c 116 The Montreal Trust Company of Canada Act, 1980

Ontario
CHAPTER 116

An Act respecting
Montreal Trust Company and
Montreal Trust Company of Canada

Assented to June 17th, 1980

WHEREAS Montreal Trust Company and Montreal Trust Company of Canada hereby represent that Montreal Trust Company, a corporation incorporated by an Act of the Legislature of the Province of Quebec, being chapter 72 of the Statutes of Quebec, 1889, by its wholly owned subsidiary, Montrustco Corporation, a corporation incorporated under the Canada Business Corporations Act by articles of incorporation dated the 5th day of April, 1978, caused Montreal Trust Company of Canada to be incorporated by letters patent dated the 19th day of July, 1978, under the Trust Companies Act (Canada) as a wholly owned subsidiary of Montrustco Corporation, except for directors' qualifying shares, for the purpose of taking over and carrying on certain of the business of Montreal Trust Company in the Province of Ontario and other areas of Canada; that, subject to certain exceptions as herein described, Montreal Trust Company and Montreal Trust Company of Canada desire to transfer to Montreal Trust Company of Canada certain of the trusteeship and agency business of Montreal Trust Company in Ontario, including particularly those parts of such business for which Montreal Trust Company is named, on behalf of any natural person, trustee under any inter vivos trust, or executor, administrator or trustee under any will, letters probate, or letters of administration; that because of the nature of such trusteeship business it is desirable and expedient to effect such transfer by an Act of the Legislative Assembly of Ontario so that the rights and obligations of all those who have relations with Montreal Trust Company and Montreal Trust Company of Canada with respect to such trusteeship and agency business may be clearly determined; and whereas Montreal Trust Company and Montreal Trust Company of Canada hereby apply for special legislation for such purposes; and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sections 2, 3, 4 and 5 do not apply to,
(a) any real or personal property granted to, or held by, or vested in Montreal Trust Company, and any power, right, immunity, privilege or right of action that may be exercised by or against Montreal Trust Company, pursuant to or in respect of,

(i) any trust indenture or indenture wherein Montreal Trust Company is named trustee and by virtue of which bonds, debentures or other evidences of indebtedness, warrants, or rights are issued,

(ii) any document or trust to which section 2 applies pursuant to which Montreal Trust Company acts as trustee in respect of an employees' superannuation or pension fund or plan, which has been accepted for registration purposes pursuant to the Income Tax Act (Canada) and any mutual fund, pooled trust fund or unit trust the principal purpose of any of which is the investment of moneys forming part of any such employees' superannuation or pension fund or plan;

(b) any agreement or other document whatsoever whereby Montreal Trust Company is named as registrar or transfer agent;

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

(d) any real or personal property that is held by Montreal Trust Company under any document or trust to which section 2 applies which is situate outside Ontario, and any power, right, immunity, privilege, or right of action that may be exercised by or against Montreal Trust Company under any such document or trust with respect to that property, but,

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

(ii) for all property situate outside Ontario not coming within subclause i, but held by Montreal Trust Company under any document or trust to which section 2 applies, for which the Supreme Court of Ontario has jurisdiction under section 5 of The Trustee Act to make an order for the appointment of a new trustee, Montreal Trust Company of Canada may, upon application to the Supreme Court, be appointed trustee in the place and stead of Montreal Trust Company with respect to that property, and such appointment has for all purposes of the laws of Ontario the same effect as if made under section 5 of The Trustee Act,

but any appointment made under subclause i or ii hereof shall not affect any rights which may continue to be exercised by or against Montreal Trust Company; or

(e) trusts relating to moneys received for guaranteed investment and any real or personal property held in trust with respect to any such guaranteed investment.

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

3.—(1) Subject to section 1, all real and personal property and every interest therein that is granted to, or held by, or vested in
Montreal Trust Company, whether by way of security or otherwise, in trust, or in the custody, care or control of Montreal Trust Company, for or for the benefit of any other person or purpose, pursuant to or in respect of any document or trust to which section 2 applies, and whether in the form in which it was originally acquired by Montreal Trust Company or otherwise, is vested in Montreal Trust Company of Canada, according to the tenor of and at the time indicated or intended by the document or trust, upon the same trusts, and with the same powers, rights, immunities, and privileges, and subject to the same obligations and duties as are thereby provided, granted or imposed.

(2) Subject to section 6, for the purposes of any Act affecting the title to property, both real and personal, the vesting of title in Montreal Trust Company of Canada of every property affected by subsection 1 is effective without the registration or filing of this Act, or any further or other instrument, document or certificate showing the change of title in any public office whatsoever within the jurisdiction of the Province of Ontario.

4.—(1) No suit, action, appeal, application or other proceeding being carried on and no power or remedy being exercised by or against Montreal Trust Company in any court of Ontario, or before any tribunal or agency of the Province of Ontario, pursuant to or in respect of any document or trust to which section 2 applies, shall be discontinued or abated on account of this Act, but may be continued in the name of Montreal Trust Company of Canada, which shall have the same rights, shall be subject to the same liabilities, and shall pay or receive the same costs and award as if the suit, action, appeal, application or other proceeding had been commenced or defended in the name of Montreal Trust Company of Canada.

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

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

5. Nothing in this Act affects the rights of any person having a
claim against Montreal Trust Company in respect of any docu-
ment or trust to which section 2 applies, or impairs, modifies or
affects the liability of Montreal Trust Company to any such per-
son, but all such acts as may be enforceable in Ontario may be
asserted against Montreal Trust Company of Canada, which shall
be responsible for all debts, liabilities, and obligations of Montreal
Trust Company in respect of any such document or trust.

6. — (1) For any real or personal property that is registered in
the name of Montreal Trust Company in any public office of the
Province of Ontario, any person may continue to deal with
Montreal Trust Company in reliance on such registration until he
receives notice in accordance with subsection 2 that such property
has been vested in Montreal Trust Company of Canada under
subsection 1 of section 3, and until a person receives such notice,
any cheque, bill of exchange, payment, summons, notice or any
other document whatsoever that he executes or endorses in favour
of or that he delivers to or serves on, Montreal Trust Company in
respect of any property that is vested in Montreal Trust Company
of Canada under subsection 1 of section 3 shall be as valid and
effective as if it were executed or endorsed in favour of, or deli-
vered to or served on, Montreal Trust Company of Canada.

(2) For any real or personal property registered in the name of
Montreal Trust Company in any public office of the Province of
Ontario, or for which Montreal Trust Company is shown by any
document of title as having legal ownership thereof, and that is
vested in Montreal Trust Company of Canada under subsection 1
of section 3, a statutory declaration made by a duly authorized
officer, employee or agent of Montreal Trust Company attesting
to such vesting may be served personally on, or sent by registered
mail to, any person who may have any dealing with such property,
and any person who receives any such declaration may thereafter
deal with Montreal Trust Company of Canada as if it were shown
as the registered or legal owner of the property in respect of which
the declaration is made, and the validity of any such dealing shall
not be affected by any inaccuracy in such declaration.

(3) Any instrument dealing with any property,

(a) that is vested in Montreal Trust Company of Canada
pursuant to subsection 1 of section 3, but that is regis-
tered in the name of Montreal Trust Company in any
public office of the Province of Ontario or in respect of which Montreal Trust Company is shown by any document of title as having legal ownership thereof, shall be executed by Montreal Trust Company of Canada and shall contain a recital referring to such vesting under this Act; and

(b) of which Montreal Trust Company is shown as the registered or legal owner, and that is not vested in Montreal Trust Company of Canada under subsection 1 of section 3, shall be executed by Montreal Trust Company and shall contain a recital stating that title to such property is not affected by this Act.

(4) Any instrument executed by Montreal Trust Company or by Montreal Trust Company of Canada containing the recital required by subsection 3 may be accepted for registration by any public office within the jurisdiction of the Province of Ontario without further proof of the accuracy of such recital, and any such instrument shall be deemed to be effective as against Montreal Trust Company and Montreal Trust Company of Canada in passing title to any property described in such instrument notwithstanding any inaccuracy contained in such recital.

(5) For purposes of The Personal Property Security Act it is sufficient, in order to show the vesting in Montreal Trust Company of Canada under subsection 1 of section 3 of any interest in personal property that constitutes a security interest within the meaning of that Act and for which Montreal Trust Company is shown as the secured party in any financing statement registered under that Act, for a financing change statement to be registered in respect of such vesting as if Montreal Trust Company had assigned its interest to Montreal Trust Company of Canada.

7. This Act comes into force on the day it receives Royal Assent.