

Bill No. 34 of 1951.

A BILL TO AMEND THE LAND TITLES ACT.

---

NOTE.

This Bill amends *The Land Titles Act*, being chapter 205 of the Revised Statutes of Alberta, 1942.

Section 19 is amended to provide that the Land Titles Offices will close at twelve o'clock noon on Saturdays rather than at one o'clock in the afternoon. Very little business is transacted between twelve and one on a Saturday afternoon and the keeping of the offices open during that period does not appear to be warranted.

Sections 122 and 144 are each amended. The duties of the Official Guardian are now performed by the Public Trustee so these sections are amended to refer to the Public Trustee.

Section 137, subsection (1) is amended. This subsection provides for the lapse of a caveat after notice unless the caveator takes proceedings in court to substantiate his claim and a judge's order has been filed with the Registrar continuing the caveat. The effect of the amendment is to require the filing of a certificate of *lis pendens* signed by the clerk of the court rather than the filing of a judge's order. This will simplify the procedure and also save the costs of obtaining a judge's order.

Section 137 is further amended by the addition of a new subsection (1a). This new subsection provides that the provisions of subsection (1) do not apply to a caveat that is registered to protect a restrictive covenant running with or capable of being annexed to the land. The method of modifying or discharging a restrictive covenant that has been registered is set out in section 51. The effect of the amendment is that the same procedure will be applicable where the restrictive covenant is registered by way of caveat rather than by registration of the covenant itself.

Two new sections are added immediately after section 188. In court actions from time to time original documents and records from the Land Titles Office have been required to be produced as evidence and these original documents frequently remain in the possession of the courts for considerable periods. The new section 188a provides that a photostatic copy or a photographic print of an original document or record in the possession of the Land Titles Office

shall be admissable in evidence for all purposes for which the original instrument or document would have been received.

The new section 188b provides that where the Crown is the owner of a mineral no lessee from the Crown of that mineral and no other person can register any lease, assignment, caveat or incumbrance affecting that mineral. Assignments of leases of Crown minerals have to be registered in accordance with the provisions of *The Registration of Assignments of Crown Lands Act* if they are to receive priority under that Act. The majority of Crown minerals are unpatented and no titles have been issued in respect of them by the Land Titles Offices. The filing of assignments, caveats or incumbrances in the Land Titles Office when there is no title against which they can be registered presents difficulties and is not effective. A person to whom a Crown mineral lease is assigned may protect his interest by way of caveat. When he later registers his assignment with the Department of Mines and Minerals under *The Registration of Assignments of Crown Lands Act* the caveat in the Land Titles Office is not merged and it may remain on the record long after its effect is spent. Similarly, the holder of a lease of Crown minerals may file a caveat in the Land Titles Office. The subsequent cancellation of that lease by the Department of Mines and Minerals does not remove the caveat from the title in the Land Titles Office. It is confusing and misleading to the public and accordingly registration in the Land Titles Office is prohibited. The effect is that any one proposing to deal in Crown minerals will have to obtain his information respecting their ownership and possession from the Department of Mines and Minerals whose records in this connection will be complete.

The Bill comes into force on the day upon which it is assented to.

KENNETH A. MCKENZIE,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 34 of 1951.

An Act to amend The Land Titles Act.

(Assented to , 1951.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Land Titles Act*, being chapter 205 of the Revised Statutes of Alberta, 1942, is hereby amended.

**2.** Section 19 is amended by striking out the words "one o'clock in the afternoon" and by substituting the words "twelve o'clock noon". Section 19  
amended

**3.** Section 122 is amended by striking out the words "Official Guardian" wherever they occur and by substituting the words "Public Trustee". Section 122  
amended

**4.** Section 137 is amended,— Section 137  
amended

(a) by striking out the words "judge's order in such proceedings has been filed with the Registrar continuing the caveat", where they occur in subsection (1), and by substituting the words "certificate of *lis pendens* in Form 34a in the Schedule has been filed with the Registrar";

(b) by adding immediately after subsection (1) the following new subsection:

“(1a) In the case of a caveat registered to protect a restrictive covenant running with or capable of being annexed to land,—

“(a) the provisions of subsection (1) do not apply; and

“(b) the caveat may only be modified or discharged by an order of the court made under section 51.”.

**5.** Section 144 is amended by striking out the words "Official Guardian" and by substituting the words "Public Trustee". Section 144  
amended

**6.** The following new sections are added immediately after section 188: New sections  
188a and  
188b

Photostatic  
copy or  
photographic  
print ad-  
missible in  
evidence

**"188a.** A photostatic copy of an instrument or a print, whether enlarged or not, from a photographic film of an instrument, which photostatic copy or photographic print is attested under the signature of the Registrar who has the instrument in his possession, shall be admissible in evidence in all cases in which and for all purposes for which the instrument copied or photographed would have been received.

Procedure  
where  
Crown is  
owner of  
mineral

**"188b.** Where the Crown is the owner of a mineral,—  
**"(a)** no person shall register, nor shall the Registrar accept for registration, any lease, assignment, caveat or incumbrance affecting that mineral or any interest therein;  
**"(b)** the Registrar may correct the register by cancelling the registration of a lease, assignment, caveat or incumbrance in so far as it affects a Crown mineral or any interest therein and by making any necessary memorandum or indorsement on the certificate or duplicate certificate of title, if any, and on any other instrument."

New  
Form 34a  
  
Form 34a

**7.** The following new Form is added immediately after Form 34:

**"FORM 34a.**

**"(Section 137).**

**"CERTIFICATE OF LIS PENDENS.**

**"To the Registrar of the.....Alberta Land  
Registration District:**

**"This is to certify that proceedings have been taken in  
court to enforce a certain caveat filed by.....  
against.....which caveat was filed on the  
(here describe lands)**

**.....day of.....19..... as D.B. No.....**

**(Clerk of the Court)".**

Coming  
into force

**8.** This Act shall come into force on the day upon which it is assented to.

No. 34.

---

FOURTH SESSION  
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

---

**BILL**

An Act to amend The Land Titles  
Act.

---

Received and read the

First time .....

Second time .....

Third time .....

---

HON. MR. MAYNARD.

---