

2008 Bill 36

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 36

LAND TITLES AMENDMENT ACT, 2008

DR. BROWN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

*Bill 36
Dr. Brown*

BILL 36

2008

LAND TITLES AMENDMENT ACT, 2008

(Assented to , 2008)

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 is amended by adding the following after clause
(r):**

(r.1) “pending registration queue” means the instruments and
caveats that are waiting to be examined and registered
against title in accordance with this Act;

3 The following is added after section 14:

Pending registration queue

14.1(1) The Registrar shall establish and maintain a pending
registration queue consisting of instruments and caveats that are
waiting for examination and registration.

(2) The Registrar shall assign an identification number to every
instrument and caveat entered in the pending registration queue.

(3) Instruments and caveats in the pending registration queue
that create an interest in land or a charge against land must, in
respect of other instruments and caveats that affect the same
land, be examined and registered in the order in which they

Explanatory Notes

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

2 Adds definition.

3 Pending registration queue.

were entered in the pending registration queue, as established by the identification numbers assigned to them.

(4) Where, pursuant to a court order or an enactment, an instrument or caveat must be registered within a specific period of time, the requirements of the court order or the enactment are deemed to have been satisfied when the instrument or caveat is entered in the pending registration queue.

(5) Notwithstanding subsection (3), regulations made under section 213 may provide that instruments and caveats may be registered in a different order, in respect of other instruments and caveats that affect the same land, than the order in which they were entered in the pending registration queue.

4 Section 17 is amended

(a) **by striking out** “furnish a search” **and substituting** “furnish searches”;

(b) **by adding** “and the pending registration queue” **after** “in the register”.

5 Section 91(2)(c) is amended by adding “or, if that Alberta land surveyor is deceased, retired or otherwise unable to act, an Alberta land surveyor appointed by the Council of the Alberta Land Surveyors’ Association to sign for that Alberta land surveyor” **after** “who signed a plan”.

6 Section 92 is amended by striking out “not available, the Director of Surveys has consented to the correction” **and substituting** “deceased, retired or otherwise unable to act, either the Director of Surveys or an Alberta land surveyor appointed by

4 Section 17 presently reads:

17 On receiving a request for a search and the payment of the prescribed fee and on the fulfilment of any conditions, criteria or qualifications prescribed by regulation, the Registrar shall furnish a search of the information contained in the register.

5 Section 91(2) presently reads:

(2) An application for an order under subsection (1) may be made by

- (a) a person who caused a plan to be registered,*
- (b) a person deriving title to or some other interest in any land shown on a plan,*
- (c) an Alberta land surveyor who signed a plan, or*
- (d) the Registrar.*

6 Section 92 presently reads:

92 When there is an omission, clerical error or other defect in a registered plan, the Registrar may correct the plan if

the Council of the Alberta Land Surveyors' Association has consented to the correction".

7 Section 151 is amended

- (a) by renumbering it as section 151(1);**
- (b) in subsection (1) by adding "at any time" after "may file a caveat";**
- (c) by adding the following after subsection (1):**
 - (2)** Notwithstanding section 14.1, a caveat filed by the Registrar under subsection (1) must be registered as soon as it is filed.

8 Section 168 is amended by renumbering it as section 168(1) and adding the following after subsection (1):

- (2)** Subject to subsection (3), a person has a right of action against the Registrar for the recovery of damages for loss or damage sustained through the registration, in contravention of section 14.1(3), of an instrument or caveat that creates an interest in land or a charge against land unless the registration is in accordance with a regulation made under section 213(c.1).
- (3)** Subsection (2) does not apply in respect of a Registrar's caveat registered in accordance with section 151(2).

- (a) *the Registrar is satisfied that the correction will not adversely affect any person, or*
- (b) *where the correction may adversely affect a person, that person has consented to the correction,*

and the Alberta land surveyor who signed the plan or, if the Alberta land surveyor is not available, the Director of Surveys has consented to the correction.

7 Section 151 presently reads:

151 The Registrar may file a caveat on behalf of the Crown, or on behalf of any person who may be under any disability, to prohibit the transfer or dealing with any land belonging or supposed to belong to the Crown or to that person, and also to prohibit the dealing with any land in any case in which it appears to the Registrar that an error has been made in any certificate of title or other instrument, or for the prevention of any fraud or improper dealing.

8 Section 168 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*
- (b) *who is deprived of any land or encumbrance or of an estate or interest in any land or encumbrance*
 - (i) *through the bringing of it under this Act,*
 - (ii) *by the registration of another person as owner of the land or encumbrance, or*
 - (iii) *by an error, omission or misdescription in a certificate of title,*

9 Section 170 is amended

(a) by renumbering it as section 170(1);

(b) in subsection (1) by adding “, if the purchaser or mortgagee has made all reasonable efforts to confirm that the transferor or mortgagor is the registered owner of the land” after “in section 183(1)(e)”;

(c) by adding the following after subsection (1):

(2) The protection for a purchaser or mortgagee referred to in subsection (1) commences when the purchaser’s or mortgagee’s instrument is registered.

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

(c.1) prescribing the conditions under which instruments and caveats may be registered in a different order, in respect of other instruments and caveats that affect the same land, than the order in which they were entered in the pending registration queue;

(c.2) prescribing the time within which a rejected instrument or caveat that has been returned for correction to the person who submitted it may retain its place in the pending registration queue;

(c.3) prescribing the process by which a person to whom a rejected instrument or caveat has been returned for correction may request an extension of the prescribed time referred to in clause (c.2).

and who by this Act is barred from bringing an action for the recovery of the land or encumbrance or interest in the land or encumbrance,

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

9 Section 170 presently reads:

170 Nothing in this Act is to be so interpreted as to leave subject to action for recovery of damages, or to action of ejectment, or to deprivation of land in respect of which the purchaser or mortgagee is registered as owner, any purchaser or mortgagee bona fide for valuable consideration of land under this Act on the plea that the purchaser's transferor or the mortgagee's mortgagor has been registered as owner through fraud or error, or has derived title from or through a person registered as owner through fraud or error, except in the case of misdescription as mentioned in section 183(1)(e).

10 Section 213 presently reads:

213 The Lieutenant Governor in Council may make regulations

- (a) prescribing forms to be used under this Act;*
- (b) prescribing for the purposes of section 19(2) the period of time that must pass before the original of an instrument or caveat may be destroyed;*
- (c) prescribing conditions, criteria or qualifications that are to be fulfilled in order for a search of information to be furnished under section 17.*

11 The heading to Schedule 1 is amended by striking out “(Section 102)” and substituting “(Section 99)”.

12 The heading to Schedule 2 is amended by striking out “(Section 113)” and substituting “(Section 112)”.

13 Sections 2, 3, 4, 7, 8 and 10 come into force on Proclamation.

11 The Schedule 1 heading presently reads:

Schedule 1
(Section 102)
Short Covenants in Lease

12 The Schedule 2 heading presently reads:

Schedule 2
(Section 113)
Short Covenants in Mortgage

13 Coming into force.

