

1974 Bill 63

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Third Session, 17th Legislature, 23 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 63**

THE LAND TITLES AMENDMENT ACT, 1974

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THE ATTORNEY GENERAL

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First Reading . . . . .

Second Reading . . . . .

Third Reading . . . . .

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# BILL 63

1974

## THE LAND TITLES AMENDMENT ACT, 1974

(Assented to \_\_\_\_\_, 1974)

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

1. *The Land Titles Act is hereby amended.*

2. *Section 7 is amended by striking out the words "The Lieutenant Governor in Council" and by substituting the words "The Attorney General".*

3. *Section 8 is struck out and the following is substituted therefor:*

**8.** (1) The business of each Land Titles Office shall be conducted by an officer called the "Registrar of Titles".

(2) In accordance with *The Public Service Act* there may be appointed for each land registration district a Registrar of Titles, a Deputy Registrar, one or more Assistant Deputy Registrars and such other employees as may be required for the purposes of the administration of the land titles office for that district.

4. *Section 10 is amended by striking out subsection (1).*

5. *Section 19, subsection (1) is amended by striking out the words "between the hours of 10 o'clock in the morning and 4:30 o'clock in the afternoon" and by substituting therefor the words "during such hours as may be fixed from time to time by the Attorney General".*

6. *The following section is added after section 30:*

**30.1** (1) The Registrar shall refuse to register any transfer of an estate in fee simple in land or to file any caveat relating to an agreement for sale of land unless the transfer or caveat is accompanied by either

(a) a statement in such form as the Attorney General may prescribe stating

## Explanatory Notes

**1.** This Bill will amend chapter 198 of the Revised Statutes of Alberta 1970.

**2.** Section 7 presently reads:

7. The Lieutenant Governor in Council may from time to time appoint an Inspector of Land Titles Offices who shall, under instructions from the Attorney General, inspect the books and records of the several Land Titles Offices, and perform such other duties as he may be directed by the Attorney General to perform, and the inspector may, in the discretion of the Attorney General, be directed to perform any duty that any Registrar is empowered by this Act to perform.

See the note to section 3 of this Bill.

**3.** Section 8 presently reads:

8. The business of each Land Titles Office shall be conducted by an officer to be called the "Registrar" appointed by the Lieutenant Governor in Council, with such assistants and clerks as are necessary, and as the Lieutenant Governor in Council from time to time appoints.

The new subsection (2) will enable the appointment of land titles officials and employees to be made without the necessity of orders in council. See also sections 2 and 4 of this Bill.

**4.** Section 10 (1) presently reads:

10. (1) The Lieutenant Governor in Council may from time to time appoint a Deputy Registrar and one or more Assistant Deputy Registrars, who shall be known as first, second or third Deputy Registrar, or as the case may be, to assist a Registrar under instructions from the latter and perform such duties as he from time to time assigns to each of them.

Deputy Registrars and Assistant Deputy Registrars will be appointed pursuant to the proposed section 8, subsection (2) in section 3 of this Bill.

**5.** This amendment will permit flexibility in setting the hours the land titles offices will be open.

**6.** This amendment will permit the Government to monitor the extent to which persons other than Canadian citizens are acquiring the beneficial interest in land in Alberta.

- (i) that each transferee or purchaser who is an individual and who will hold his interest in the land beneficially and not as trustee is a Canadian citizen,
- (ii) that each individual for whom the transferee or purchaser will hold all or a portion of the interest in trust is a Canadian citizen,
- (iii) that the holder of the majority of the voting shares of a corporation which is the transferee or purchaser and which will hold its interest beneficially and not as trustee are Canadian citizens, and
- (iv) that the holders of the majority of the voting shares of each corporation for whom the transferee or purchaser will hold all or a portion of the interest in trust are Canadian citizens,

or

(b) a statement in such form as the Attorney General may prescribe stating the citizenship of

- (i) each transferee or purchaser who is an individual, who will hold his interest in the land beneficially and not as trustee and who is not a Canadian citizen,
- (ii) each individual for whom the transferee or purchaser will hold all or a portion of the interest in trust and who is not a Canadian citizen,
- (iii) the holders of the majority of the voting shares of a corporation which is the transferee or purchaser and which will hold its interest beneficially and not as trustee, where such shareholders are not Canadian citizens, and
- (iv) the holders of the majority of the voting shares of each corporation for whom the transferee or purchaser will hold all or a portion of the interest in trust, where those shareholders are not Canadian citizens,

and, in the case of an individual, stating whether or not he is a landed immigrant as defined in the *Immigration Act* (Canada).

(2) This section does not apply with respect to any transfer of an estate in fee simple in minerals only nor to any caveat relating to an agreement for the sale of minerals only.

(3) This section does not apply with respect to any transferee or purchaser

- (a) where that transferee or purchaser is a corporation the majority of whose members are appointed by the



Lieutenant Governor in Council or the Governor in Council or is a corporation that is, by its Act of incorporation, an agent of the Crown in right of Alberta or the Crown in right of Canada, or

- (b) where that transferee or purchaser is a municipal corporation, a board of trustees of a school district or school division, a board of directors of an irrigation district, a board of trustees of a drainage district, a hospital district or nursing home district, or
- (c) where that transferee is deceased or, in the case of a corporation, dissolved at the time of the presentation of the transfer or caveat for registration and the Registrar is satisfied in the circumstances that the facts required to be stated cannot be ascertained or can only be ascertained with great difficulty, or
- (d) where the transferee or purchaser is one of a class of persons exempted from the operation of this section by the regulations.

(4) The Lieutenant Governor in Council may make regulations exempting any class of persons from the operation of this section.

(5) The Attorney General may exempt any corporation from the provision of any information required under this section upon such conditions, if any, as he considers appropriate.

(6) A statement required by this section

- (a) shall not be physically part of or physically annexed to the transfer or caveat and shall not be registered or filed as though it formed part of the transfer or caveat,
- (b) shall, upon registration of the transfer or filing of the caveat, be endorsed by the Registrar with the serial number of the transfer or caveat, and
- (c) shall, in the case of a statement required under subsection (1), clause (b), be forwarded by the Registrar to such person as the Attorney General may designate.

(7) A statement under this section may be signed by any person on the basis of information obtained by him and his belief therein and in such case the statement shall so provide.

(8) Any person who signs a statement under this section which contains information which is, to his knowledge, false in a material particular is guilty of an offence and liable on summary conviction to a fine of not more than



- (a) \$1000 and in default of payment to imprisonment for not more than 90 days, in the case of an individual, or
- (b) \$5000 in the case of a corporation.

*7. Section 161 is amended by striking out subsection (1) and by substituting therefor the following subsection:*

**161.** (1) Before the Registrar performs any duty to be performed by him under this or any other Act he shall, except as otherwise provided in this Act, demand and receive the fees therefor prescribed by the Lieutenant Governor in Council and demand and receive for the Assurance Fund

- (a) upon every transfer of land after the issue of the first certificate of title therefor, where the land was not encumbered at the time of registering the grant, an amount equal to
  - (i) one-twentieth of 1 per cent of the value of the land transferred if the value amounts to or is less than \$5,000, and
  - (ii) one-fortieth of 1 per cent on the additional value, where the value exceeds \$5,000;
- (b) upon every subsequent transfer, if there has been an increase in the value of the land since the granting of the last certificate of title, an amount equal to
  - (i) one-twentieth of 1 per cent of the increase if the increase is not more than \$5,000, and
  - (ii) one-fortieth of 1 per cent on any excess over \$5,000;
- (c) upon registering any mortgage or encumbrance on land,
  - (i) 25 cents, or
  - (ii) an amount equal to one-eightieth of 1 per cent of the moneys secured by the mortgage or encumbrance,whichever is the greater.

*8. Section 162 is amended by striking out the words "Lieutenant Governor in Council" wherever they appear in the section and by substituting therefor the words "Attorney General".*

*9. (1) This Act, except sections 6 and 7, comes into force on the day upon which it is assented to.*

*(2) Sections 6 and 7 come into force on a date or dates to be fixed by Proclamation.*



**7.** This amendment will reduce the fees payable to the Assurance Fund by 75 per cent in the case of transfers and 50 per cent in the case of mortgages. Section 161 (1) presently reads:

**161.** (1) Before the Registrar performs any duty to be performed by him under any of the provisions of this Act he shall, except as herein otherwise provided, demand and receive the proper fees or fee therefor as fixed and settled by tariff made from time to time by the Lieutenant Governor in Council, and demand and receive for the assurance fund upon every absolute transfer of land after the issue of the first certificate of title therefor, where the land was not encumbered at the time of registering the grant, one-fifth of one per cent of the value of the land transferred if the value amounts to or is less than \$5,000, and one-tenth of one per cent on the additional value, when the value exceeds \$5,000, and upon every subsequent transfer he shall demand and receive upon the increase in value since the granting of the last certificate of title one-fifth of one per cent if the increase is not more than \$5,000, and one-tenth of one per cent on any excess over \$5,000, and upon registering any mortgage or encumbrance on land, the Registrar shall demand and receive for the assurance fund 25 cents, or one-fortieth of one per cent of the money secured by the mortgage or encumbrance, whichever is the greater.

**8.** Section 162 presently reads:

**162.** The Lieutenant Governor in Council may appoint one or more inspectors of transfers and the inspectors shall investigate such valuations as the Registrars of Titles may require and report thereon, and shall perform such other duties as the Lieutenant Governor in Council may from time to time assign to them.