

1982

## c 38 Certification of Titles Amendment Act, 1982

Ontario

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## CHAPTER 38

### An Act to amend the Certification of Titles Act

*Assented to July 7th, 1982*

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

1. Clause 1 (a) of the *Certification of Titles Act*, being chapter 61 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
  - (a) "assurance fund" means The Land Titles Assurance Fund formed under section 57 of the *Land Titles Act*.
2. The said Act is amended by inserting after section 3 the following:

#### PART I

##### CERTIFICATION ON APPLICATION

3. Section 9 of the said Act is amended by inserting after "examination" in the first line "under this Part".
4. The said Act is further amended by adding thereto the following Part:

#### PART II

##### CERTIFICATION OF EXISTING PLANS

9a. In this Part, "plan" means a plan of subdivision registered under the *Registry Act*.

9b.—(1) The Director may, of his own initiative and without holding a hearing, certify the title of the owner of land included in a plan, as of the date of registration of the plan.

(2) Before certifying the title of any land under this Part, the Director shall examine the title to the land and satisfy himself

that the person to be named in the certificate of title as owner was the owner of the land for which the certificate of title is to be issued, as of the date of registration of the plan.

Hearings  
authorized

(3) Notwithstanding subsection (1), the Director may, for the purposes of complying with subsection (2), hold such hearings as he considers necessary, including hearings to determine the validity of any interest in the land of any person that appears to conflict with that of the person who signed the plan as owner, and, where the Director holds a hearing, the parties to the proceeding shall be such persons as are named in the notice of hearing.

Notice

(4) A notice of a hearing under subsection (3) shall be served on the persons named in the notice and on every person or person of a class designated by the regulations and where the hearing is to determine the validity of an interest in the land of a person that appears to conflict with that of the person who signed the plan as owner, the notice is sufficiently served if it is sent by registered mail addressed to the person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

R.S.O. 1980,  
cc. 230, 445

Reference  
to a judge

(5) The Director, instead of holding a hearing under subsection (3), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the matter referred to him on the evidence before him or may direct the trial of an issue.

Copies to  
be sent to  
interested  
parties

(6) Where the Director makes a decision under subsection (3), a copy of the decision shall be sent by first class mail or delivered by the Director to the parties to the proceeding and to every person who received notice of the hearing and appeared at the hearing.

Appeals

(7) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (3).

Disposition

9c.—(1) When the Director has complied with subsection 9b (2) and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land included in the plan.

Omission of  
discharged  
claims

(2) Where the Director is satisfied that a claim or interest that existed on the day the plan was registered has expired or has been

discharged or for any other reason no longer affects the land, the Director may omit the claim or interest from the certificate of title.

5. The said Act is further amended by inserting before section 10 the following: Heading inserted

### PART III

#### GENERAL

6. Section 11 of the said Act is amended by striking out "is" in the fourth line and inserting in lieu thereof "was". s. 11, amended

- 7.—(1) Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) The Director may require an applicant under Part I to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper. Indemnification of assurance fund

(2) Every bond and covenant to indemnify The Certification of Titles Assurance Fund given under a predecessor of subsection (1) shall be deemed to be a bond or covenant, as the case may be, to indemnify the assurance fund. Previous bonds and covenants

(2) The Accountant of the Supreme Court shall, as soon as practicable after this Act receives Royal Assent, Transfer of funds

(a) refund to an applicant all amounts paid after the 28th day of February, 1982 by the applicant under subsection 12 (2) of the *Certification of Titles Act* as that subsection read on that day; and R.S.O. 1980, c. 61

(b) after deducting an amount sufficient to pay the refunds required by clause (a), transfer the amount standing to the credit of The Certification of Titles Assurance Fund to The Land Titles Assurance Fund Account.

8. Subsections 13 (3) to (10) of the said Act are repealed and the following substituted therefor: s. 13 (3), re-enacted; s. 13 (4-10), repealed

(3) Section 26, subsections 60 (5) to (12), section 61 and subsection 161 (3) of the *Land Titles Act* apply, with necessary modifications, to claims for compensation under this section. Applications for compensation R.S.O. 1980, c. 230

9. The said Act is further amended by adding thereto the following sections: ss. 13a, 13b, enacted

Notice of possible error

13a. Where the Director becomes aware of a possible error in a certificate of title, he may give notice of the possible error by registering a notice in the prescribed form and the notice gives notice of the possible error to all persons until the notice is deleted from the abstract index by the Director.

Amendment of certificates

13b.—(1) Subject to the regulations, the Director of his own initiative or on the application of any interested person may, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and omissions in any certificate of title by issuing an amendment to the certificate of title.

Idem

(2) The Director shall, in correcting a certificate of title, correct it in the manner that he considers will do the least possible injury to any person affected by the correction.

Copies of decision

- (3) Where the Director makes a decision under subsection (1),
- (a) on the application of an interested person; or
  - (b) after notifying the interested persons,

a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and the persons who received the notice.

Appeals

(4) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (1).

Registration of amendment

(5) An amendment to a certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate.

Effect of registration

(6) Upon registration under subsection (5), an amendment to a certificate of title takes effect in accordance with the terms set out in the amendment and is conclusive that every notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act.

Claim against fund

(7) A person injuriously affected by an amendment to a certificate of registration is entitled to recover what is just by way of compensation out of the assurance fund under section 13, as if he were a person wrongfully deprived of an interest in land.

s. 15, amended

**10.** Section 15 of the said Act is amended by adding thereto the following clause:

- (aa) designating persons or classes of persons to whom notice of a hearing under subsection 9b (3) shall be

given and specifying the manner in which notice may be given.

- 11.**—(1) This Act, except sections 1, 7 and 8, comes into force on the day it receives Royal Assent. Commence-  
ment
- (2) Sections 1, 7 and 8 shall be deemed to have come into force on the 1st day of March, 1982. Idem
- 12.** The short title of this Act is the *Certification of Titles Amendment Act, 1982*. Short title

