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c 48 Certification of Titles Act

Ontario
CHAPTER 48

The Certification of Titles Act

1.—(1) This Act shall be administered by the director of titles appointed under The Land Titles Act.

(2) In the administration of this Act, the deputy director of titles appointed under The Land Titles Act shall act under the supervision of the director of titles.

(3) In the absence of the director of titles or if the office of director of titles is vacant, the deputy director of titles shall act as director of titles for the purposes of this Act and while so acting he shall have and may exercise and perform all or any of the powers and duties of the director of titles under this Act. 1958, c. 9, s. 1.

2. The Lieutenant Governor in Council may appoint one or more assistant deputy directors of titles and one or more title examiners for the purposes of this Act. 1958, c. 9, s. 2.

3. The director of titles has and may exercise in connection with his functions under this Act all of the powers that may be conferred upon a commissioner under The Public Inquiries Act.

4. The director of titles shall have a seal of office in such form as the Lieutenant Governor in Council approves. 1958, c. 9, s. 4.

5. This Act does not apply to land registered under The Land Titles Act. 1958, c. 9, s. 5.

6.—(1) An owner of or any person claiming an estate in fee simple in land to which this Act applies, whether or not the land is encumbered, may apply to the director of titles to have the title to the land investigated and certified under this Act. 1958, c. 9, s. 6 (1); 1959, c. 11, s. 1.

(2) An application under subsection 1 shall be accompanied by the prescribed deposit and shall be supported by, a statement under oath of the applicant,

(i) that to the best of his knowledge and belief he is the owner of the estate or interest
claimed, subject only to the encumbrances, easements and encroachments set forth in the application, or that there are no encumbrances, easements or encroachments affecting the land, as the case may be, and that he is not aware of the existence of any other claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or that he is aware of such an adverse claim, in which case he shall set forth every such adverse claim and the particulars thereof,

(ii) where a person other than the applicant is in possession of the land, setting forth under what claim, right or title such person is in possession, and

(iii) setting forth such other facts as in his opinion may be of assistance to the director of titles in ascertaining the validity of his title;

(b) a plan of survey of the land prepared by an Ontario land surveyor;

(c) a statement under oath by the Ontario land surveyor who prepared the plan of survey, verifying the description of the land, identifying it with the plan of survey, stating the names of the persons in actual occupation of the land or any part thereof, describing the nature of the buildings on the land, and stating the nature and identifying any easements or encroachments apparent on his examination of the surface of the land or of which he has knowledge;

(d) the title documents, if any, of the land and any other evidences of title available to the applicant;

(e) an abstract of the title to the land, certified by the registrar of the registry division in which the land is situate, showing a good and sufficient forty-year chain of title immediately preceding the date of the application;

(f) a typewritten abstract of the title to the land prepared in accordance with good conveyancing practice by a solicitor together with the certificate of such solicitor that he has investigated the title and believes the applicant to be the owner of the estate that he claims in the land subject only to any
encumbrance set forth in the application and that he has conferred with the applicant on the matters set forth in the statement mentioned in clause a and that he believes the statement to be true;

(g) a certificate of the sheriff of the county or district in which the land is situate showing that there are no writs of execution or extent or liens in his hands against any person having an interest in the land as ascertained by the applicant from the registrar’s abstract and the investigation of the title and showing that he has not sold any land under any writ against such person within the six months next preceding the date of the certificate;

(h) a certificate of the treasurer of the municipality in which the land is situate that all municipal taxes for which the land is liable, except those for the then current year, have been paid in full;

(i) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario that the name of the applicant does not appear in the index book kept pursuant to section 167 of the Bankruptcy Act R.S.C. 1952, (Canada);

(j) a statement of the Treasurer of Ontario that he does not claim a lien for taxes payable under The Corporations Tax Act R.S.O. 1960, or a predecessor thereof by any corporation that appears to have had any interest in the land before the date of the filing of the application;

(k) evidence of the consent of the Treasurer of Ontario to the transfer of an interest in land consequent upon the death of a person on or after the 1st day of January, 1930, where such person appears from the solicitor’s abstract mentioned in clause f to have had an interest in the land.

(3) The director of titles may at any time require an applicant to furnish such additional or other information or material as he specifies. 1958, c. 9, s. 6 (2, 3).

7. Upon the filing of an application, the director of titles shall cause notice thereof,

(a) to be registered in the registry office of the registry division in which the land is situate; and
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(b) to be published in a newspaper having general circulation in the locality in which the land is situate; or

(c) to be served on owners and mortgagees of land adjoining the land of the applicant; and

(d) to be given in such other manner, if any, as he deems proper. 1960, c. 8, s. 1.

8.—(1) Any person having an adverse claim or a claim inconsistent with the claim set out in an application may file a statement under oath of his claim with the director of titles at any time before the certificate of title is executed.

(2) Where a claim adverse to or inconsistent with the claim set out in an application is filed, the director of titles may dispose of the issue or he may refer the matter to a judge of the Supreme Court who shall hear and determine the matter on the evidence before him or may direct the trial of an issue. 1958, c. 9, s. 8.

9.—(1) When the director of titles has completed his investigation and any issue referred to a judge is finally disposed of, the director of titles shall set out his findings in writing.

(2) A copy of the written findings of the director of titles shall be sent by registered mail by the director of titles to the applicant and to every person who has filed a claim adverse to or inconsistent with the claim set out in the application.

(3) Any person aggrieved by the written findings of the director of titles may within fifteen days after the date of the mailing of the copies under subsection 2 appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue.

(4) When the period of fifteen days mentioned in subsection 3 has elapsed and no appeal has been taken or, if taken, has been disposed of, the director of titles may make a certificate of title or dismiss the application, as the case may be.

(5) A certificate of title shall bear the signature and seal of the director of titles. 1958, c. 9, s. 9.

10. Where the director of titles is able to give a certificate of title to only part of the land mentioned in the application, the application may be amended accordingly. 1958, c. 9, s. 10.
11. The director of titles may order an applicant or any person who has filed a claim adverse to or inconsistent with the claim set out in the application to pay the costs or part of the costs of any proceedings before him or investigations by him and may direct that the same be taxed by the taxing officer of the Supreme Court having jurisdiction where the land is situate. 1958, c. 9, s. 11.

12. A certificate of title shall be registered by the director in the registry office of the registry division in which the land is situate. 1958, c. 9, s. 12.

13. Upon registration under section 12, a certificate of title is conclusive as of the day, hour and minute named therein that the person named therein as owner has an absolute and indefeasible title to the land described therein as regards the Crown and all persons whomsoever, subject only to the qualifications mentioned therein, and is conclusive that every application, notice, publication, proceeding and act which ought to have been made, given and done before the making of the certificate has been made, given and done in accordance with this Act. 1958, c. 9, s. 13; 1959, c. 11, s. 2.

14.—(1) No plan of subdivision of land to which this Act applies and which is in a certification area shall be registered unless the title of the owner of the land has been certified under this Act.

(2) Subsection 1 does not apply to a plan of subdivision, where

(a) where the land shown thereon is owned by the Crown or by any agency of the Crown;

(b) where the land shown thereon is owned by The Hydro-Electric Power Commission of Ontario;

(c) where the land shown thereon is owned by a municipality or by any local board as defined in The Department of Municipal Affairs Act;

(d) where the land shown thereon is owned by a board of harbour commissioners;

(e) prepared under The Registry Act and commonly known as a “judge’s plan”; or

(f) which is a subdivision of a plan that was registered before the area in which the land is situate was designated as a certification area and in which no
15.—(1) An assurance fund shall be formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act.

(2) In order to constitute such a fund, every applicant shall pay on the making of a certificate of title under this Act, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

(4) Where the amount calculated under subsection 2 exceeds $300, the amount payable is $300. 1958; c. 9, s. 15 (1-4).

(5) Where the amount calculated under subsection 2 is less than $1, the amount payable is $1. 1960, c. 8, s. 2.

(6) The value of the land shall be ascertained as of the date of the application by the oath of the applicant.

(7) If the director of titles is not satisfied as to the correctness of the value stated by the oath of an applicant, he may require the affidavit in that behalf of a valuator and such affidavit is conclusive.

(8) The director of titles may require an applicant to indemnify the assurance fund against loss by a bond or covenant to Her Majesty either with or without sureties or by such other security as he considers proper.

(9) The moneys payable under this section shall be paid into the Supreme Court with the privity of the accountant of the court and shall be placed to the credit of an account entitled "Assurance Fund under The Certification of Titles Act" and, subject to subsection 10, shall be invested from time to time under the direction of the Finance Committee of the Supreme Court and such of the interest and income derived therefrom shall be credited to the same account as the Finance Committee of the Supreme Court from time to time determines.
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(10) The moneys in court at the credit of the assurance fund shall on his demand be paid to the Treasurer of Ontario. 1958, c. 9, s. 15 (5-9).

16.—(1) If a person is wrongfully deprived of an estate or interest in land by reason of its title having been certified under this Act and he satisfies the Inspector of Legal Offices that he is unable to recover just compensation, he is entitled to have compensation paid out of the assurance fund so far as the assurance fund is sufficient for that purpose having regard to any other charges thereon, if he makes a claim therefor to the Inspector of Legal Offices within six years from the time of his having been so deprived or, in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased.

(2) Where a claim is made under subsection 1 in respect of land patented as mining land or in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the value of the land shall not be taken at a greater amount than 800 times the amount paid into the assurance fund in respect of the land under section 15.

(3) The liability of the assurance fund for compensation and the amount of compensation shall, subject to appeal to a judge of the Supreme Court, be determined by the Inspector of Legal Offices.

(4) The Inspector of Legal Offices shall certify to the Treasurer of Ontario any amount found to be payable under this section and, upon receipt of the certificate, the Treasurer shall pay the amount to the person entitled thereto.

(5) The costs of the proceedings under this section shall be in the discretion of the Inspector of Legal Offices or the court, as the case may be. 1958, c. 9, s. 16.

17. Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the director of titles may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he deems proper. 1958, c. 9, s. 17.
Regulations 18. The Lieutenant Governor in Council may make regulations,

(a) prescribing the deposit to be made on applications;

(b) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(c) prescribing forms and providing for their use;

(d) designating certification areas for the purposes of subsection 1 of section 14;

(e) prescribing the powers and duties of title examiners under this Act;

(f) prescribing a code of standards and procedures for surveys made for the purpose of this Act;

(g) prescribing administrative procedures for the purpose of this Act;

(h) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1958, c. 9, s. 18.