

## CHAPTER 42

**An Act Respecting an Offer of Matching Financial Assistance by Way of Loan to Commonwealth Trust Company**

[Assented to 2nd April, 1969.]

Preamble.

WHEREAS Commonwealth Trust Company (referred to as the "company") is a Provincial corporation incorporated and registered as a trust company under the *Trust Companies Act* of British Columbia, being chapter 389 of the *Revised Statutes of British Columbia, 1960*, with head office in the City of Vancouver, in the Province:

And whereas, by a report of the Inspector of Trust Companies (referred to as the "inspector"), dated the fifth day of January, 1968, to the Minister of Finance and the Attorney-General, it was reported that the company was conducting its business in an unsafe and unauthorized manner, and in a way that was detrimental to the public interest:

And whereas the Government of the Province (referred to as the "government"), by Order dated the twelfth day of February, 1968, pursuant to the *Trust Companies Act*, ordered the company to take remedial action and, in effect, to cease and desist from its unsafe business practices:

And whereas the company failed to substantially comply with the Order and, to protect the investments of many citizens of British Columbia and others in the company, the government, by further Order dated the second day of August, 1968, pursuant to the *Trust Companies Act*, appointed a manager of the company to supervise the activities of the company:

And whereas the manager so appointed, reports that the company, by reason of shortage of capital, is in serious financial condition and has recommended that, provided the company raise the sum of at least one million dollars by the issue of share capital, the government lend moneys to the company equivalent to the amount so raised by the company, to enable the company to continue in business and meet its obligations to its depositors and the holders of its securities:

And whereas, in this time of stress and difficulty in the national and international money markets, it is desirable that confidence and stability in the financial integrity and solidarity of the major financial institutions of the Province be maintained:

And whereas the government considers that it should make an attempt to assist the company to continue its operations and thereby strengthen the City of Vancouver as a leading financial centre and enhance the present excellent reputation of the financial institutions of the Province in the financial markets of the world:

And whereas the Canada Deposit Insurance Corporation, an agency of the Government of Canada, has seen fit to guarantee, up to the amount of twenty thousand dollars, the individual deposits of depositors with the trust company, and has by agreement loaned to the company the sum of three million five hundred thousand dollars:

And whereas it is therefore deemed in the public interest that the government offer to make a loan to the company equal to the sum raised by the company by the issue and sale of its shares, in the maximum amount of three million dollars, subject to the terms and conditions hereinafter provided:

Now, therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short title.

1. This Act may be cited as the *Commonwealth Trust Company Matching Financial Assistance Act*.

Authority for a loan.

2. (1) Subject to section 4, the Minister of Finance (referred to as the "minister"), for and on behalf of the government, may lend to the company, on the authorization of the Comptroller-General of the Province, as and when requisitioned by the company, amounts equivalent to the sums raised by the company in the manner provided by subsection (3) of this section.

(2) No amounts shall be loaned to the company by the government under this Act after the thirty-first day of March, 1970, and the aggregate amounts so loaned shall not exceed three million dollars.

(3) The moneys referred to in subsection (1) to be raised by the company shall be raised by the issue and sale by the company of its shares, and it is a condition precedent of any loan being made under this Act that the company will raise at least one million dollars on or before the thirty-first day of March, 1970.

Security for loan.

3. (1) The aggregate principal amount loaned under section 2, together with the interest accrued thereon and all other amounts, costs, and charges that may become payable to the government in respect thereof (the total amount of which is referred to as the "loan"), shall be secured by non-transferable bonds, fully payable as to principal amount on the first day of May, 1974.

(2) The company shall pay interest on the principal amount of the bonds at the rate of seven per centum per annum, not compounded, from the date of issuance of the bonds until fully paid, on the principal outstanding from time to time, but payment of all interest shall be deferred and shall be paid in sixty equal consecutive monthly instalments commencing on the first day of May, 1974.

(3) The bonds shall be secured by a first fixed and specific charge on real and personal property of the company having a book value according

to the company's accounts of at least two and one-half times the amount of the principal of the bonds, and a first floating charge on all the other business, undertaking, assets, and property of the company, both present and future, and wherever situated, including the goodwill and unpaid capital of the company, ranking prior to any and all other obligations of the company, excepting such of those other obligations as may be approved by the Lieutenant-Governor in Council.

Approval by  
Lieut.-  
Governor in  
Council.

4. No part of the loan shall be advanced unless first authorized by the Comptroller-General of the Province; and any trust deed securing the bonds, and the bonds, shall be approved by the Lieutenant-Governor in Council.

Terms and  
conditions  
of loan.

5. (1) The loan shall be subject to the following terms and conditions:—

- (a) The company shall pay not less than fifty per centum, or such lesser amount as may be approved by the Lieutenant-Governor in Council, of the net income after taxes, earned each year, to the government to be applied to the repayment of the principal amount of the bonds:
- (b) No dividends shall be paid on any shares in the capital of the company:
- (c) Management salaries shall be approved by the inspector:
- (d) Directors' fees shall not be paid without the approval of the inspector:
- (e) Except as provided by this Act, no assets of the company shall be mortgaged, charged, sold, transferred, or otherwise disposed of, or removed out of the Province, without the consent of the inspector, except in the ordinary course of the day-to-day operations of the company:
- (f) The company shall not, with respect to both company funds and depositors' funds, make advances or loans, secured or otherwise, to, or investments, by way of the purchase of bonds, debentures, notes, or other evidences of indebtedness or shares, in any corporation in which the company or any director, officer, or employee of the company owns, directly or indirectly, in excess of ten per centum of either the total equity ownership or voting shares thereof, or make any such loans or advances to or investments in any corporation or partnership in the management of which any director, officer, or employee of the company is engaged:
- (g) The company shall, at the request of the inspector, make full disclosure of all accounts and records and affairs of the company:
- (h) The company shall not allot or issue any shares in its capital unless the subscription price therefor is paid in full at the time of issuance:

- (i) The company shall conduct and carry on its business in a proper and efficient manner and do everything within its power to restore its financial stability:
- (j) The loan shall become due and payable upon any breach by the company of any of the terms and conditions on which the loan is made.

(2) The Lieutenant-Governor in Council may prescribe further terms and conditions of the loan; and any trust deed securing the bonds shall include such terms and conditions in addition to the terms and conditions set out in subsection (1).

Resolutions  
contrary to  
Act invalid.

6. Notwithstanding the provisions of the *Trust Companies Act*, the *Companies Act*, the memorandum of association or the articles of association of the company, no resolution passed or any other action taken by the shareholders, directors, or officers contrary to the provisions of this Act shall be valid and binding upon the company.

Agreement by  
minister.

7. The minister, subject to the approval of the Lieutenant-Governor in Council, may enter into an agreement with the company to make provision for the loan and all terms and conditions thereof.

Agreement  
to be laid  
before  
Legislature

8. The minister shall lay a copy of any agreement entered into under this Act before the Legislature forthwith after it has been entered into if the Legislature is then in session, and if it is not, then within fifteen days of the commencement of the next ensuing session.

Ratification of  
orders.

9. (1) Those orders to the company made by the Minister of Finance and the Attorney-General, and dated the twelfth day of February, 1968, and the second day of August, 1968, as set out in the schedule to this Act, are hereby ratified and confirmed as having been validly made and are binding on the company and on all other persons referred to therein.

(2) This section is retroactive to the dates of the respective orders referred to in subsection (1) to the extent necessary to give full force and effect to the provisions of the orders.

Ratification of  
action of  
directors.

10. (1) The resolution of the board of directors passed on the sixteenth day of September, 1968, resolving that a call be made on certain uncalled and unpaid subscriptions to the preference shares of the company and certain uncalled and unpaid subscriptions to the common shares of the company for the entire amount uncalled thereon, is hereby ratified and confirmed as having been validly made by the directors and is binding on the company and its members.

(2) The calls made by the board of directors pursuant to the resolution referred to in subsection (1) are hereby ratified and confirmed as having been validly made by the directors and are binding on the company and its members.

(3) The company shall not amend Article 54 of its articles of association, which provides that no member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

(4) Any resolution, agreement, or arrangement purported to have been made by the company, or its directors, or an executive committee thereof, on or after the sixteenth day of September, 1968, that would in any way affect, alter, or revoke the resolution and the calls referred to in subsections (1) and (2) is invalid, shall not bind the company, and shall have no force or effect whatsoever.

Company  
powers.

11. Notwithstanding the provisions of the *Trust Companies Act*, the company is authorized and empowered

- (a) to borrow from the government an amount not exceeding three million dollars and to give security therefor as in this Act provided;
- (b) subject to the approval of the inspector, to obtain loans, advances, or lines of credit from Canada Deposit Insurance Corporation under the *Canada Deposit Insurance Act*;
- (c) in order to facilitate the raising of money as provided in subsection (3) of section 2, to issue its common shares, at any time prior to the first day of April, 1970, at such discount as shall be approved by a special resolution of its shareholders.

12. In the case of the issue by the company of its common shares at a discount, the liability of the holders of such shares shall be limited to the subscription price therefor.

13. Where any of the provisions of this Act modify or conflict with the provisions of the *Trust Companies Act*, the provisions of this Act shall prevail.

Appointment  
of receiver.

14. The *Trust Companies Act*, being chapter 389 of the *Revised Statutes of British Columbia, 1960*, is amended by adding, after section 77 of the Act, the following as sections 77A, and 77B, and 77C:—

Appointment  
of receiver  
and manager.

77A. Where the inspector makes a report pursuant to section 71 and recommends the appointment of a receiver and manager, the minister and the Attorney-General may recommend to the Lieutenant-Governor in Council that a receiver and manager be appointed

- (a) for a Provincial company; or
- (b) for an extra-Provincial company in respect of its branch offices, assets, and affairs within the Province,

as the case may be, and the Lieutenant-Governor in Council may make an order accordingly.

Powers of  
receiver and  
manager.

77B. (1) A receiver and manager appointed under section 77A

- (a) may be a chartered accountant, another registered trust company, or any other person; and

(b) has the powers given to it by the order and, except as otherwise provided in the order, has the powers and duties that are given or imposed on a receiver and manager appointed under the *Supreme Court Act*.

(2) An order under section 77A may provide for any matter or thing relating to the business and affairs of the company during the appointment of the receiver and manager.

Revocation of  
appointment  
and term of  
office.

77C. (1) A receiver and manager appointed under section 77A, or under subsection (1) of this section, remains in office until he is removed from office or until a liquidator is appointed to wind up the company.

(2) The remuneration of the receiver and manager for his services, and his expenses and disbursements in connection with the discharge of his duties, shall be fixed and determined by a Judge of the Supreme Court upon application, and shall be paid out of the assets of the company, and, in case of the winding-up of the company, shall rank in the estate equally with the remuneration of the liquidator.

Commence-  
ment.

15. (1) The Act, excepting those sections referred to in subsection (2), comes into force on the date or dates fixed by the Lieutenant-Governor by his Proclamation, and he may make separate Proclamations fixing different dates for the coming into force and effect of the several provisions.

(2) Sections 1, 6, 9, 10, 11, 12, 13, 14, and this section come into force on Royal assent.

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## SCHEDULE

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IN THE MATTER OF SECTION 71 OF THE  
TRUST COMPANIES ACT, R.S.B.C. 1960, C. 389

AND

IN THE MATTER OF COMMONWEALTH TRUST COMPANY

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### ORDER

WHEREAS pursuant to section 71 (1) of the *Trust Companies Act* the Inspector of Trust Companies has made a report in respect of Commonwealth Trust Company (hereinafter referred to as "the Company") dated January 5th, 1968, to the Minister of Finance and to the Attorney-General:

AND WHEREAS the Canada Deposit Insurance Corporation, an agent of the Federal Government, has urged upon the Company certain remedial action:

NOW THEREFORE PURSUANT TO SECTION 71 (2) OF THE *TRUST COMPANIES ACT* THE UNDERSIGNED HEREBY ORDER AND DIRECT AS FOLLOWS:—

1. The Company is prohibited, until further order, from issuing any of its preference shares or common shares unless payment in full therefor is made at the time of issuance.

2. The directors of the Company shall make a call upon the members, to be paid within six months of the date of this Order, in respect of the unpaid common shares outstanding such as is necessary to produce the sum of Two Hundred Thousand Dollars (\$200,000).

3. The Company is hereby prohibited, with respect to both company funds and depositors' funds, from making advances or loans, secured or otherwise, to, or investments, by way of the purchase of bonds, debentures, notes, or other evidences of indebtedness or shares, in any corporation in which the Company or any director, officer or employee of the Company owns, directly or indirectly, in excess of 10 per cent of either the total equity ownership or voting shares thereof, and from making any such loans or advances to or investments in any corporation or partnership in the management of which any director, officer or employee of the Company is engaged, but without limiting the generality of the foregoing, the Company is hereby prohibited from making such advances or loans to or investments in any of the corporations set out in the Schedule attached.

4. Subject to paragraph numbered 5, the Company is required to divest itself, within thirty days of the date of this Order, of all advances and loans presently outstanding to, or investments in, any of the corporations to which reference is made in paragraph numbered 3 and the Schedule hereof.

5. The Company is required to divest itself of all its interest by way of advances, loans or investments, secured by mortgages or otherwise, to Beach Gardens Holdings Ltd. or its assignees within ninety days of the date of this Order.

6. Notwithstanding paragraphs numbered 3 and 4, the Company may make, for periods not exceeding thirty days, such advances out of its own funds in the usual course of its business as the agent of an insurance company, or to enable it to obtain possession of or to protect property in respect of which the Company is trustee or agent, and the total sum of all such advances for the time being outstanding shall not exceed One Hundred Thousand Dollars (\$100,000).

7. The Company must continue to maintain a mortgage reserve of at least Two Hundred and Fifty Thousand Dollars (\$250,000) to provide for possible capital losses on mortgages.

8. The Company must have available for inspection by the Inspector of Trust Companies or by a person authorized by him within ninety days of the date of this Order adequate independent appraisals of all the various properties forming the security for its mortgage loans.

9. In respect of all mortgage loans made by the Company subsequent to the date of this Order,

- (a) bonuses, placement or like fees or charges therefor shall be taken into income over the duration of the mortgage on a pro rata basis; and
- (b) repayments of the principal and interest shall commence on a regular basis with the first repayment not later than three months from the end of the month in which the loan is made.

10. The Company is prohibited from paying any dividends on its common shares until further order.

11. Subject to paragraphs 3 and 4 the total liability to the Company from any person shall at no time exceed Two Hundred Thousand Dollars (\$200,000).

12. The Company shall take no further steps to build, purchase, or otherwise acquire any interest in a head office building on the south-east corner of Burrard and Robson Streets in the City of Vancouver.

13. The Company shall produce each month satisfactory evidence to the Inspector of Trust Companies to indicate that all the provisions of this Order are being complied with.

14. Where any of the provisions of this Order modify or conflict with the provisions of the *Trust Companies Act*, then the provisions of this Order shall prevail.  
Dated at Victoria, B.C., this 12th day of February, 1968.

W. A. C. BENNETT,  
*Minister of Finance.*

R. W. BONNER,  
*Attorney-General.*

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SCHEDULE

Commonwealth Trust Company.  
Commonwealth Savings Plan Ltd.  
Diversified Income Securities Ltd.  
Fraser Valley Holdings Ltd.  
Victory Memorial Gardens Ltd.  
Commonwealth Investors Syndicate Ltd.  
Commonwealth Trust (Bahamas) Ltd. 1966.  
Commonwealth Acceptance Corporation (Bahamas) Ltd.  
North Andros Development Company Ltd. (1966) (Bahamas).  
Commonwealth Acceptance Corporation Ltd.  
Centennial Mortgage Corporation Ltd.  
Centennial Insurance Agencies Ltd.  
Commonwealth Credit Corporation—Nevada.  
Centennial Financial Corporation.  
Commonwealth Credit Corporation—Los Angeles.  
Commonwealth Credit Corporation—Lomita.  
Beach Gardens Holdings Ltd.  
Powell River Curling Rink Ltd.  
Beach Gardens Resort Ltd.  
Powell River Olympic Pool Ltd.  
Commonwealth Acceptance Corp. (Alberta) Ltd.  
Commonwealth Acceptance Corp. (Edmonton) Ltd.  
Commonwealth Leasing Co. Ltd.  
Credit Loans Company Ltd.  
Evergreen Estates Ltd.  
Commonwealth Development Company Ltd.  
Commonwealth Enterprises Limited.  
Commonwealth Financial Corporation  
Commonwealth Mortgage Company (U.S.).  
Commonwealth Properties Ltd.  
Commonwealth Ventures Ltd.  
Credit Mortgage Corporation Ltd.  
Diversified Mutual Sales Ltd.  
Intercontinental Development (Jamaica) Ltd.  
North Andros Hotel Corp.  
North Andros Sales Corp.  
Prudential Group Syndicate Ltd.  
Tagus Holdings Ltd.  
Veteran's Memorial Trust Association.  
Crux and Company.  
Vandenberg Inn.  
Pier 67, Inc.  
Coccola Agencies Ltd.  
Commonwealth Funds Management.



IN THE MATTER OF SECTION 71 OF THE  
TRUST COMPANIES ACT, R.S.B.C. 1960, C. 389

AND

## IN THE MATTER OF COMMONWEALTH TRUST COMPANY

## ORDER

WHEREAS pursuant to section 71 (1) of the *Trust Companies Act* the Inspector of Trust Companies has made a report in respect of Commonwealth Trust Company (hereinafter referred to as "the Company") dated January 5th, 1968, to the Minister of Finance and to the Attorney-General:

AND WHEREAS by Order of the Minister of Finance and the Attorney-General dated February 12th, 1968, certain remedial action was prescribed to be taken by the Company within the times set out in the Order:

AND WHEREAS in respect of part of the remedial action so prescribed full compliance within the times set out in the Order and to date has not been made:

AND WHEREAS in the opinion of the Inspector of Trust Companies the financial affairs of the Company which prompted his report dated January 5th, 1968, have not since that date substantially improved:

AND WHEREAS the Canada Deposit Insurance Corporation, an agent of the Federal Government, is urging that further remedial action be prescribed:

NOW THEREFORE PURSUANT TO THE PROVISIONS OF THE *TRUST COMPANIES ACT*, AND ALL POWERS THEREUNTO ENABLING, THE UNDERSIGNED HEREBY ORDER AND DIRECT AS FOLLOWS:—

1. As of August 6th, 1968, ALAN DOUGLAS STANLEY, F.C.A., of Vancouver, be installed as Company Manager to act on a full time basis at the Head Office of the Company located at Suite 1414, 510 West Hastings Street, in the City of Vancouver, with full authority to direct the management of the Company's affairs, with all the authority which the Officers and the Directors of the Company have, and without limiting the generality of the foregoing, to do as follows:—

- (a) To have full and complete access to all of the Company's records, files, accounts and correspondence:
- (b) To have complete control over all expenditures sought to be made by the Company in the day to day operation of its business or otherwise:
- (c) To see that the Company is operated in the most economical manner so as to produce an operating profit, and, if necessary, order the closing of branch offices and reduction of staff throughout the Company's organization in furtherance of that objective:
- (d) To have complete control over and give approval to all investments and reinvestments made by the Company to ensure that such investments are of a prudent nature:
- (e) To make whatever changes are necessary in accounting procedures to reflect properly the state of the Company's accounts, from time to time, in accordance with sound accounting principles.

2. The Company, its Directors, Officers and Employees are hereby required to comply with the orders and directives of the Manager herein appointed made in furtherance of this Order.

3. The fees for the services to be rendered by the Manager herein appointed plus disbursements shall be paid by the Company.

4. The Manager herein appointed shall make progress reports to the Minister of Finance and the Attorney-General jointly from time to time and shall furnish such other information related to the provisions of this Order as may be requested by them.

5. This Order shall remain in full force and effect until modified, amended or revoked by a further Order.

6. Nothing in this Order shall in any way modify the obligations imposed upon the Company by the Order of February 12, 1968.

Dated at Victoria, B.C.. this 2nd day of August, A.D., 1968.

W. A. C. BENNETT,  
*Minister of Finance.*

L. R. PETERSON,  
*Attorney-General.*

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