



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 221

(Private)

**An Act concerning the transfer of all
of the property or the enterprise of
Promutuel Capital Trust Company Inc.**

**Introduced 6 May 2010
Passed in principle 10 June 2010
Passed 10 June 2010
Assented to 11 June 2010**

**Québec Official Publisher
2010**

Bill 221

(Private)

AN ACT CONCERNING THE TRANSFER OF ALL OF THE PROPERTY OR THE ENTERPRISE OF PROMUTUEL CAPITAL TRUST COMPANY INC.

AS Promutuel Capital Trust Company Inc. (“Promutuel Capital”) is a legal person constituted on 23 June 1988 under the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) and the Companies Act (R.S.Q., chapter C-38) under the company name “Corporation Trust Capital”;

AS Promutuel Capital is the holder of a trust company licence issued by the Autorité des marchés financiers in accordance with the Act respecting trust companies and savings companies and as that Act applies to it;

AS Promutuel Capital is a Québec company within the meaning of the Act respecting trust companies and savings companies and may not transfer all of its property or its enterprise except to another Québec company under section 154 of that Act;

AS, despite section 154 of the Act respecting trust companies and savings companies, it is expedient to allow Promutuel Capital to transfer all of its property or its enterprise, in one or more transfers, to one or more transferees that are not Québec companies within the meaning of that Act;

AS the transfer of the property or the enterprise of Promutuel Capital was duly approved by its directors and by at least two thirds of the votes cast by the shareholders at a special meeting called for that purpose;

AS the transfers are not likely to affect the security of depositors or beneficiaries of Promutuel Capital;

AS the high volume of rights and hypothecary loans to be transferred to one or more transferees justifies facilitating their transfer, particularly as regards the registration and publication of rights;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. In this Act, unless the context indicates otherwise,

(1) “property transferred under a transfer agreement” means all or part of the property or the enterprise of the transferor that is transferred under one or more transfer agreements;

(2) “transferor” means Promutuel Capital Trust Company Inc.;

(3) “transferee” means Desjardins Trust Inc., a financial services cooperative or another financial institution designated as a transferee in a transfer agreement;

(4) “transfer agreement” means an agreement for the transfer of the transferor’s property or enterprise to one or more transferees in one or more successive transfers.

2. Despite section 154 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01), the transferor is authorized to transfer its property or enterprise to one or more transferees under one or more transfer agreements. A deposit transferee must be legally authorized to receive deposits.

3. To take effect, a transfer agreement must be authorized by the Autorité des marchés financiers, which may, for that purpose, impose any terms and restrictions it considers appropriate. Sections 120, 133 and 154 to 160 of the Act respecting trust companies and savings companies do not apply to a transfer agreement within the meaning of this Act or to the transfer of the remaining property or residue of the enterprise of the transferor to a restricted party in accordance with paragraph 4 of section 125 of the Act respecting trust companies and savings companies.

4. On the effective date of a transfer agreement, the transferee or transferees named in the agreement are substituted by operation of law for the transferor in all the rights, obligations, titles, proceedings, claims and interests concerning the property transferred under a transfer agreement, whether corporeal, incorporeal, movable or immovable. In every notarial deed or deed under private signature, in every judgment or court order, and in every document relating to the property transferred under a transfer agreement, the name of the transferee is substituted by operation of law for that of the transferor, from the effective date of the transfer, with the same effects as if the name of the transferee appeared in the document.

5. The transfer of property under a transfer agreement may be set up against a debtor, surety or beneficiary by the simple transmission to the debtor, surety or beneficiary of a written notice referring to this Act and the transfer agreement. Such a transfer may then be set up against anyone without it being necessary to observe the formalities set out in articles 1641,

1642, 1645 and 3003 of the Civil Code or to publish or deposit any document evidencing the substitution with regard to those rights in any register in Québec.

6. Despite any contrary provision, the transferee has the power and capacity to grant total or partial acquittance in respect of the property transferred under a transfer agreement or total or partial release of the registration of any security of a movable or immovable nature registered in the name of the transferor that arises from a contract, judgment or Act, and to correct any act, contract or proceedings to which the transferor is a party. An act of acquittance, release or correction made by the transferee under this section is registered by presenting an application made in accordance with the rules applicable to the land register or the register of personal and movable real rights. The application must refer to this Act, give the registration numbers of the rights cancelled or corrected and, if required by the Civil Code, include a description of the movable or immovable property concerned.

The transferee's power and capacity to act result from this section. The Land Registrar or the Personal and Movable Real Rights Registrar must accept for registration any application referred to in this section that mentions that the transferee is acting on behalf of and in the name of the transferor and that is certified in the land register by an advocate or a notary. The capacity of the transferee to act on behalf of and in the name of the transferor is then held to have been verified within the meaning of article 3009 of the Civil Code.

7. The Land Registrar or the Personal and Movable Real Rights Registrar must accept for registration any application that mentions the substitution under this Act although the transfer agreement or this Act may not have been published.

8. When a transferee acquires property transferred under a transfer agreement, a suit, action, application, motion or other proceeding brought or a power or recourse exercised or that could be brought or exercised by or against the transferor before a court of justice, an administrative tribunal or a government body in Québec in respect of the property transferred under a transfer agreement may not be stayed, interrupted or cancelled, but may be continued, brought or exercised on behalf of or against the transferee without continuance of suit on written notice duly served on all restricted parties and filed of record.

9. This Act does not affect the rights of a person having a right or a claim against or holding a security or debt obligation of or an interest in the transferor, a transferee or a third person, nor does it diminish, modify or affect the liability or the obligations of the transferor, a transferee or a third person toward such a person.

10. This Act must not be interpreted as denying a person who has mandated the transferor to carry on trust activities, or has deposited money with the transferor, the right, if applicable, to give that mandate to or deposit that money with another person than the transferor.

11. A deposit received in trust and transferred under a transfer agreement to a transferee that is not a trust company is deemed, on being transferred, to be only a deposit received within the meaning of the Deposit Insurance Act (R.S.Q., chapter A-26).

12. A transfer under section 3 must take effect not later than 20 months after 11 June 2010.

13. This Act comes into force on 11 June 2010.