation payable in less than 100 days as such amounts exist on the last days of March, June, September and December in each year, and the return shall be filed with the Registrar not later than one month after the expiration of the quarter to which it relates. ^{Quarterly return by loan corporations as to deposits}

(2) Every loan corporation shall prepare a statement in the form prescribed by the Registrar as of the last day of June and of December in each year showing the changes in investments and loans of the corporation during the preceding half-year. ^{Semi-annual return}

(3) The statements mentioned in subsections (1) and (2) shall be verified by a certificate of a responsible officer of the loan corporation and shall be filed with the Registrar within thirty-one days after the date as at which they are made up. R.S.O. 1970, c. 254, s. 167. ^{Verification}

196.—(1) The managing director, manager or secretary of each registered corporation shall prepare annually a statement in the form prescribed by the Registrar of the financial condition and affairs of the corporation for the ^{Annual statement}

year ending on the 31st day of December or on any date within the two months preceding the 31st day of December, and the statement shall be filed with the Registrar within two months after the end of the year to which it relates.

Extra-provincial corporation

(2) In the case of an extra-provincial corporation, the Registrar may accept the statement required by subsection (1) as for the then last fiscal year of the corporation. R.S.O. 1970, c. 254, s. 168 (1, 2).

Report of auditor on annual statement

(3) The statement referred to in subsection (1) shall have attached the report of the auditor, which shall be in the form and content required by section 100. 1972, c. 101, s. 22 (1).

Affidavit of president, etc.

(4) Such annual statement shall also be proved by the affidavit of the president or vice-president and of the managing director, or some other principal officer of the corporation, and shall be accompanied by a certified copy of a resolution of the directors showing that such annual statement was adopted by them.

Extending time for filing of statement

(5) On sufficient cause shown and upon payment of the prescribed fee, the Registrar may by writing under his hand and seal of office, before or after the last day for filing the annual statement, extend the time for filing an annual statement.

Penalty for failure to file statement or supply information

(6) Any corporation that does not file its annual statement as required by this section, or make prompt and explicit answer to any inquiries then or at any time made by the Registrar touching its contracts, finances, stock, shares, securities, obligations, by-laws or books or, if required, produce for examination its books, records, securities, accounts and vouchers is liable to suspension, cancellation, or non-renewal of registry, and is liable to a penalty of \$50 for each day of default, but not exceeding in the whole \$1,000.

Extra-provincial corporations

(7) Where it is made to appear to the Registrar that an extra-provincial corporation does not borrow moneys in Ontario by the sale of its bonds, debentures or other securities or by accepting deposits or other moneys for investment and does not exercise in Ontario any of the powers of a trust company, other than the loaning of money in Ontario, the Registrar may direct that this section does not apply to the corporation, in which case it shall make such returns and give such information as the Registrar may require. R.S.O. 1970, c. 254, s. 168 (4-7).

(8) Every registered corporation shall file with the Registrar a certified copy of any financial statement furnished to its shareholders within thirty-one days after distribution of the statement to its shareholders. 1972, c. 101, s. 22 (2). Filing of financial statements

MISCELLANEOUS

197. Any amount, not exceeding \$300, standing to the credit of a depositor in a registered corporation is not, while in the hands of the corporation or while in course of transmission from the corporation, liable to demand, seizure or detention under legal process as against the depositor or his nominee, assignee or representative, or as against any person to whom the corporation is by sections 198 and 199 authorized to pay such amount. R.S.O. 1970, c. 254, s. 169. Exemption

198.—(1) A person who,

(a) has on deposit with a corporation a sum not exceeding \$600;

Direction
as to
disposition
of deposits
or debentures
on
death

(b) is the holder of debentures or guaranteed investment certificates issued by a corporation for a sum not exceeding \$600; or

(c) has on deposit with a corporation a sum and holds debentures or guaranteed investment certificates issued by the corporation, the amounts of which in the aggregate do not exceed \$600,

may by a writing, signed by him and deposited with the corporation, nominate any person to receive the amount thereof at his death.

(2) Upon receiving an affidavit as to the death of a person who has made a nomination under subsection (1), the corporation may substitute on its books the name of the nominee in place of the name of such person or may forthwith pay to the nominee the amount due to such person. R.S.O. 1970, c. 254, s. 170, *revised*. Rights of corporation

199. Where a depositor, debenture holder or holder of a guaranteed investment certificate as described in clause 198 (1) (a), (b) or (c) dies without making a nomination in accordance with that section, the deposit, debenture or guaranteed investment certificate may, without letters probate or letters of administration Where no direction

being taken out, be paid or transferred to the person who appears to the corporation to be entitled (under the will of such depositor, debenture holder or holder of a guaranteed investment certificate or in the case of an intestacy under the law relating to devolution of property) to receive it, upon receiving an affidavit of the death and that the person claiming is so entitled. R.S.O. 1970, c. 254, s. 171, *revised*.

**Payments
by mistake**

200. Where the corporation, after the death of a depositor, debenture holder or holder of a guaranteed investment certificate, has paid or transferred the deposit, debenture or guaranteed investment certificate to the person who at the time appeared to be entitled thereto, the payment or transfer is valid and effectual with respect to any demand from any other person as the legatee or next of kin or as the lawful representative of the deceased against the corporation, but the legatee, next of kin or representative is entitled to recover the amount of the deposit, debenture or guaranteed investment certificate from the recipient or transferee. R.S.O. 1970, c. 254, s. 172.

**Service of
notices**

201. Delivery of any written notice or document to a corporation for any purpose of this Act, where the mode is not otherwise expressly provided, may be by letter delivered at its head or chief office in Ontario or its chief agency therein, or sent by registered mail addressed to it, its manager or agent at such head or chief office or agency, or by delivering the notice personally to an authorized agent of the corporation. R.S.O. 1970, c. 254, s. 173.

**Winding up
R.S.O. 1980,
c. 95**

202. Except where Part VI of the *Corporations Act* is inconsistent with this Act, that Part applies to the winding up of corporations to which this Act applies, substituting the word "Registrar" for the word "Minister". R.S.O. 1970, c. 254, s. 174.

OFFENCES AND PENALTIES

**Refusal to
make entries
or exhibit
same, etc.**

203. Every director, manager, auditor, officer, agent, collector, servant or employee of a corporation who refuses or neglects to make any proper entry in any book of record, entry or account of the corporation, or to exhibit the same, or to allow the same to be inspected or audited, either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom, is guilty of an offence. R.S.O. 1970, c. 254, s. 175.

**False
statements**

204.—(1) Every person who makes any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of a cor-

poration is guilty of an offence and on conviction is liable to imprisonment for a term of not more than five years.

(2) Every president, vice-president, director, manager or ^{Officers' liability} other officer and every auditor of a corporation, who,

(a) prepared, signed, approved or concurred in any such account, statement, return, report or document containing such false or deceptive statement; or

(b) used the same with intent to deceive or mislead any person,

shall be held to have wilfully made such false or deceptive statement and, further, is responsible for all damages sustained by any person in consequence thereof. R.S.O. 1970, c. 254, s. 176.

205.—(1) For every contravention of this Act that is ^{General penalty} declared to be an offence and for which no other penalty is provided, the offender, on conviction, for the first offence, is liable to a fine of not more than \$2,000 and, for any subsequent offence of the same kind, is liable to imprisonment for a term of not less than three months and not more than twelve months or, in the case of an organization, society, association, company or corporation, to a fine of not more than \$25,000. R.S.O. 1970, c. 254, s. 177 (1); 1973, c. 128, s. 21.

(2) A proceeding under subsection (1) shall be commenced ^{Limitations of prosecutions} within one year after the commission of the offence. R.S.O. 1970, c. 254, s. 177 (2), *revised*.

(3) The fines under this Act belong to the Crown in right ^{Disposition of fines} of Ontario. R.S.O. 1970, c. 254, s. 177 (3).

FEES

206.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations,

(a) requiring the payment of fees for letters patent of incorporation and supplementary letters patent and in respect of any function performed by the Registrar under this Act and prescribing the amounts thereof;

- (b) prescribing the terms and conditions under which registered corporations may invest their funds in fully paid shares under sections 180 and 183;
 - (c) respecting the records, papers and documents to be retained by corporations and the length of time they shall be so retained;
 - (d) requiring the disclosure to borrowers of terms and conditions of loans, mortgages and interest rates in lending transactions and prescribing the form thereof.
- 1972, c. 101, s. 23, *part*; 1973, c. 128, s. 22.

Payment to
Registrar

- (2) The fees are payable to the Registrar.

Commuta-
tion on
proposed
discon-
tinuance of
business

- (3) Where a registered corporation proves to the satisfaction of the Registrar that it is discontinuing business in Ontario, and has given such public notice of intended discontinuance as is required, the fee for registry or renewal of registry, as the case may be, may, on the certificate of the Registrar, be commuted to one-fourth of the prescribed fee, but registry at such commuted fee shall not be granted for more than four years in all, unless for cause shown to the satisfaction of the Registrar, in which case registry may be granted year by year for an additional number of years.

Time of
payment

- (4) In the case of an application or other document or instrument to be filed, examined or deposited, the fee shall be paid before the application or other document or instrument is dealt with, and, in the case of registry or certificates of registry, the fee shall be paid before the corporation is registered. R.S.O. 1970, c. 254, s. 178 (3-5).