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**TD TRUST COMPANY ACT, 1997****CHAPTER 39***Assented to July 28, 1997****Contents******Section***

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

**Interpretation**

1. In this Act, “**registrar**” means the registrar appointed under the *Land Title Act* of the respective land title district in which an application in respect of any registered estate or interest in real property is made.

**Purpose**

2. The purpose of this Act is to provide for the transfer of the trusteeship and agency business of Central Guaranty Trust Company to TD Trust Company.

**Non-application**

3. (1) This Act does not apply to
  - (a) real or personal property that is owned or held by, vested in or granted to Central Guaranty Trust Company and that is held by Central Guaranty Trust Company exclusively for its own use and benefit, and not in trust for or for the benefit of any other person or purpose,
  - (b) real or personal property that is located outside of British Columbia and is held by Central Guaranty Trust Company under a record or trust to which section 4 would otherwise apply and any power, right, immunity, privilege or right of action that may be exercised by or against Central Guaranty Trust Company under any such record or trust with respect to that property,

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- (c) trusts relating to moneys received for guaranteed investment and any real or personal property held in trust with respect to any such guaranteed investment of which Central Guaranty Trust Company is trustee,
  - (d) any real or personal property granted to or held by or vested in Central Guaranty Trust Company under or in respect of
    - (i) any trust indenture or other indenture to which section 4 would otherwise apply in which Central Guaranty Trust Company is or may be a trustee and by virtue of which bonds, debentures or other evidence of indebtedness, warrants or rights have been or may be issued,
    - (ii) any record or trust to which section 4 would otherwise apply under which Central Guaranty Trust Company acts as trustee for unitholders in respect of any oil or gas royalty trust fund, and
    - (iii) any record or trust to which section 4 would otherwise apply under which Central Guaranty Trust Company acts as trustee, manager, advisor, registrar or transfer agent with respect to the Central Guaranty Trust funds — Canadian Money Market Fund, Central Guaranty Trust Investors Fund (Income and Equity Sections), Central Guaranty Property Fund and Central Guaranty Trust Real Estate Fund, or
  - (e) any agreement or other record of any kind by which Central Guaranty Trust Company is named or may be named as registrar or transfer agent, except for any appointment of Central Guaranty Trust Company as registrar or transfer agent of a mutual fund other than the mutual funds described in section 3 (2) (d) (iii).
- (2) Despite subsection (1) (b),
- (a) if a court has appointed or has the power to appoint Central Guaranty Trust Company as personal representative of a deceased person, whether as executor, administrator or otherwise, for property located outside British Columbia, TD Trust Company may, on application to that court, be appointed as personal representative with respect to that property in place of Central Guaranty Trust Company, and
  - (b) if property located outside British Columbia but not referred to in paragraph (a) is held by Central Guaranty Trust Company under a record or trust to which section 4 applies and if the Supreme Court has jurisdiction under section 31 of the *Trustee Act* to make an order for the appointment of a new trustee with respect to that property, TD Trust Company may, on application to the Supreme Court, be appointed as trustee with respect to that property in place of Central Guaranty Trust Company.
- (3) An appointment under subsection (2) (b) has for all purposes under the laws of British Columbia the same effect as if made under section 31 of the *Trustee Act*.

- (4) Section 807 (1) (b) and (2) of the *Municipal Act* does not apply to a bylaw adopted under subsection (2) of this section.
- (5) The bylaw adopted under subsection (2) is deemed to be a service establishment bylaw under the *Municipal Act*.
- (6) If the bylaw adopted under subsection (2) is amended to change the service area, the amendment must be approved by the minister.
- (7) Subject to this Act and the regulations, Part 24 of the *Municipal Act* applies to the water distribution local service established under this section.
- (8) Until the regional district adopts the bylaw under subsection (2), the water distribution local service is comprised of the following initial participating areas:
  - District of Metchosin
  - City of Colwood
  - Town of View Royal
  - District of Langford
  - Sooke Electoral Area.
- (9) Despite section 803 of the *Municipal Act*, the regional district has exclusive jurisdiction to regulate persons or property in relation to the water distribution local service within municipal participating areas.

**CRD must establish a regional water supply commission**

- 4 (1) By bylaw, the regional district board must establish a regional water supply commission in accordance with the regulations.
- (2) The purpose of the regional water supply commission is
  - (a) to foster the provision of high quality water for current and future users of the water supply service, and
  - (b) to encourage effective conservation of the water supply and stewardship over the water supply catchment area in cooperation with local governments, first nations, the government and the public.
- (3) The regional water supply commission is a standing committee under Part 24 of the *Municipal Act*.

**Establishment of Sooke Hills Wilderness Regional Park**

- 5 (1) The land described in the Schedule is transferred to the regional district and, on its transfer, is a regional park under the *Park (Regional) Act* and is dedicated for public use and enjoyment as a regional park.
- (2) The park dedicated under subsection (1) is to be known as the Sooke Hills Wilderness Regional Park.
- (3) The *Park (Regional) Act* applies to the park dedicated under subsection (1).

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- (4) On or before a date specified by regulation, the regional district must submit to the Minister of Environment, Lands and Parks for approval an amendment to its official regional park plan under the *Park (Regional) Act* to include the park dedicated under subsection (1).
- (5) On or before a date specified by regulation, the regional district must adopt a bylaw setting out a park management plan for the park dedicated under subsection (1).
- (6) The park management plan bylaw referred to in subsection (5) must be approved by the Minister of Environment, Lands and Parks.
- (7) Before giving an approval under subsection (6), the Minister of Environment, Lands and Parks may require that the park management plan bylaw provide for limited access to areas adjacent to watershed land.
- (8) By regulation, the Lieutenant Governor in Council may add all or part of the following land to the park dedicated under this section and, for that purpose, subsections (4) to (7) apply:

Section 5, Goldstream District, except that part thereof containing 6.56 acres, more or less, and registered in the name of Esquimalt and Nanaimo Railway in AFB 19.297.5266C, except Parcel A (DD 36200I) and except part in Plan 12326;

Section 8, Goldstream District, (being shown on Plan 682), except part in Plan 12326.

**Power to make regulations**

- 6 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
  - (a) establishing a date on or before which the regional district must submit to the inspector of municipalities for approval a bylaw required under section 2 or 3;
  - (b) establishing a date on or before which the regional district must adopt a bylaw required under section 2 or 3;
  - (c) establishing a date on or before which the regional district must submit its official regional park plan;
  - (d) establishing a date on or before which the regional district must adopt a park management plan bylaw;
  - (e) establishing terms and conditions respecting the transfer of rights, property, assets, obligations and liabilities under this Act;
  - (f) modifying, or making an exception to, any requirement of the *Municipal Act* in relation to a service established under this Act;

- (3) Subject to section 7 (2) and 7 (3) any proceeding, or any power, right, remedy or right of distress that might have been brought or exercised by or against Central Guaranty Trust Company as executor, administrator, trustee, personal representative or in any other capacity referred to in section 4 (1) under or in respect of a record or trust to which section 4 applies, may be brought or exercised by or against TD Trust Company, and, in that event, TD Trust Company has the same rights in respect of these matters as Central Guaranty Trust Company would have had if this Act had not been enacted.

#### **Rights of third parties**

7. (1) Nothing in this Act affects the rights of any person having a claim against Central Guaranty Trust Company in respect of a record or trust to which section 4 applies, or impairs, modifies or affects the liability of Central Guaranty Trust Company to any such person.
- (2) TD Trust Company is not liable for any debts, liabilities or obligations arising out of any act or omission on the part of Central Guaranty Trust Company that occurred prior to January 1, 1993 in respect of a record or trust to which section 4 applies.
- (3) Nothing in this Act changes or otherwise affects the law with respect to the rights, liabilities or obligations of TD Trust Company as successor trustee to Central Guaranty Trust Company.

#### **Notice**

8. (1) If a person is under an obligation to make payments in relation to property that is vested in TD Trust Company under section 5 (1), the person may make the payments to Central Guaranty Trust Company until TD Trust Company gives or causes to be given notice in writing to the person that payment must be made to TD Trust Company.
- (2) If a person receives a notice referred to in subsection (1), the obligation of the person to make payments is owed to TD Trust Company.
- (3) TD Trust Company may execute any instrument that purports to transfer any interest in, encumber or otherwise affect the title to property that is vested in TD Trust Company under section 5 (1) even though
- (a) the property remains registered in the name of Central Guaranty Trust Company or any predecessor trust or loan company of Central Guaranty Trust Company in any public office of the government, or
  - (b) Central Guaranty Trust Company is shown by a record of title as having legal ownership of the property.
- (4) An instrument referred to in subsection (3) may contain a recital referring to the vesting of title to the property in TD Trust Company under this Act.

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- (5) An instrument executed by TD Trust Company containing the recital permitted by subsection (4)
- (a) may be accepted for registration by any public office of the government without further proof of the accuracy of the recital, and
  - (b) is effective to do that which it purports to do despite any inaccuracy contained in the recital.
- (6) In order to show the vesting in TD Trust Company under section 5 (1) of any interest in personal property that constitutes collateral within the meaning of the *Personal Property Security Act* and in respect of which Central Guaranty Trust Company is shown as the secured party in any financing statement registered under that Act, a financing change statement may be registered in respect of the vesting as if Central Guaranty Trust Company had assigned its interest to TD Trust Company.

**Commencement**

9. Section 4 and section 5 (2) and (3) are deemed to have come into force on January 1, 1993 and are retroactive to the extent necessary to give them effect on and after that date.

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