

Bill 12

BILL 12

2006

LAND TITLES AMENDMENT ACT, 2006

(Assented to , 2006)

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

Amends RSA 2000 cL-4

1 The *Land Titles Act* is amended by this Act.

2 Section 1(u) is repealed and the following is substituted:

(u) “Registrar” means the Registrar of Titles and includes a
Deputy Registrar and an Assistant Deputy Registrar;

3 Section 3 is repealed.

4 Section 5 is repealed and the following is substituted:

Deputy Registrar

5 The Deputy Registrar may do and perform all the duties
required by this Act to be done or performed by the Registrar.

**5 Section 6 is amended by striking out “The Inspector of Land
Titles Offices, the Assistant Inspector of Land Titles Offices, the
Registrars” and substituting “The Registrar”.**

6 Section 7 is amended by striking out “The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and every Registrar, Deputy Registrar” **and substituting** “The Registrar and every Deputy Registrar”.

7 Section 9 is amended by striking out “The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices or any Registrar or Deputy Registrar” **and substituting** “The Registrar or any Deputy Registrar”.

8 Section 10 is amended by striking out “The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and any Registrar, Deputy Registrar” **and substituting** “The Registrar or any Deputy Registrar”.

9 Section 11 is amended

- (a) **by striking out** “The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and any Registrar, Deputy Registrar” **and substituting** “The Registrar or any Deputy Registrar”;
- (b) **by striking out** “Inspector, Assistant Inspector,”.

10 Section 23(1) is amended by striking out “A Registrar” **and substituting** “The Registrar”.

11 Section 29(3) is amended by striking out “a Registrar” **and substituting** “the Registrar”.

12 Section 35(2) is amended by striking out “produces” **and substituting** “produce”.

13 The following is added after section 43:

Proof of identity

43.1(1) In all cases of transfers, mortgages, encumbrances, caveats, leases or other instruments, the Registrar may require satisfactory proof of identity of any person whose name appears on the instrument, including, without limitation, photographic identification, statutory declarations, documentation regarding a change of name, birth certificates, marriage certificates or death certificates.

(2) The Registrar may make a copy of any form of documentation submitted under subsection (1), or make a note of the information contained in the documentation, and may retain the copy or the note in a file regarding the transaction, but the copy or the note does not constitute information contained in the register for the purpose of a search under section 17.

(3) The types of identification and the number of identification documents that may be required for the purpose of this section may be specified by regulation.

14 The following is added after section 50:**Refusal to register**

50.1(1) The Registrar may refuse to register a transfer, mortgage, encumbrance, caveat, lease or other instrument if for any reason it appears to the Registrar that the transaction may involve fraud.

(2) Without limiting subsection (1), the Registrar may refuse to register a transfer, mortgage, encumbrance, caveat, lease or other instrument if a person whose name appears on the instrument, or a person acting or purporting to act for a person whose name appears on the instrument, fails or refuses to produce identification documents in accordance with section 43.1 that in the opinion of the Registrar are sufficient to establish the identity of the person.

15 Section 158 is amended by striking out “A Registrar” and substituting “The Registrar”.

16 Section 166 is amended by striking out “A Registrar” and substituting “The Registrar”.

17 Section 168(a) is amended by striking out “a Registrar” and substituting “the Registrar”.

18 Section 181 is amended by striking out “or” at the end of clause (e), adding “or” at the end of clause (f) and adding the following after clause (f):

- (g) by reason of a refusal of the Registrar under section 50.1 to register a transfer, caveat or other instrument.

19 Section 184(1) is amended by striking out “a Registrar” and substituting “the Registrar”.

20 Section 185 is amended by striking out “a Registrar” wherever it occurs and substituting “the Registrar”.

21 Section 192(1) is amended by striking out “a Registrar” and substituting “the Registrar”.

22 Section 194 is amended by striking out “the Inspector of Land Titles Offices, a Registrar” and substituting “the Registrar”.

23 Section 197 is amended by striking out “every Registrar” and substituting “the Registrar”.

24 Section 211 is amended

- (a) by striking out “A Registrar” and substituting “The Registrar”;
- (b) by striking out “a Registrar” and substituting “the Registrar”.

25 Section 213 is amended by adding the following after clause (c):

- (d) respecting types of identification and the number of identification documents that may be required as proof of identity under section 43.1, including substitutes that may be accepted by the Registrar at the Registrar's discretion for the purposes of that section;
- (e) respecting the use of information furnished by the Registrar as a result of a search of the register under this Act.

26(1) The *Builders' Lien Act* is amended in section 1(m) by striking out "a Registrar" and substituting "the Registrar".

(2) The *Freehold Mineral Rights Tax Act* is amended in section 1(j) by striking out "a Registrar" and substituting "the Registrar".

(3) The *Health Insurance Premiums Act* is amended in section 19(4) by striking out "a Registrar" and substituting "the Registrar".

(4) The *Interpretation Act* is amended in section 28(1)(zz) by striking out "a Registrar" and substituting "the Registrar".

(5) The *Mines and Minerals Act* is amended in section 1(1)(x) by striking out "a Registrar" and substituting "the Registrar".

(6) The *Public Lands Act* is amended in section 1(q) by striking out "a Registrar" and substituting "the Registrar".

(7) The *Surveys Act* is amended in section 1(t)(ii) by striking out "a Registrar" and substituting "the Registrar".

27 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter L-4 of the Revised Statutes of Alberta 2000.

2 Section 1(u) presently reads:

1 In this Act,

(u) "Registrar" means a Registrar of Titles and includes a Deputy Registrar, an Assistant Deputy Registrar, the Inspector of Land Titles Offices and the Assistant Inspector of Land Titles Offices;

3 Section 3 presently reads:

3 The Minister responsible for this Act may appoint

(a) an Inspector of Land Titles Offices who shall, at the direction of that Minister, inspect the books and records of the Land Titles Offices, perform the duties of a Registrar and carry out other functions assigned to the Inspector, and

(b) an Assistant Inspector of Land Titles Offices who shall assist the Inspector of Land Titles Offices in the performance of the Inspector's duties and act in the place of the Inspector during the Inspector's absence or when there is no Inspector of Land Titles Offices.

4 Section 5 presently reads:

5(1) The Deputy Registrar may, in the event of illness or absence of the Registrar, perform all the duties required by the Act to be done by the Registrar.

(2) In the case of death, resignation or removal from office of the Registrar, the Deputy Registrar shall do and perform all the duties of a Registrar until another Registrar is appointed.

5 Section 6 presently reads:

6 The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices, the Registrars, Deputy Registrars and other necessary officers are under the control of the Minister responsible for this Act.

6 Section 7 presently reads:

7 The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and every Registrar, Deputy Registrar and Assistant Deputy Registrar before entering on the execution of that office shall take the official oath prescribed by the Oaths of Office Act.

7 Section 9 presently reads:

9 The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices or any Registrar or Deputy Registrar or Assistant Deputy Registrar may administer any oath or take any affirmation or declaration instead of an oath respecting titles to land from anyone entitled by law to affirm or declare.

8 Section 10 presently reads:

10 The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and any Registrar, Deputy Registrar, Assistant Deputy Registrar or clerk in any Land Titles Office shall not directly or indirectly act as the agent of any person investing money and taking securities on land within Alberta, advise, for any fee or reward or otherwise, on titles to land or practise as a conveyancer.

9 Section 11 presently reads:

11 The Inspector of Land Titles Offices, the Assistant Inspector of Land Titles Offices and any Registrar, Deputy Registrar, Assistant Deputy Registrar or clerk in any Land Titles Office shall not

carry on or transact within the Land Titles Office any business or occupation whatever other than that official's duties as Inspector, Assistant Inspector, Registrar, Deputy Registrar, Assistant Deputy Registrar or clerk.

10 Section 23 presently reads in part:

23(1) A Registrar shall, on request and payment of the prescribed fee, furnish a reproduction of any instrument or caveat.

11 Section 29(3) presently reads:

(3) The notification to the Hudson's Bay Company by the Minister of the Interior under the Dominion Lands Act (Canada), RSC 1927 c113, of the survey and confirmation of the survey of any township or part of a township shall be accepted by a Registrar as equivalent to and dealt with by the Registrar in all respects in the same manner as if the notification were letters patent to and in favour of the company granting to the company in fee simple the sections or portions of sections to which it is entitled in the townships or parts of townships under the Dominion Lands Act (Canada), RSC 1927 c113.

12 Section 35 presently reads in part:

(2) In no case is it necessary for any applicant to produce copies of any documents under subsection (1) if the originals are of record at the time when the application is made in the office of the Registrar to whom the application is made.

13 Proof of identity.

14 Refusal to register.

15 Section 158 presently reads:

158 A Registrar is not required to register an instrument or a caveat if the individual who acted as a commissioner for oaths or notary public in respect of that instrument or caveat is

- (a) a party to the instrument or caveat, or*
- (b) a spouse who consents to the instrument or caveat pursuant to the Dower Act.*

16 Section 166 presently reads:

166 A Registrar shall keep a correct account of all sums of money received by the Registrar in accordance with this Act and shall pay the money to the Crown in the manner directed by the Lieutenant Governor in Council.

17 Section 168(a) presently reads:

168 Any person

- (a) who sustains loss or damage through an omission, mistake or misfeasance of a Registrar or an official in the Registrar's office in the execution of the Registrar's or official's duties, or*

may bring an action against the Registrar for the recovery of damages.

18 Section 181 presently reads in part:

181 The General Revenue Fund is not under any circumstances liable for compensation for loss, damage or deprivation

- (e) by reason of the registration of an instrument or caveat executed by a person under legal disability, unless the fact of the disability was disclosed on the instrument or caveat, or*
- (f) by reason of the registration of an instrument executed by an attorney if*

- (i) *the instrument is for a purpose specified in the power of attorney, and*
- (ii) *the certificate referred to in section 115(5) has been registered.*

19 Section 184(1) presently reads:

184(1) If any person is dissatisfied with any act, omission, refusal, decision, direction or order of a Registrar, that person may require the Registrar to set out, in writing under the Registrar's hand, the ground of the act, omission, refusal, decision, direction or order, and may then apply to the Court of Queen's Bench by petition, setting out the grounds of the person's dissatisfaction.

20 Section 185 presently reads:

185 If a question arises with regard to the performance of any duty or function by this Act conferred or imposed on a Registrar, or if in the performance of any duty of a Registrar a question arises

- (a) *as to the true construction or legal validity or effect of any instrument or caveat,*
- (b) *as to the persons entitled to the estate, right or interest,*
- (c) *as to the extent or nature of the estate, right or interest, power or authority of any person or class of persons,*
- (d) *as to the mode in which any entry or memorandum ought to be made in the record or register, or on any certificate of title, or*
- (e) *as to any doubtful or uncertain right or interest stated or claimed to be dealt with by the Registrar,*

the Registrar may, by a reference in the prescribed form, refer the question to a judge of the Court of Queen's Bench, who may allow any of the parties interested to appear before the judge and summon any other of such persons to appear and show cause, either personally or by counsel, in relation to the question, and the judge, having regard to the persons appearing before the judge, whether summoned or not, shall decide the question or direct any proceedings to be instituted for that purpose and direct the particular form of entry or memorandum to be made that under the circumstances appears to be just.

21 Section 192(1) presently reads:

192(1) When any matter is under this Act submitted to a judge by a Registrar or by any other person or authority and the judge thinks it advisable that parties interested should be notified of the time and place when and where a hearing of the matter so submitted should be held, and no special provisions are made for notice in this Act or if there are any such special provisions and the judge is of the opinion that the notice required by the provisions to be given is not sufficient, the judge may direct notice of the time and place to be given and the judge may direct

- (a) that the notice be served personally on the persons the judge directs or be left at their usual place of abode,*
- (b) that the notice be posted at a place or places and for the periods the judge names,*
- (c) that the notice be published in a newspaper or newspapers the judge designates and for the time the judge directs, or*
- (d) that the notice may be given in any one or more or in all the methods specified in clauses (a) to (c).*

22 Section 194 presently reads:

194 An appeal, by the Inspector of Land Titles Offices, a Registrar or any person directly interested in it, from any order or decision of a judge made or given under this Act, lies to the Court of Appeal within the prescribed time, in the same manner and with the same incidents in and with which judgments and orders of that court by a single judge may be appealed from, and the practice and proceedings relating to appeals in that court, including costs and payment of them and the enforcement of judgments on appeal, apply as adapted to the circumstances.

23 Section 197 presently reads:

197 Any order of the court or a judge may be enforced in the same manner and by the same officials and process as orders of the Court of Queen's Bench or a judge of that court are enforced, and shall be obeyed by every Registrar when directed to the Registrar.

24 Section 211 presently reads:

211 A Registrar or any person acting under the authority of a Registrar is not liable for any act that is, in good faith, done or omitted to be done in the exercise or supposed exercise of a power given under this Act or an order or regulation made under this Act.

25 Additional regulation-making powers.

26 Consequential amendments.

27 Coming into force.