

2002

CHAPTER 51

An Act to amend *The Land Titles Act, 2000* and to make a consequential amendment to *The Tax Enforcement Act*

(Assented to July 10, 2002)

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

PART I
Short Title

Short title

1 This Act may be cited as *The Land Titles Amendment Act, 2002*.

PART II
Amendments to *The Land Titles Act, 2000*

S.S. 2000, c.L-5.1 amended

2 *The Land Titles Act, 2000* is amended in the manner set forth in this Part.

Section 2 amended

3 **The following clause is added after clause 2(1)(u):**

“(u.1) **‘land registry’** means the land titles registry, the abstract directory and the writ registry”.

Section 4 amended

4 **Subsection 4(3) is repealed and the following substituted:**

“(3) In addition to the documents mentioned in subsection (2), the land titles registry includes:

- (a) all documents registered pursuant to this Act or that accompanied a registration made pursuant to this Act;
- (b) all information contained in the ownership registers established pursuant to section 11;
- (c) all information contained in the interest registers established pursuant to section 49; and
- (d) all records created in the land titles registry as a result of any registration or correction made pursuant to this Act”.

Section 11 amended**5 Subsection 11(2) is repealed and the following substituted:**

“(2) Each ownership register established and maintained pursuant to subsection (1) must include a record of:

- (a) the names of the registered owners;
- (b) the ownership share of each registered owner;
- (c) the address of each registered owner; and
- (d) any additional information that is prescribed for the purpose of identifying the registered owners”.

Section 17 amended**6 The following subsection is added after subsection 17(3):**

“(4) When an uncertified mineral title is certified pursuant to this section, all interests that were registered against the uncertified mineral title:

- (a) are to be registered against the mineral title in the order in which they were registered against the uncertified mineral title; and
- (b) have the same priority that they had on their registration against the uncertified mineral title”.

Section 27 amended**7 The following subsection is added after subsection 27(4):**

“(5) If the Registrar makes a correction pursuant to section 97 reinstating the registration of an interest against a title or against another interest, the reinstated interest has the same priority that it had on its original registration, notwithstanding the manner in which registration of the reinstated interest appears in the land titles registry”.

New section 33**8 Section 33 is repealed and the following substituted:**

“Capacity to be a registered owner

33 Every registered owner must be:

- (a) an individual;
- (b) the Crown in right of Canada or Saskatchewan;
- (c) a body corporate; or
- (d) any other entity that is designated in the regulations”.

Section 34 amended**9 Subsection 34(3) is repealed and the following substituted:**

“(3) If two or more persons are registered owners or interest holders, each person owns his or her title or interest as a tenant in common with the other person or persons unless:

- (a) in the case of an application to register a transfer or an interest, the application sets out that the persons are to hold the title or interest as joint tenants; or

(b) in the case of an application to register a transfer, the application sets out that the persons are to hold the title as joint tenants with no survivorship.

“(3.1) Registered owners are not eligible to hold a title as joint tenants without survivorship unless they are trustees”.

New section 40

10 Section 40 is repealed and the following substituted:

“Dependent adults

40(1) In this section:

(a) **‘adult’** means an adult with respect to whom:

(i) a certificate of incompetence has been issued pursuant to *The Mentally Disordered Persons Act* and an acknowledgement to act has been signed by the public trustee pursuant to *The Public Trustee Act*;

(ii) an order has been made or continued pursuant to *The Adult Guardianship and Co-decision-making Act* appointing a property decision-maker; or

(iii) an order has been made pursuant to *The Public Trustee Act* appointing the public trustee as property decision-maker;

(b) **‘property decision-maker’** means:

(i) a person appointed as property decision-maker for an adult pursuant to an order mentioned in subclause (a)(ii); or

(ii) the public trustee acting as property decision-maker for an adult pursuant to *The Public Trustee Act*.

(2) If a registered owner or interest holder is an adult, the adult’s property decision-maker shall notify the Registrar, in the prescribed manner, of:

(a) the titles for which the adult is a registered owner; and

(b) the interests for which the adult is an interest holder.

(3) In accordance with clause 57(1)(a) of *The Adult Guardianship and Co-decision-making Act*, if, in the opinion of the property decision-maker, the adult has an interest in a title or a registered interest but is not a registered owner of that title or a registered interest holder of that interest, the property decision-maker shall apply to the Registrar, in the prescribed manner, to register an interest based on a notice of the property decision-maker’s authority to act.

(4) After the Registrar receives a notice in accordance with subsection (2) or registers an interest based on a notice pursuant to subsection (3), no application for registration of a transfer or of an amendment, assignment or discharge of an interest to which the property decision-maker's notice applies shall be registered without:

- (a) the property decision-maker's consent, in the prescribed manner; or
- (b) a court order authorizing the registration”.

Section 41 amended

11 Clause 41(b) is repealed and the following substituted:

“(b) ‘**new parcel**’ means a parcel that is shown on the most recent plan affecting that parcel that has been approved by the Controller of Surveys pursuant to *The Land Surveys Act, 2000*, and includes any other parcel affected by that plan”.

Section 43 amended

12 The following subsection is added after subsection 43(2):

“(3) For the purposes of this section, ‘**vesting certificate**’ includes the communication by the Controller of Surveys to the Registrar of any information required on a vesting certificate, whether or not the communication is in the form of a printed certificate”.

Section 49 amended

13 Subsection 49(2) is repealed and the following substituted:

“(2) Each interest register established and maintained pursuant to subsection (1) with respect to an interest must include a record of:

- (a) the names of the interest holders;
- (b) the share of each interest holder in the interest;
- (c) the address of each interest holder;
- (d) any further information that is prescribed for the purpose of identifying the interest holders; and
- (e) the other interests, titles or parcels affected by that interest”.

Section 97 amended

14(1) Subsection 97(1) is repealed and the following substituted:

“(1) The Registrar may correct any error or omission made in the land registry if it appears to the Registrar that:

- (a) a title has been issued in error or contains an incorrect or incomplete description;
- (b) a registration contains an incorrect or incomplete description;
- (c) an entry has been made in error; or
- (d) any other prescribed circumstance exists”.

(2) Subsection 97(3) is repealed and the following substituted:

“(3) In correcting an error or omission pursuant to this section, the Registrar shall record the correction in the land registry.

“(3.1) If no other permanent record of a correction made pursuant to this section will appear in the land registry, the Registrar shall record the correction by way of an interest based on a Registrar’s notice”.

New section 98

15 Section 98 is repealed and the following substituted:

“Suspension of land registry functions

98(1) Notwithstanding any other provision of this Act, any regulation made pursuant to this Act or any other Act providing for registration in the land registry, if, in the opinion of the Registrar, it is not practical to provide one or more land registry functions, the Registrar may, by order, suspend all or any land registry functions for the period during which, in the opinion of the Registrar, those circumstances prevail.

(2) An order of the Registrar made pursuant to subsection (1):

(a) is to identify the land registry functions that are being suspended and the time that the land registry functions are suspended;

(b) is to be published in the Gazette as soon as is reasonably possible after it is made; and

(c) may suspend land registry functions as at a date not more than 30 days before the day on which the order is made.

(3) The Registrar may, by order, recommence all or any suspended land registry functions, effective as at any time the Registrar considers appropriate.

(4) An order of the Registrar made pursuant to subsection (3):

(a) is to identify the land registry functions that are being recommenced and the time that the land registry functions are recommenced; and

(b) is to be published in the Gazette as soon as is reasonably possible after it is made.

(5) Subject to subsection (6), an order made pursuant to this section comes into force on the day on which it is made.

(6) In the case of an order that suspends land registry functions as at a date before the order is made, the order may be made retroactive to a date not more than 30 days before the day on which the order is made and, in that case, the order is deemed to have been in force on and from that date.

(7) The Registrar shall take any steps the Registrar considers necessary to bring to the attention of the public an order of the Registrar pursuant to this section.

(8) If there is any conflict between an order of the Registrar pursuant to this section and a provision of this Act, the regulations, other than regulations made pursuant to clause 187(1)(u), or any other Act or law, the order of the Registrar prevails”.

Section 99 amended

16(1) Clause 99(1)(b) is amended:

- (a) in subclause (i); and**
- (b) in subclause (iii);**

by adding “or the abstract directory” after “land titles registry” wherever it appears.

(2) Subsection 99(2) is amended by striking out “in the land titles registry in the prescribed manner” and substituting “, in the prescribed manner, in the land titles registry or the abstract directory, as the case requires”.

(3) Subsection 99(5) is amended by adding “or the abstract directory” after “land titles registry”.

Section 103 amended

17 Section 103 is amended by striking out “land titles registry” and substituting “land registry”.

Section 118 amended

18(1) Clause 118(1)(a) is amended by striking out “land titles registry” and substituting “land registry”.

(2) Subsection 118(2) is amended by striking out “land titles registry” and substituting “land registry”.

(3) Subsection 118(3) is repealed and the following substituted:

“(3) If the Registrar considers it appropriate or necessary, the Registrar may:

- (a) waive any fees, charges or taxes, in whole or in part; or
- (b) refund any fees, charges or taxes, in whole or in part”.

Section 156 amended

19 Clause 156(b) is repealed and the following substituted:

“(b) by court order, on the application of one of the joint tenants”.

New sections 160.1 to 160.4

20 The following sections are added after section 160:

“Sale by sheriff

160.1(1) No sale by a sheriff or other officer, under process of law, of a parcel for which title has issued, or of a lease or mortgage of land for which title has issued, is of any effect until the sale is confirmed by order of the court.

(2) Subject to subsection (4), if a parcel for which title has issued, or if a lease or mortgage of a parcel for which title has issued, is sold under process of law, an application to transfer the title or assign the interest must be made to the Registrar:

- (a) not earlier than four weeks after the date of the order confirming the sale; and
- (b) not later than two months after the date of the order confirming the sale, unless the period is extended by order of the court.

- (3) An application to the Registrar pursuant to subsection (2) must be accompanied by the order of the court confirming the sale.
- (4) If registration of the transfer or assignment is stayed by order of the court, no application may be made pursuant to subsection (2) and the registration is not to proceed unless the stay is set aside by further order of the court.
- (5) If no application to transfer the title or assign the interest is made to the Registrar within the two-month period mentioned in clause (2)(b), or within any further period fixed by order of the court, the order confirming the sale ceases to have any effect.
- (6) Subject to subsection (7), no order shall be made pursuant to this section confirming the sale of a parcel unless an ownership register has been established for the parcel pursuant to section 11.
- (7) If an order of the court pursuant to this section confirms the sale of a parcel for which no ownership register has been established, the court may, by the same order, authorize the purchaser:
- (a) to apply to the Controller of Surveys for approval of a plan pursuant to *The Land Surveys Act, 2000*; and
 - (b) to apply to the Registrar to have title issued pursuant to section 44.

“Transfer of mortgage to execution creditor

160.2 A sheriff who, pursuant to a writ of execution against goods, has seized a mortgage belonging to the execution debtor, may apply to the Registrar, in the prescribed manner, to register an assignment of the mortgage to the execution creditor, if the execution creditor has agreed to accept the assignment at the sum actually due on and secured by the mortgage as money collected.

“Confirmation of sale

160.3(1) Unless the court dispenses with the notice requirements set out in this subsection, an application to the court to confirm the sale of a parcel or a mortgage under process of law may be made by the sheriff or other officer making the sale, or by any person interested in the sale, on notice:

- (a) to the registered owner or interest holder; and
 - (b) to all interest holders subsequent in interest to the execution creditor.
- (2) If the court confirms the sale, the costs of confirmation are to be paid out of the purchase money, or as the court directs.
- (3) If the court does not confirm the sale:
- (a) the purchase money is to be refunded to the purchaser; and
 - (b) the court may make any order that the court considers just with respect to:
 - (i) the costs of all parties to the sale; and
 - (ii) the costs of the application for confirmation.

“Vacating certificates of pending litigation

160.4(1) If a certificate of pending litigation has been registered in the land registry pursuant to section 46 of *The Queen’s Bench Act, 1998*, the local registrar for the judicial centre at which the action was commenced may issue a certificate certifying:

- (a) that the action has been discontinued; or
- (b) that, the action having proceeded to trial:
 - (i) judgment was given in favour of the defendant;
 - (ii) no appeal from that judgment has been entered; and
 - (iii) the time for appeal has expired.

(2) The certificate of the local registrar mentioned in subsection (1) must refer to:

- (a) the certificate of pending litigation by describing the title and the parties to the action; and
- (b) the interest number of the interest registered based on the certificate of pending litigation.

(3) An application to the Registrar pursuant to section 64 to discharge a registered interest based on a certificate of pending litigation must be accompanied by:

- (a) a certificate of the local registrar made in accordance with subsections (1) and (2); or
- (b) a judge’s order made pursuant to section 47 of *The Queen’s Bench Act, 1998* vacating the certificate of pending litigation.

(4) A certificate of the local registrar made in accordance with subsections (1) and (2) has, when registered, the same effect as a judge’s order made pursuant to section 47 of *The Queen’s Bench Act, 1998*”.

New section 185.1**21 The following section is added after section 185:****“Rules respecting priority of registration of writs and maintenance orders**

185.1 For the purposes of determining priority as between writs and maintenance orders submitted for registration in the writ registry and instruments submitted for registration in a land registration district, all instruments submitted for registration in the land registration district are deemed to have been received by the registrar of the land registration district at 12:01 a.m. on the day on which they were submitted for registration in that land registration district”.

Section 186 amended**22 Subsection 186(2) is repealed and the following substituted:**

“(2) If, in the circumstances mentioned in subsection (3), a land titles registry function pursuant to the former Act requires a search of the general record of a land registration district for writs and maintenance orders, the registrar of that land registration district shall:

- (a) search the writ registry; and
- (b) endorse on the certificate of title any writ or maintenance order registered in the writ registry, in the manner prescribed by the former Act, if the name of the debtor on the writ or maintenance order exactly matches the name of the former or new owner named on the certificate of title.

“(3) Subsection (2) applies if:

- (a) a certificate of title is granted;
- (b) a mortgage is executed by a debtor named in a writ or maintenance order;
- (c) a lease is executed by a debtor named in a writ or maintenance order; or
- (d) any other instrument is executed by a debtor named in a writ or maintenance order.

“(4) A writ or maintenance order that is to be endorsed on a certificate of title pursuant to this section has priority over, and must be endorsed prior to registration of, the instruments mentioned in clauses (3)(b), (c) and (d)”.

Section 187 amended**23 Clause 187(1)(u) is repealed and the following substituted:**

“(u) respecting the suspension of land registry functions and the commencement of land registry functions, including:

- (i) prescribing procedures, in addition to those set out in this Act, for suspending land registry functions and recommencing land registry functions; and
- (ii) prescribing any other matter or thing that the Lieutenant Governor in Council considers necessary respecting suspension of land registry functions or commencement of land registry functions”.

Section 189 amended**24 Section 189 is amended:**

- (a) by renumbering it as subsection 189(1); and
- (b) by adding the following subsection after subsection (1):

“(2) If a claim that arose in a former land registration district pursuant to the former Act was not commenced pursuant to that Act before the day on which an order was made pursuant to section 191 of this Act with respect to that former land registration district, the claim is to be commenced pursuant to and in conformity with this Act, as far as it is practicable to do so”.

Section 199 amended**25 Section 199 is amended:**

- (a) by renumbering it as subsection 199(1); and**
- (b) by adding the following subsection after subsection (1):**

“(2) If an instrument was endorsed on a certificate of title mentioned in subsection (1) pursuant to the former Act and was in existence on the day before the coming into force of the order mentioned in subsection (1), the instrument is converted to and is deemed to be an interest registered against the interest based on a lease mentioned in subsection (1)”.

PART III**Consequential Amendment to *The Tax Enforcement Act*****R.S.S. 1978, c.T-2, section 10 amended****26 Subsection 10(2) of *The Tax Enforcement Act*, as that subsection is enacted by section 519 of *The Land Titles Act, 2000*, is repealed and the following substituted:**

“(2) On an application pursuant to subsection (1), the treasurer shall attach the tax lien, in the prescribed form”.

PART IV**Coming into Force****Coming into force**

27 This Act comes into force on assent but is retroactive and is deemed to have been in force on and from June 25, 2001.