

1992

CHAPTER 27

An Act to amend *The Homesteads Act, 1989*

(Assented to July 31, 1992)

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

Short title

1 This Act may be cited as *The Homesteads Amendment Act, 1992*.

S.S. 1989-90, c.H-5.1 amended

2 *The Homesteads Act, 1989* is amended in the manner set forth in this Act.

Section 5 amended

3 Subsection 5(3) is repealed and the following substituted:

“(3) Where subsection (2) applies, an affidavit pursuant to clause 8(1)(b) shall be signed by one of the spouses”.

Section 6 amended

4 Subsection 6(1) is repealed and the following substituted:

“(1) No disposition of a homestead shall be made without the consent of the non-owning spouse in the form prescribed in the regulations”.

Section 7 amended

5 Section 7 is amended:

(a) by adding “the consent to” after “signs” in clause (1)(b);

(b) in subsection (3):

(i) by adding “shall be” after “regulations”; and

(ii) by striking out “shall be contained in, attached to or written or endorsed on the disposition”;

(c) by striking out “the disposition shall have contained in, attached to or endorsed or written on it a certificate by” in subsection (4) and substituting “a certificate in the form prescribed in the regulations shall be signed by”; and

(d) by repealing subsection (8) and substituting the following:

“(8) Notwithstanding subsections (1) to (7), where an order of the court dispensing with consent is obtained pursuant to section 11, the certificates mentioned in this section are not required”.

Section 8 amended

6 Subsection 8(1) is repealed and the following substituted:

"(1) Subject to sections 24, 25 and 26, where a disposition of land is to be made that does not comply with sections 6 and 7 and an order of the court dispensing with consent has not been made:

(a) each signator of the disposition shall swear an affidavit in the form prescribed in the regulations stating that:

(i) the land described in the disposition is not his or her homestead;

(ii) he or she has no spouse;

(iii) he or she and his or her spouse have entered into an interspousal agreement pursuant to *The Matrimonial Property Act*, whether before or after the coming into force of this section, in which his or her spouse has specifically released all of his or her rights under this Act with respect to the land which is the subject of the disposition;

(iv) an order has been made by the court pursuant to *The Matrimonial Property Act*, whether before or after the coming into force of this section, declaring that his or her spouse has no rights under this Act with respect to the land which is the subject of the disposition, and either that order has not been appealed and the time for making an appeal has expired or all appeals from the order have been disposed of or discontinued; or

(v) the disposition complies with section 10; or

(b) one of the signators of the disposition shall swear an affidavit in the form prescribed in the regulations stating that his or her spouse is a registered owner of the land that is the subject of the disposition and that the spouse is a co-signator of the disposition".

Section 10 amended

7 Subsection 10(2) is repealed.

Section 11 amended

8 Subsection 11(5) is repealed.

New section 12.1

9 The following section is added after section 12:

Liability of owning spouse

"12.1 An owning spouse is liable to the non-owning spouse in an action for damages, if the owning spouse makes a disposition of a homestead to which a consent is required by this Act without obtaining:

(a) the consent of the non-owning spouse; or

(b) an order dispensing with the consent of the non-owning spouse".

New sections 13 and 13.1

10 Section 13 is repealed and the following substituted:

Assurance fund

"13(1) The causes of action established in sections 12 and 12.1 are in addition to the rights of the non-owning spouse pursuant to sections 197 to 210 of *The Land Titles Act*.

(2) For the purposes of sections 197 to 210 of *The Land Titles Act*, the rights of a non-owning spouse pursuant to this Act are an interest in land.

(3) Where a non-owning spouse asserts a claim against the registrar as described in section 197 of *The Land Titles Act*, sections 198 to 210 of that Act shall apply and shall be complied with.

Registrar not obligated to verify documents

"13.1 Notwithstanding any other Act or law, the registrar of the land titles office is not obligated to examine a disposition to determine whether or not there has been compliance with this Act".

Section 19 amended

11 Section 19 is amended:

(a) by striking out "accompany" in subsection (3); and

(b) by striking out "an affidavit of the personal representative in the form prescribed in the regulations is to accompany the disposition" in subsection (4) and substituting "the personal representative shall swear an affidavit in the form prescribed in the regulations".

Section 20 amended

12 Subsection 20(4) is repealed.

Section 22 amended

13 Subsection 22(3) is repealed.

Section 25 amended

14 Subsections 25(2) and (3) are repealed.

Section 26 amended

15 Subsection 26(2) is repealed.

Coming into force

16 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.