1979

c 93 The Land Titles Amendment Act, 1979

Ontario
CHAPTER 93

An Act to amend The Land Titles Act

Assented to December 20th, 1979

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

1.—(1) Clause b of section 1 of The Land Titles Act, being chapter 234 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(b) "land registrar" means a land registrar appointed under section 5;

(2) Clause ca of the said section 1, as enacted by the Statutes of Ontario, 1972, chapter 132, section 1, is repealed.

(3) Clause d of the said section 1 is repealed.

(4) Clause j of the said section 1 is repealed and the following substituted therefor:

(j) "regulations" means the regulations made under this Act and section 103 of The Registry Act.

2. Section 3 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 2, is repealed and the following substituted therefor:

3.—(1) This Act applies to such parts of the Province as are designated by regulation.

(2) The Lieutenant Governor in Council may by regulation,

(a) designate the parts of the Province to which this Act applies;

(b) describe the land titles divisions; and
(c) provide for the location of offices for the land titles system.

s. 5, amended

3. Section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 4, is amended by adding thereto the following subsections:

(2) There shall be at least one deputy land registrar for every land titles division, and, where there is more than one deputy land registrar for a land titles division, one of the deputies shall be designated as the senior deputy land registrar.

(3) The deputy land registrars and such other employees as are considered necessary for the administration of this Act shall be appointed under The Public Service Act.

s. 8, repealed

4. Section 8 of the said Act is repealed.

s. 9, re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

9. Upon receiving an instrument for registration or deposit, the land registrar shall record it and the fee charged in a fee and receiving book in the form approved by the Director of Land Registration.

s. 11, re-enacted

6.—(1) Section 11 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 6, is repealed and the following substituted therefor:

11.—(1) The Lieutenant Governor in Council may appoint a person who is a barrister and solicitor to be the Director of Titles.

(2) The Director of Titles may appoint one or more persons each of whom is a barrister and solicitor to be a Deputy Director of Titles.

(3) Where the Director of Titles has appointed more than one deputy under this section, he shall designate one of the deputies as the Senior Deputy Director of Titles.

(4) A Deputy Director of Titles appointed under this section has and may exercise such powers and perform such duties of the Director of Titles under this or any other Act as are required by the Director of Titles.
(5) Where the office of Director of Titles becomes vacant, Idem

(a) the Deputy Director of Titles; or

(b) if there is more than one Deputy Director of Titles, the Senior Deputy Director of Titles, may exercise the powers and shall perform the duties of the Director of Titles until a Director of Titles is appointed.

(2) The person who holds the appointment under subsection 1 of section 11 of The Land Titles Act before subsection 1 of this section comes into force continues to hold that appointment upon the coming into force of this section.

7. Section 12 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 7, is further amended by adding thereto the following subsection:

(8) The Director of Titles shall perform such of the functions of a land registrar relating to the first registration of land under this Act as are prescribed.

8. Subsections 1 and 2 of section 14 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 8, are repealed.

9. Subsection 4 of section 15 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 8, is amended by striking out "with the approval of the Director of Land Registration" in the first and second lines.

10. The said Act is amended by adding thereto the following section:

16. The Director of Titles may appoint one or more persons each of whom is an Ontario land surveyor to be a Deputy Director of Titles for purposes of exercising the powers and performing the duties of the Director of Titles under The Boundaries Act.

11. Sections 17 and 18 of the said Act are repealed and the following substituted therefor:

17. Every land registrar, before he enters upon the duties of his office, shall take and subscribe an oath in the prescribed form, which shall be transmitted by him to the Director of Land Registration.

12. Section 19 of the said Act is amended by adding thereto the follow- ing subsection:

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of The Proceedings Against the Crown Act, relieve the Liability of Crown R.S.O. 1970, c. 363
Crown of liability in respect of a tort committed by a person referred to in subsection 1 to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in like manner as if subsection 1 had not been enacted.

13. Subsection 2 of section 21 of the said Act is repealed and the following substituted therefor:

(2) Except on holidays when they shall be closed, every land registry office shall be kept open during such hours as are prescribed and no instrument shall be received for registration except within such hours as are prescribed.

14. Section 29 of the said Act is repealed and the following substituted therefor:

29.—(1) Where a hearing has been held under this Act, the decision or order of the Director of Land Registration, Director of Titles or of the land registrar may be appealed to a judge of the county or district court of the county or judicial district in which the land to which the decision or order relates is situate or of such other county or judicial district as the parties agree to, and the appeal shall be by trial de novo.

(2) An appeal lies from a decision of a judge of a county or district court under subsection 1 to the Supreme Court.

15. Subsections 4 and 5 of section 34 of the said Act are repealed.

16. Subsection 1 of section 35 of the said Act is repealed and the following substituted therefor:

(1) A land registrar shall register a Crown grant received by him under section 40 of The Public Lands Act that meets the requirements for registration set out in this Act and the regulations.

17. Section 36 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 11, is repealed and the following substituted therefor:

36. Where land patented by the Government of Canada has not been registered under this Act or The Registry Act and the patentee applies for registration within five years after the date of the patent, the land registrar has authority to register the patentee as owner of the land without submitting his finding upon the application to the Director of Titles for his concurrence.

18. Section 38 of the said Act is repealed.
19. Section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 13 and 1978, chapter 7, section 1, is further amended by adding thereto the following subsection:

(3a) An application under section 33 shall be deemed to be an action for the recovery of land within the meaning of The Limitations Act.

20.—(1) Subsections 2, 3 and 4 of section 61 of the said Act are repealed and the following substituted therefor:

(2) Where the amount standing to the credit of the Assurance Fund is less than $1,000,000, the Assurance Fund shall be increased by payment into it from the Consolidated Revenue Fund of an amount fixed by the Lieutenant Governor in Council.

(3) Money paid under subsection 2 shall be paid into the Supreme Court.

(2) Subsection 5 of the said section 61 is amended by striking out “subsection 4” in the second line and inserting in lieu thereof “subsection 2”.

21.—(1) Section 64 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 16, is further amended by adding thereto the following subsection:

(1a) A person is not entitled to compensation from The Land Titles Assurance Fund in respect of an interest in land existing at the time the land is brought under this Act unless that interest is registered against the title to the land under The Registry Act or notice of it is given to the land registrar before the first registration under this Act of a person as owner of the land.

(2) Subsection 4 and subsection 4a, as enacted by the Statutes of Ontario, 1972, chapter 132, section 16, and subsections 5, 6, 7, 8, 9 and 10 of the said section 64 are repealed and the following substituted therefor:

(4) A person claiming to be entitled to payment of compensation out of The Land Titles Assurance Fund shall apply to the Director of Titles.

(5) Except where he determines the claim be paid in full, the Director of Titles shall hold a hearing, and the claimant and such other persons as the Director of Titles may specify are parties to the proceedings before him.

(6) The liability of the Assurance Fund for compensation and the amount of compensation shall be determined by the Director.
of Titles, and the costs of the proceedings are in the discretion of the Director of Titles.

(7) The Director of Titles shall serve notice of his determination under subsection 6 by first class mail on the claimant.

(8) Where the Director of Titles determines that compensation should be paid but that the claim not be paid in full, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection 7, serve on the Director of Titles notice of his intention to appeal under section 29, and the Director of Titles shall not certify under subsection 9 the amount to the Treasurer of Ontario if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received.

(9) Subject to subsection 8, the Director of Titles shall certify to the Treasurer of Ontario any amount found to be payable under this section, and, upon receipt of the Director of Titles' certificate, the Treasurer shall pay the amount to the person entitled thereto out of the Consolidated Revenue Fund, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant of the Supreme Court, and the amount of the stock shall be reduced accordingly.

(10) Any sum paid out of the Assurance Fund may afterwards, for the benefit of the Assurance Fund, be recovered by action in the name of the Director of Titles from the person on whose application the erroneous registration was made or who acquired the title through the fraud or error or from his estate, and the Director of Titles' certificate of the payment out of the Assurance Fund is sufficient proof of the debt.

(11) Where a registered disposition would be absolutely void if unregistered or where the effect of the error would be to deprive a person of land of which he is in possession or in receipt of the rents and profits, the Director of Titles may, in the first instance or after a reference to the court, direct the rectification of the register and, in the case of rectification, the person suffering by the rectification is entitled to the compensation provided for by this section.

(3) Any action commenced in the name of the Director of Land Registration under subsection 9 of section 64 of The Land Titles Act before this section comes into force may be continued in the name of the Director of Titles.

22. Clause b of subsection 1 of section 66 of the said Act is amended by striking out “appear” in the fifth line and inserting in lieu thereof “act”.

s. 66 (1) (b), amended
23. Subsection 2 of section 68 of the said Act is repealed and the following substituted therefor:

(2) Where the extent of a co-owner's interest is not shown on the register, he may,

(a) transfer or charge a specified share in the land or transfer a share in the charge, as the case may be, if the land registrar is satisfied, by an affidavit of all co-owners setting out the percentage or fractional interest that belongs to the transferor or chargor, that the transferor or chargor has a sufficient interest to transfer or charge such share; or

(b) transfer or charge all of his unspecified share.

24.—(1) Subsection 1 of section 71 of the said Act is repealed and the following substituted therefor:

(1) Where registered land or an interest therein is acquired by trustees under The Religious Organizations' Lands Act, 1979, it shall be registered in the name of the religious organization without setting out the purposes or trusts on which the land or interest is held.

(2) The said section 71, as amended by the Statutes of Ontario, 1972, chapter 132, section 17, is further amended by adding thereto the following subsection:

(4) A transfer or cessation of a charge made by the trustee or trustees mentioned in subsection 3 shall not be registered unless there is attached thereto an affidavit made by the trustee or, where there is more than one trustee, by one of them or by the solicitor for the trustee or trustees, deposing that the signing trustee is, or trustees are, authorized to execute the transfer or cessation.

25. The said Act is amended by adding thereto the following section:

74a. Subject to section 71, no person, other than a corporation, may be shown as the registered owner of land or a charge unless the person is described by his surname and by at least one given name in full.

26. Subsection 3 of section 79 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 19, is repealed and the following substituted therefor:

(3) Subject to the regulations, the Trans-Canada Pipe Line register established under clause c of section 182 shall be deemed,
for the purposes of this Act, to be a register of the title of land or interests therein, including easements, owned by TransCanada PipeLines Limited.

27. The said Act is further amended by adding thereto the following section:

89a. No person authorized to take affidavits shall take an affidavit,

(a) as to the execution of an instrument to which he is a party; or

(b) as to the execution of an instrument unless the witness has subscribed on the instrument his name in his handwriting as witness.

28. Section 97 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 22, is repealed.

29.—(1) Subsection 2 of section 98 of the said Act is repealed and the following substituted therefor:

(2) A charge that secures the payment of money shall contain the amount of the principal sum that the charge secures, the rate of interest and the periods of payment including the due date.

(2) Subsection 7 of the said section 98 is repealed.

30. Subsection 3 of section 106 of the said Act is repealed and the following substituted therefor:

(3) On the requisition or certificate of the registered owner of a registered charge or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom, the land registrar may note on the register the discharge of such land from the charge, and thereupon the charge ceases as to the land discharged.

31.—(1) Subsection 4 of section 115 of the said Act is amended by striking out "a copy" in the second line and inserting in lieu thereof "an executed copy".

(2) Subsection 7 of the said section 115 is amended by striking out "in the prescribed form" in the eighth line.

32. Sections 117, 118, 119, 120 and 121 of the said Act are repealed.

33. Section 121a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 132, section 25, is repealed.
34. Subsection 9 of section 129 of the said Act is repealed and the following substituted therefor:

(9) Where a condition, restriction or covenant has been registered as annexed to or running with the land and no period or date was fixed for its expiry, the condition, restriction or covenant is deemed to have expired forty years after the condition, restriction or covenant was registered, and may be deleted from the register by the land registrar.

35. Subsection 2 of section 140 of the said Act, as re-enacted by the Statutes of Ontario, 1979, chapter 20, section 3, is repealed and the following substituted therefor:

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1970 or after the 10th day of April, 1979.

36.—(1) Subsection 1 of section 143 of the said Act is amended by striking out “until notice has been served upon the cautioner in accordance with the rules” in the sixth and seventh lines and inserting in lieu thereof “without the consent of the cautioner”.

37.—(1) Subsection 2 of section 144 of the said Act is repealed and the following substituted therefor:

(2) The registered owner, or any other person having an interest in land or a charge against which a caution has been registered, may apply to the land registrar at any time for a notice to be served upon the cautioner warning him that his caution may cease to have effect unless the cautioner appears before the land
registrar at the time and place mentioned in the notice and satisfies him that the caution should not be deleted from the register.

(2) Subsections 4 and 5 of the said section 144 are repealed and the following substituted therefor:

(4) If the cautioner fails to satisfy the land registrar that the caution should continue, the land registrar may order that the entry of the caution be deleted from the register, and, unless the order is appealed, the land registrar shall delete the entry of the caution from the register and thereupon the caution ceases.

(3) Subsection 6 of the said section 144 is amended by striking out "A notice to" in the first line and inserting in lieu thereof "The consent of" and by striking out "after notice to the cautioner," in the sixteenth line and inserting in lieu thereof "the consent of the cautioner is obtained".

(4) Subsection 7 of the said section 144 is repealed and the following substituted therefor:

(7) Where a caution affects part only of the land dealt with by the transfer, charge or other instrument, the land registrar may, upon the application in writing of the person desiring registration or his solicitor, register the instrument as to the land not affected by the caution, and may subsequently, with the consent of the cautioner, register the dealing as to the remainder of the land dealt with by the instrument or any part thereof.

(5) Subsection 8 of the said section 144 is repealed and the following substituted therefor:

(8) A land registrar, upon receiving a withdrawal of caution in the prescribed form, may delete the caution referred to in the withdrawal from the register.

38. Section 145 of the said Act is repealed.

39. Section 146 of the said Act is repealed.

40. Section 160a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 132, section 30 and amended by 1973, chapter 39, section 1, is repealed and the following substituted therefor:

160a.—(1) Except as provided by subsection 2, where land described in a description as defined in The Condominium Act, 1978 or shown on a plan of subdivision is situate in a land titles
division, the description along with the appropriate declaration or
the plan of subdivision, as the case may be, shall be registered
under this Act.

(2) A plan of subdivision may be registered under The Registry
Act where,

(a) the plan is presented and accepted for registration within
six months after the operation of this Act was extended
to the area in which the land is situate;

(b) the registration under this Act of the land included in the
plan would, in the opinion of the Director of Titles,
result in an unreasonable delay in the registration of the
plan; or

(c) a regulation made under subsection 3 applies to the land
shown on the plan.

(3) The Lieutenant Governor in Council may make regulations
designating such land titles divisions, or parts thereof, as are
specified in the regulations as areas within which subsection 1
does not apply and such designation may be limited to a specified
period or may expire on a specified date.

41.- (1) Subsection 2 of section 161 of the said Act is amended by s. 161 (2),
striking out “and certified by him in the prescribed form” in the
fourth and fifth lines.

(2) Subsection 3 of the said section 161 is amended by striking out “but no seal shall be affixed thereto” in the second line.

(3) Subsections 4, 5 and 6 of the said section 161 are repealed.

42. Section 162 of the said Act, as amended by the Statutes of Ontario,
1972, chapter 1, section 43, is repealed.

43. Subsection 3 of section 164 of the said Act is repealed and the
following substituted therefor:

(3) A subsequent severance from land shown on a plan regis-
tered under subsection 1 may be delineated by an Ontario land
surveyor upon a duplicate of the plan so registered.

44. Subsections 1 and 4 of section 167 of the said Act are repealed and
the following substituted therefor:

(1) A transfer or charge of freehold or leasehold land shall not
be registered unless a plan of the land prepared by an Ontario land
surveyor, to be known as a reference plan, has been deposited for record in the land registry office.

4.5. Section 170 of the said Act is repealed.

4.6. Subsection 1 of section 172 of the said Act is repealed.

4.7.—(1) Clause c of section 182 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 43, is repealed and the following substituted therefor:

(c) the mode in which any special register is to be made and kept;

(c) the hours during which the land registry offices shall be kept open and the hours during which instruments shall be received for registration.

(2) Clause d of the said section 182, as amended by the Statutes of Ontario, 1972, chapter 132, section 35, is repealed and the following substituted therefor:

(d) the forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all proceedings or in connection with the registration, and requiring any information in connection with any form, evidence or procedure to be verified by affidavit or declaration;

(3) Clause e of the said section 182 is repealed and the following substituted therefor:

(e) the custody, disposition and destruction of instruments and records of land registry offices;

(e) the functions of land registrars relating to the first registration of land under this Act, and specifying which of the functions shall be performed by the Director of Titles.

(4) The said section 182 is amended by adding thereto the following subsection:

(2) The application of any provision of the regulations made under subsection 1 may be limited to one or more land titles divisions.

4.8.—(1) Subsection 1 of section 184 of the said Act is repealed and the following substituted therefor:

(1) Every registered instrument and deposited or registered plan is the property of the Crown and, except as otherwise provided in the regulations, shall be retained in the custody of the land registrar in his office.
(2) Clause a of subsection 2 of the said section 184 is amended by striking out "registered" in the second line and inserting in lieu thereof "retained".

(3) Subsection 3 of the said section 184 is repealed.

49.—(1) Section 184a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 132, section 36, is amended by striking out "$1,000" in the twelfth line and inserting in lieu thereof "$5,000".

(2) The said section 184a is further amended by adding thereto the following subsection:

When limitation period starts to run

(2) For the purpose of determining the last day to prosecute, the limitation period in respect of an offence under subsection 1 shall start at the time that offence is first discovered by the land registrar.

50. Subsection 1, as amended by the Statutes of Ontario, 1972, chapter 132, section 37, and subsections 2 and 3 of section 185 of the said Act are repealed and the following substituted therefor:

(1) A land registrar shall not register,

(a) a transfer;

(b) a notice of an agreement of purchase and sale of land or an assignment thereof;

(c) a notice of an option for the purchase of land or an assignment thereof;

(d) a charge or a transfer thereof;

(e) a notice of a lease, a sublease, an agreement to lease, an option to lease, an assignment of the lessor's interest in a lease or any assignment thereof;

(f) a claim for a mechanics' lien or an assignment thereof;

(g) a notice of security interest under The Personal Property Security Act or an assignment thereof;

(h) a certificate of judgment or a final order of foreclosure of a mortgage;

(i) a vesting order;
(j) a notice of lien under section 32 of The Condominium Act, 1978;

(k) an application to be registered as owner of land or of a charge, or

(l) a caution,

unless there is endorsed on the instrument the address for service of each person obtaining or claiming an interest in or in respect of land under the instrument.

(2) An address for service provided under this section may be changed by registering a notice in the prescribed form.

51. The said Act and the regulations thereunder are amended by striking out "master of titles" and "proper master of titles" wherever they occur and substituting therefor in each instance "land registrar".

52. No provision in this Act affects the validity or legal consequence, as the case may be, of the registration of any instrument or plan that was registered before the provision came into force.

53. A reference in any Act or regulation to a master of titles shall be deemed to be a reference to a land registrar.

54.—(1) This Act, except sections 2, 3, 4, 8, 11, 13, 40 and 50, comes into force on the 1st day of January, 1980.

(2) Sections 2, 3, 4, 8, 11, 13, 40 and 50 come into force on a day to be named by proclamation of the Lieutenant Governor.

55. The short title of this Act is The Land Titles Amendment Act, 1979.