

Chapter 15

AN ACT TO AMEND THE LAND TITLES ACT

(Assented to November 3, 2000)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. The *Land Titles Act* is amended by this Act.

2. Section 18 is repealed.

3. The following section is added after section 20:

Faxed documents

20.1. (1) Notwithstanding any other provision of this Act or any other Act or law, a Registrar may, subject to any prescribed conditions, register instruments or caveats that are submitted by fax.

Validity

(2) A document registered under subsection (1) shall be deemed for all purposes to be an original document.

Time of receipt

(3) For the purposes of determining when an instrument or caveat submitted by fax was received, the stamp applied by the Registrar under section 19 is conclusive.

4. Subsection 21(1) is repealed and the following substituted:

Day-book

21. (1) A Registrar may keep a record, in written or electronic form, called the day-book.

5. Section 28 is repealed and the following substituted:

Age of majority

28. A Registrar shall require evidence in the prescribed form that an individual making a transfer, mortgage, special encumbrance or lease has attained the age of 19 years.

Family home

28.1. A Registrar shall require evidence in the prescribed form that an individual making a transfer, mortgage, special encumbrance or lease is entitled to do so under section 53 of the *Family Law Act*.

6. Section 29 is repealed and the following substituted:

Execution of documents by corporation

29. (1) An instrument executed by a corporation, notwithstanding anything to the contrary in any other Act or law, or any Act or document incorporating the corporation, is sufficiently executed by the corporation for the purposes of this Act if the instrument is

- (a) sealed with the corporate seal of the corporation and signed by at least one officer or director of the corporation; or
- (b) executed by at least one officer or director of the corporation who verifies his or her authority to execute the instrument in the prescribed form.

Person making mark

(2) Where a person executing an instrument signs the instrument with a mark, the Registrar may require that the instrument be accompanied by a written statement from a witness stating

- (a) the name of the person signing with a mark;
- (b) that the witness knows the person, and saw the person sign with a mark;
- (c) that the contents of the instrument were explained to the person; and
- (d) that the person appeared to understand the contents of the instrument.

7. Subsection 32.2(1) is amended by striking out "Every Registrar shall make" and substituting "A Registrar may make".

8. The following section is added after section 41:

Amendment of certificate of title

41.1. Where, under any provision of this Act, a Registrar is required to issue a new certificate of title, the Registrar may instead issue an amended certificate of title, and the amended certificate of title is as valid for all purposes as a new certificate of title.

9. Subsections 45(1), (2) and (3) are repealed and the following substituted:

Duplicate certificates

45. (1) A Registrar who issues a certificate of title to an owner shall issue a duplicate certificate if the owner requests the duplicate certificate in writing, and pays the prescribed fee.

Notation where no duplicate certificate

(2) Where a Registrar has issued a certificate of title, and is not required to issue a duplicate certificate under subsection (1), the Registrar shall enter a notation on the certificate of title that no duplicate certificate has been issued.

Cancellation or retention of duplicates

(3) An owner may provide a duplicate certificate of title to a Registrar and may request that it be cancelled, or kept by the Registrar until the owner requests that it be returned, and where an owner so requests, the Registrar shall cancel, retain or return the certificate, as the case may be.

10. Subsection 76(3) is amended:

- (a) by adding "and" after paragraph (a);
- (b) by striking out "and" after paragraph (b); and
- (c) by repealing paragraph (c).

11. Subsection 107(2) is repealed and the following substituted:

Requirements

(2) A lease referred to in subsection (1) must refer to the certificate of title of the land intended to be dealt with or give the description that is necessary to identify that land.

12. (1) Subsection 112(1) is repealed and the following substituted:

Surrender of lease

112. (1) Where a lease has been surrendered, other than through the operation of a surrender in law, either the lessee or the lessor under the surrendered lease may submit to a Registrar a surrender of the lease in the prescribed form.

Where lease registered as a section 59.2 caveat

(1.1) Subject to subsection (2) the Registrar shall accept a surrender of lease submitted in accordance with subsection (1) notwithstanding that the surrendered lease is registered as a caveat under section 59.2.

(2) The following is added after subsection 112(2):

Encumbrance under subsection (2)

(2.1) For the purpose of subsection (2) an encumbrance does not include a caveat registered under section 59.2 where the document attached as the caveat is the surrendered lease or an amendment, assignment or transfer of the surrendered lease.

(3) Subsection 112(3) is amended by adding "and may discharge any caveats registered under section 59.2 that relate to the surrendered lease" after "duplicate for the estate or interest of the lessee".

13. Subsection 113(3) is amended:

- (a) by adding "and" after paragraph (a);
- (b) by striking out "and" after paragraph (b); and
- (c) by repealing paragraph (c).

14. Section 114 is amended by adding "and the owner requests the return of the duplicate certificate" after "no longer subject to a mortgage or special encumbrance".

15. Section 128 is repealed.

16. Subsection 149(2) is repealed and the following substituted:

Caveats registered under s.59.2

(2) An owner or other person may not send a notice referred to in subsection (1) to a person named as a caveator in a caveat registered under section 59.2 by registered mail to the current post office address shown on the records of the Registrar, or to an alternate post office address, except with the approval of:

- (a) the Registrar pursuant to section 149.1; or
- (b) a judge of the Nunavut Court of Justice pursuant to section 180.

17. The following section is added after section 149:

Service by mail for caveats registered under s.59.2

149.1. (1) An owner or other person claiming an interest in land may apply to a Registrar for approval of service of a notice referred to in subsection 149(1) by registered mail to a specified post office address of a person named as caveator in a caveat registered under section 59.2.

Review of application by Registrar

(2) The Registrar may approve service at the specific post office address identified in the application if the Registrar is satisfied that service by registered mail at this address will likely be effective.

Notice by registered mail

(3) Where an owner or other person claiming an interest in land sends a notice referred to in subsection 149(1) by registered mail to a post office address approved by the Registrar under subsection (2) within 30 days of the date of the Registrar's approval, the notice shall be deemed to have been sent in accordance with subsection 149(1).

Content of application to approve address

- (4) An application under subsection (1) must
 - (a) be in the prescribed form; and
 - (b) be accompanied by a statutory declaration in which someone with knowledge of the facts declares that he or she believes that service by registered mail at the proposed address will likely be effective to serve notice on the person named in the caveat, and declares his or her reasons for forming that belief.

18. The following section is added after section 152:

Withdrawal of section 59.2 caveats by current lessee

152.1. (1) The present lessee of a parcel of land may, by notice to a Registrar in the prescribed form, withdraw a caveat that is registered under section 59.2 as if the lessee were the caveator named in the caveat to be withdrawn if:

- (a) the caveat to be withdrawn was filed on behalf of a prior lessee under the present lessee's lease, and
- (b) the present lessee holds the total interest remaining under the lease.

Accompanying information

(2) A withdrawal under subsection (1) must be accompanied by:

- (a) a certificate in the prescribed form from the owner of the fee simple estate in the leased parcel of land certifying that the lessee is the holder of the entire interest remaining under the lease; and
- (b) the consent of the holder of any mortgages, charges or other encumbrances registered against the parcel of land.

19. Section 180 is amended by adding "or may grant an order dispensing with service" at the end.

20. Section 195 is amended by adding the following paragraph after paragraph (b):

- (b.1) prescribing conditions for the purposes of section 20.1, including prescribing instruments and caveats or classes of instrument or caveat that may not be accepted under that section;

21. This Act comes into force on a day to be fixed by order of the Commissioner.