

1969 Bill 28

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Second Session, 16th Legislature, 18 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 28**

**An Act providing for the Acknowledgment  
of Certain Guarantees**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 28

1969

An Act providing for the Acknowledgment of  
Certain Guarantees

(Assented to . 1969)

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

**1.** This Act may be cited as *The Guarantees Acknowledgment Act, 1969*.

**2.** In this Act,

- (a) “guarantee” means a deed or written agreement whereby a person, not being a corporation, enters into an obligation to answer for an act or default or omission of another but does not include
  - (i) a bill of exchange, cheque or promissory note,  
or
  - (ii) a partnership agreement, or
  - (iii) a bond or recognizance given
    - (A) to the Crown, or
    - (B) to a court or judge, or
    - (C) pursuant to a statute,  
or
  - (iv) a guarantee given on the sale of
    - (A) any interest in land, or
    - (B) any interest in goods or chattels;
- (b) “notary public” means,
  - (i) with reference to an acknowledgment made in Alberta, a notary public in and for Alberta, and
  - (ii) with reference to an acknowledgment made in a jurisdiction outside Alberta, a notary public in and for that jurisdiction.

## **Explanatory Notes**

**1.** This Act replaces The Guarantees Acknowledgment Act, being chapter 136 of the Revised Statutes and largely re-enacts it with up-dated wording and more certainty of meaning.

**2.** Definitions.

**3.** No guarantee has any effect unless the person entering into the obligation.

- (a) appears before a notary public who is not acting for the person to whom the obligation was incurred,
- (b) acknowledges to the notary public that he executed the guarantee, and
- (c) in the presence of the notary public signs a statement, at the foot of the certificate of the notary public in the form set out in the Schedule.

**4.** (1) The notary public, after being satisfied by examination of the person entering the obligation that he is aware of the contents of the guarantee and understands it, shall issue a certificate under his hand and seal of office in the form set out in the Schedule.

(2) Every certificate issued under this Act shall be attached to or noted upon the instrument containing the guarantee to which the certificate relates.

**5.** A certificate issued under this Act

- (a) substantially complete and regular on the face of it, and
- (b) accepted in good faith by the person receiving the benefit of the guarantee without reason to believe that the requirements of this Act have not been complied with,

shall be admitted in evidence and is conclusive proof that this Act has been complied with.

**6.** The fee payable to a notary public for the issue of a certificate under this Act and all incidental services shall not exceed \$5.

**7.** *The Guarantees Acknowledgment Act* is amended by adding the following section after section 5:

**6.** This Act ceases to have any force or effect except for any matter concerning those certificates dated prior to September 1, 1969, in which case this Act shall have full force and effect for all purposes.

**8.** This Act comes into force on September 1, 1969.

**3.** The requirements of this section are designed to ensure that a person entering an obligation receives independent advice and that he fully understands the nature of the guarantee.

**4.** Section 4b repeated with minor amendments.

**5.** Guarantee conclusive proof that Act has been complied with

**6.** Self-explanatory.

**7.** This section in effect repeals the previous Act except for those guarantees signed prior to the commencement of this Act.

SCHEDULE

THE GUARANTEES ACKNOWLEDGMENT ACT, 1969

CERTIFICATE OF NOTARY PUBLIC

I HEREBY CERTIFY THAT:

1. .... of .....  
the guarantor in the guarantee dated .....  
made between ..... and .....  
which this certificate is attached to or noted upon, appeared  
in person before me and acknowledged that he had executed  
the guarantee; and

2. I satisfied myself by examination of him that he is  
aware of the contents of the guarantee and understands it.

3. I am not acting for the person to whom the obligation  
was incurred.

GIVEN at ..... this ..... day of  
....., 19... under my hand and seal of office.

(SEAL)

*A Notary Public in and for*

.....

STATEMENT OF GRANTOR

I am the person named in this certificate.

*Signature of Grantor*

