

2001

CHAPTER 20

An Act to amend *The Land Titles Act, 2000* and to make consequential amendments to certain Acts

(Assented to June 28, 2001)

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

PART I
Short Title

Short title

1 This Act may be cited as *The Land Titles Amendment Act, 2001*.

PART II
Amendments to *The Land Titles Act, 2000*

S.S. 2000, c.L-5.1 amended

2 *The Land Titles Act, 2000* is amended in the manner set forth in this Act.

Section 2 amended

3 Subsection 2(1) is amended:

(a) by repealing clause (b) and substituting the following:

“(b) **‘application’**, unless the context otherwise requires, means an application to do any of the following:

- (i) to have title issue on the basis of a Crown grant;
- (ii) to register a transfer;
- (iii) to register an interest;
- (iv) to otherwise deal with a registered interest;
- (v) to file a document in the abstract directory pursuant to Part IX;
- (vi) to register a writ or maintenance order in the writ registry pursuant to Part XVIII;
- (vii) to otherwise add, change or remove information in the land titles registry, the abstract directory or the writ registry”; **and**

(b) by adding the following subclauses after subclause (nn)(v):

“(vi) to register a writ or maintenance order in the writ registry;

“(vii) to otherwise add, change or remove information in the writ registry”.

Section 3 amended

4 Subsection 3(2) is amended by striking out “subsection 27(5),”.

Section 14 amended

5 Clause 14(b) is amended by striking out “section 18” and substituting “sections 18 to 20”.

Section 17 amended

6 Subsection 17(3) is amended:

(a) in clause (a) by adding “or any” after “ownership of all”; and

(b) by repealing clause (b) and substituting the following:

“(b) issue mineral titles to all or any of the mineral commodities if the Registrar is satisfied that the purported ownership of the mineral commodity or mineral commodities in the mineral parcel is correct”.

Section 18 amended

7 The following subsection is added after subsection 18(2):

“(3) The exceptions, reservations and interests that are implied against a title pursuant to subsection (1) do not apply if an Act, an Act of the Parliament of Canada or any other law expressly states or implies that they do not apply”.

Section 20 amended

8 Clause 20(1)(a) is amended by striking out “Transport Commission has granted leave for the crossing pursuant to the *Railway Act* (Canada)” and substituting “Canadian Transportation Agency has granted leave for the crossing pursuant to the *Canada Transportation Act*”.

Section 39 amended

9 Subsection 39(3) is repealed and the following substituted:

“(3) Once the Registrar has been notified in accordance with subsection (2) and for as long as the registered owner or interest holder remains a child, no application for registration of a transfer or of an amendment, assignment or discharge of an interest to which the Public Trustee’s or other person’s notice applies shall be registered without:

(a) the Public Trustee’s consent, in the prescribed manner;

(b) the consent, in the prescribed manner, of a guardian of the child’s property appointed pursuant to *The Children’s Law Act, 1997*; or

(c) a court order authorizing the registration”.

Section 40 amended

10 Subsection 40(3) is amended by striking out the portion preceding clause (a) and substituting the following:

“Once the Registrar has been notified in accordance with subsection (2), no application for registration of a transfer or of an amendment, assignment or discharge of an interest to which the property guardian’s notice applies shall be registered without:”.

Section 44 amended

11 Clause 44(3)(a) is amended by striking out “section 18” and substituting “sections 18 to 20”.

Section 47 amended

12 Clause 47(3)(b) is amended by striking out “section 18” and substituting “sections 18 to 20”.

New section 48

13 Section 48 is repealed and the following substituted:

“No transfer of uncertified mineral titles, exceptions

48(1) Subject to subsection (2), no application for registration of a transfer respecting an uncertified mineral title may be registered.

(2) The Lieutenant Governor in Council may prescribe circumstances in which an application for registration of a transfer respecting an uncertified mineral title may be registered”.

Section 50 amended

14 Subsection 50(2) is amended by striking out “or an interest” and substituting “or a registered interest”.

Section 51 repealed

15 Section 51 is repealed.

Section 69 amended

16 Clause 69(1)(b) is repealed and the following substituted:

“(b) **‘unpatented land’** means:

- (i) land for which no letters patent have issued from the Crown;
- (ii) land for which no Crown grant has been issued;
- (iii) land that has not otherwise been conveyed from the Crown; or
- (iv) land expropriated by the Crown in right of Canada that was at one time:
 - (A) land for which letters patent had issued from the Crown in right of Canada or Saskatchewan;
 - (B) land for which a grant from the Crown in right of Canada or Saskatchewan had been issued;
 - (C) land that had been otherwise conveyed from the Crown in right of Canada or Saskatchewan”.

Section 70 amended**17 The following subsections are added after subsection 70(5):**

“(6) The abstract directory is a public registry of the people of Saskatchewan.

“(7) All information in the abstract directory is the property of the Government of Saskatchewan.

“(8) Access to and disclosure of information in the abstract directory is to be provided only in accordance with this Act, the regulations, and any rules established by the Registrar pursuant to subsection (3)”.

New section 77**18 Section 77 is repealed and the following substituted:****“Status of land titles registry**

77(1) The land titles registry is a public registry of the people of Saskatchewan.

(2) All information in the land titles registry is the property of the Government of Saskatchewan.

(3) Access to and disclosure of information in the land titles registry is to be provided only in accordance with this Act and the regulations”.

Section 84 amended**19 Clause 84(2)(c) is repealed and the following substituted:**

“(c) where the Registrar has made an error or omission in the performance of a duty or function pursuant to this Act that is not mentioned in clause (a) or (b)”.

New section 86**20 Section 86 is repealed and the following substituted:****“Exclusions from compensation re minerals**

86 Compensation is not payable with respect to loss, damage or deprivation arising from:

(a) a transfer of an uncertified mineral title on or after June 1, 1951 but before the coming into force of section 1 of this Act;

(b) a transfer of an uncertified mineral title after the coming into force of section 1 of this Act in the circumstances prescribed pursuant to subsection 48(2);

(c) the registration of an interest against an uncertified mineral title on or after June 1, 1951;

(d) the registration of an interest by way of a caveat against an uncertified mineral title on or after June 1, 1951 but before the coming into force of section 1 of this Act;

(e) a transfer of mines and minerals or the registration of an interest respecting mines and minerals against a title for the surface of land, including mines and minerals where a mineral certificate had not been issued, where the transfer or the registration of the interest occurred on or after June 1, 1951 but before the coming into force of section 1 of this Act; or

(f) a transfer to or the registration of an interest in favour of the Crown respecting an uncertified mineral title:

(i) before the coming into force of section 1 of this Act; or

(ii) in the circumstances prescribed pursuant to subsection 48(2)".

Section 100 amended

21 The following subsection is added after subsection 100(2):

“(3) Before effecting a registration pursuant to subsection (1), the Registrar may require a person vested with a title or interest as mentioned in that subsection to apply for registration to the Registrar in the prescribed manner”.

New section 106.1

22 The following section is added after section 106:

“Hours of operation

106.1 The Registrar may determine the hours of operation of:

(a) the land titles registry; and

(b) any function of the land titles registry, the writ registry or the abstract directory”.

Section 167 amended

23 Subsection 167(2) is repealed and the following substituted:

“(2) For the purposes of clause (1)(a), the Registrar shall register in the writ registry all writs and maintenance orders mentioned in that clause in accordance with the following rules:

(a) all writs and maintenance orders are to be registered in order based on the date the writ or maintenance order was filed in the general record in any land registration district or former land registration district;

(b) where two or more writs or maintenance orders filed in the general record in the same land registration district or former land registration district would rank equally based on clause (a), the writs or maintenance orders are to be registered in order based on the registration number assigned to the writs or maintenance orders in that land registration district or former land registration district;

(c) where two or more writs or maintenance orders filed in the general record in different land registration districts or former land registration districts would rank equally based on clause (a), the writs or maintenance orders are to be registered in order based on the date that the Lieutenant Governor in Council, by order pursuant to section 191, designates that this Act applies to the former land registration district in whose general record the writ or maintenance order was filed”.

Section 187 amended

24(1) Section 187(1) is amended:

- (a) by repealing clauses (e) and (f);**
- (b) by adding the following clause after clause (l):**

“(l.1) for the purposes of subsection 48(2), prescribing circumstances in which an application for registration of a transfer respecting an uncertified mineral title may be registered”; **and**

- (c) by adding the following clause after clause (ee):**

“(ee.1) respecting any matter or thing mentioned in subsection 203(1) that the Lieutenant Governor in Council considers necessary to facilitate the conversion process pursuant to this Act or to ensure the security and protection of rights to parcels, titles or interests”.

(2) Clause 187(2)(e) is amended by adding “, the abstract directory and the writ registry” after “land titles registry”.

(3) Subsection 187(4) is amended:

- (a) by striking out “and” after clause (a);**
- (b) by adding “and” after clause (b); and**
- (c) by adding the following clause after clause (b):**

“(c) to authorize the Registrar:

(i) to establish any additional criteria, terms, conditions or requirements that must be met in order to do that act or thing; and

(ii) to require any person to comply with the additional criteria, terms, conditions or requirements established by the Registrar”.

Section 195 amended

25 Subsection 195(1) is amended by striking out “converted mineral title”:

- (a) in clause (f);**
- (b) in clause (i); and**
- (c) in clause (j);**

and in each case substituting “mineral title issued pursuant to section 12”.

Section 205 amended

26(1) Subsection 205(1) is amended:

(a) in clause (a) by striking out “or *The Land Titles Consequential Amendment Act, 2000*” and substituting “, *The Land Titles Consequential Amendment Act, 2000* or Part III or Part IV of *The Land Titles Amendment Act, 2001*”; and

(b) in clause (c) by striking out “or *The Land Titles Consequential Amendment Act, 2000*” and substituting “, *The Land Titles Consequential Amendment Act, 2000* or Part III or Part IV of *The Land Titles Amendment Act, 2001*”.

(2) Subsection 205(4) is amended by striking out “, respectively” and substituting “of this Part, and Division 1 and Division 5 of Part III of *The Land Titles Amendment Act, 2001*”.

PART III
Consequential Amendments to Certain Acts amended by Part XXI
of *The Land Titles Act, 2000*

DIVISION 1
The Executions Act

R.S.S. 1978, c.E-12, section 22 amended

27 Subsection 22(2) of *The Executions Act*, as enacted by subsection 247(2) of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(2) Where a sheriff has in his or her hands any writ of execution then in force issued against lands of an execution debtor and the writ has been registered in the Saskatchewan Writ Registry and as an interest in the Land Titles Registry against a title or interest, the sheriff to whom the writ is directed for execution or the sheriff who becomes charged with the execution of the writ pursuant to subsection 25(3) may, subject to the other provisions of this Act, sell lands or interests that are held subject to a lien and charge created by the registration of an interest based on the writ of execution against the title or interest of the execution debtor pursuant to section 173 of *The Land Titles Act, 2000*”.

DIVISION 2
The Heritage Property Act

S.S. 1979-80, c.H-2.2 amended

28 *The Heritage Property Act* is amended in the manner set forth in this Division.

Section 12 amended

29 Clause 12(3)(c) of *The Heritage Property Act*, as that clause is enacted by subsection 289(1) of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(c) in the case of a bylaw to designate Municipal Heritage Property, register an interest based on the notice of designation in the Land Titles Registry against all titles for the parcels of land included in the bylaw”.

Section 17 amended

30 Subsection 17(2) of *The Heritage Property Act*, as that subsection is amended by section 292 of *The Land Titles Act, 2000*, is amended:

(a) in clause (d) by striking out “an interest based on the notice of intention in the Land Titles Registry against all affected titles” and substituting “an amendment of the interest based on the notice of intention in the Land Titles Registry against all affected titles”; and

(b) in clause (e) by striking out “an interest based on a Heritage Conservation District notice in the Land Titles Registry against all affected titles” **and substituting** “an amendment of the interest based on a Heritage Conservation District notice in the Land Titles Registry against all affected titles”.

Section 18 amended

31 Clause 18(3)(c) of *The Heritage Property Act*, as that clause is enacted by subsection 293(1) of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(c) where an amendment has the effect of adding Municipal Heritage Property to the designation, register an amendment to the interest based on the notice of designation in the Land Titles Registry against all affected titles”.

DIVISION 3

The Homesteads Act, 1989

S.S. 1989-90, c.H-5.1, section 21 amended

32 Subsection 21(2) of *The Homesteads Act, 1989*, as that subsection is amended by section 322 of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(2) Unless the non-owning spouse or surviving non-owning spouse mentioned in subsection (1) has registered an interest pursuant to section 14 of this Act or filed a caveat pursuant to this Act or any previous *Homesteads Act*, he or she is, without being joined, bound by the judgment in the proceedings”.

DIVISION 4

The Municipal Expropriation Act

R.S.S. 1978, c.M-27, section 18.1 amended

33 Subsection 18.1(1) of *The Municipal Expropriation Act*, as that subsection is enacted by section 352 of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(1) In the case of the land mentioned in subsection 14(3), the clerk or secretary treasurer shall apply to the Registrar of Titles to issue title to the parcels shown on the plan”.

DIVISION 5
The Personal Property Security Act, 1993

S.S. 1993, c.P-6.2, section 49 amended

34 Subsections 49(9), (9.1) and (9.2) of *The Personal Property Security Act, 1993*, as those subsections are enacted by subsection 371(8) of *The Land Titles Act, 2000*, are repealed and the following substituted:

“(9) Where a secured party fails to amend or discharge the interest registration in accordance with a demand given pursuant to subsection (7), the person who gives the demand may apply to the registrar to amend or discharge the registered interest.

“(9.1) An application pursuant to subsection (9) must be accompanied by the demand given pursuant to subsection (7).

“(9.2) On receipt of an application pursuant to subsection (9) and on receiving proof satisfactory to the registrar that the demand has been given to the secured party, the registrar shall amend or discharge the interest registration in accordance with the demand”.

DIVISION 6
The Planning and Development Act, 1983

S.S. 1983-84, c.P-13.1 amended

35 *The Planning and Development Act, 1983* is amended in the manner set forth in this Division.

Section 134 amended

36 The following subsections are added after subsection 134(1) of *The Planning and Development Act, 1983*, as that subsection is enacted by section 383 of *The Land Titles Act, 2000*:

“(1.1) No person shall apply to the Registrar of Titles to register a transfer of title or to obtain title to a new parcel of land where registration of that application would have the effect of subdividing land unless:

(a) the Controller of Surveys has approved a plan respecting the subdivision; and

(b) the appropriate approving authority has issued a certificate of approval respecting the subdivision.

“(1.2) Any person who acquires title to land without obtaining a certificate of approval where required pursuant to subsection (1.1) is deemed to have acquired that title by participating or colluding in fraud pursuant to clause 15(1)(a) of *The Land Titles Act, 2000*”.

Section 163 amended

37(1) Section 163 of *The Planning and Development Act, 1983*, as that section is enacted by section 397 of *The Land Titles Act, 2000*, is amended in the manner set forth in this section.

(2) Subsection (1) is amended by striking out “register an interest based on the replotting scheme” **and substituting** “prohibit, pursuant to section 99 of *The Land Titles Act, 2000*, a transfer or the registration of any interest”.

(3) Subsection (3) is amended by striking out “an interest is registered” **and substituting** “the Registrar of Titles imposes a prohibition”.

(4) Subsection (4) is amended in the portion preceding clause (a) by striking out “The registration of an interest pursuant to this section” **and substituting** “Where the Registrar of Titles imposes a prohibition in accordance with this section, the record of the prohibition in the Land Titles Registry”.

(5) Subsection (5) is amended by striking out the portion preceding clause (a) and substituting the following:

“After the Registrar of Titles records a prohibition in the Land Titles Registry in accordance with this section, no person who acquires an interest in land in the replotting scheme is entitled to receive any notice of proceedings with respect to the replotting scheme unless that person files with the municipal administrator:”.

Section 172 amended

38 Clause 172(2)(b) of *The Planning and Development Act, 1983*, as that clause is enacted by section 399 of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(b) discharge any registered interest that was based on:

(i) a building restriction; or

(ii) a building restriction caveat or any other mutual or restrictive covenant that was registered pursuant to *The Land Titles Act* or any former *Land Titles Act*”.

DIVISION 7

*The Public Utilities Easements Act***R.S.S. 1978, c.P-45, section 13 amended**

39 Subsection 13(1) of *The Public Utilities Easements Act*, as that subsection is enacted by section 457 of *The Land Titles Act, 2000*, is repealed and the following substituted:

“(1) An assignment or interest based on a mortgage or charge of an easement acquired pursuant to this Act may be registered in the Land Titles Registry against the affected interests”.

DIVISION 8
The Tax Enforcement Act

R.S.S. 1978, c.T-2, section 19 amended

40(1) Section 19 of *The Tax Enforcement Act*, as that section is enacted by section 527 of *The Land Titles Act, 2000*, is amended in the manner set forth in this section.

(2) Subsection (1) is repealed and the following substituted:

“(1) The treasurer shall apply to the registrar, in the form required by the registrar, to discharge the registration of an interest based on a tax lien:

(a) if the registered owner of the title against which the municipality registered the interest pursuant to this Act, or if the registered owner’s executors, administrators or assigns or any other person on the registered owner’s behalf, pays to the treasurer:

(i) the arrears of taxes;

(ii) the expired portion of any insurance premium paid by the municipality pursuant to subsection 16(2);

(iii) the cost of advertising mentioned in section 4;

(iv) the required fee to register the interest;

(v) the amount of any disbursements necessarily made by the municipality, or by a person, including a solicitor, acting on behalf of the municipality, in proceeding to acquire title, exclusive of any amounts payable pursuant to subclause (vi);

(vi) subject to any prescribed maximum amounts or the appropriate maximum amount set out in a schedule of prescribed maximum amounts, all legal and administrative costs incurred by the municipality in acting pursuant to this Act with respect to the land, including a reasonable amount to reflect time expended and costs incurred by persons who are employees or officers of the municipality and who are acting in a legal or administrative capacity;

(vii) the required fee to discharge the interest; and

(viii) subject to any prescribed maximum amounts, any other costs incurred by the municipality in acting pursuant to this Act with respect to the land, including the costs of:

(A) repair, including repair to buildings, parts of buildings, structures and fixtures;

(B) maintenance;

(C) cleaning, including the cleaning of environmental contamination; and

(D) the fee paid by the municipality pursuant to subsection 7.1(2) of *The Provincial Mediation Board Act*; or

(b) if the land is redeemed pursuant to section 20”.

(3) Subsection (4) is repealed and the following substituted:

“(4) Where severance of title has taken or takes place after the registration of an interest based on a tax lien in the Land Titles Registry and where the municipality has not paid the taxes due and payable pursuant to *The Mineral Taxation Act, 1983* or any former *Mineral Taxation Act* with respect to the land and minerals, the treasurer shall, on receipt of a certificate from the Deputy Minister of Energy and Mines that all the taxes have been paid, apply to the registrar, in the form required by the registrar, to discharge the registration of the interest”.

PART IV

Consequential Amendments to Certain Other Acts

DIVISION 1

The Adult Guardianship and Co-decision-making Act

S.S. 2000, c.A-5.3, new sections 57 to 59

41 Sections 57 to 59 of *The Adult Guardianship and Co-decision-making Act* are repealed and the following substituted:**“Filing of appointment**

57(1) A property decision-maker shall register the following in the Land Titles Registry where, in the opinion of the property decision-maker, the adult has an interest in a title to land or in a registered interest in land:

- (a) a notice of his or her authority to act in the prescribed form;
- (b) a copy, certified by a local registrar of the court to be a true copy, of the order appointing him or her to act as a property decision-maker.

(2) The notice mentioned in subsection (1) is to contain a description of the titles and registered interests with respect to which the notice is to be registered.

(3) On receipt of the documents mentioned in subsection (1), the Registrar of Titles shall register the notice against all titles and interests described in the notice.

(4) After a notice is registered pursuant to subsection (3), any application to transfer title or to amend, assign or discharge an interest with respect to which the registered notice applies must be authorized by the property decision-maker in writing.

(5) Subsection (4) does not apply to:

- (a) an application to transfer title or to amend, assign or discharge an interest based on a court order; or
- (b) an application to register a transfer of title where the consent of the registered owner is not required pursuant to *The Land Titles Act, 2000*.

“Withdrawal or amended notice

58(1) A property decision-maker shall apply to the Registrar of Titles, in the prescribed form, to discharge a notice registered pursuant to section 57 or to register an amended notice containing the alterations and corrections to the notice registered pursuant to section 57 where:

- (a) the appointment for which the notice was registered pursuant to section 57 has been varied;
- (b) the adult with respect to whom the notice was registered pursuant to section 57 does not have an interest in the title or interest, or in any specified part of the title or interest, described in the notice; or
- (c) an error was made in the notice registered pursuant to section 57.

(2) Where there is a transfer of title or an assignment of an interest that is the subject of a notice mentioned in section 57 and the transfer or assignment is in accordance with the order mentioned in clause 57(1)(b), registration of the transfer or assignment in the Land Titles Registry is deemed to be a discharge of that notice respecting the title transferred or interest assigned.

“Death of adult

59 Where an adult with respect to whom a notice has been registered pursuant to section 57 dies, receipt by the Registrar of Titles of a notarial copy of the adult’s death certificate or a copy, certified by a local registrar of the court to be a true copy, of letters probate or letters of administration with respect to the adult is deemed to be a withdrawal of the notice mentioned in section 57”.

DIVISION 2

The Northern Municipalities Act

S.S. 1983, c.N-5.1, section 2 amended

42 Clause 2(1)(u) of *The Northern Municipalities Act* is amended:

(a) by striking out “a registered subdivision”:

- (i) in subclause (i); and**
- (ii) in subclause (ii);**

and in each case substituting “an approved plan”; and

(b) in subclause (iii) by striking out “that has not been registered” and substituting “for which a plan has not been approved”.

DIVISION 3

The Rural Municipality Act, 1989

S.S. 1989-90, c.R-26.1, section 2 amended

43 Clause 2(1)(aa) of *The Rural Municipality Act, 1989* is amended by striking out “a registered subdivision” and substituting “an approved plan”.

DIVISION 4
The Urban Municipality Act, 1984

S.S. 1983-84, c.U-11, section 2 amended

44 Clause 2(1)(z) of *The Urban Municipality Act, 1984* is amended by striking out “a registered subdivision” and substituting “an approved plan”.

PART V
Coming into Force

Coming into force

45(1) Subject to subsections (2) and (3), this Act comes into force on the later of:

- (a) the day on which this Act is assented to; and
- (b) the day on which section 1 of *The Land Titles Act, 2000* comes into force.

(2) If this Act is assented to after the day on which section 1 of *The Land Titles Act, 2000* comes into force, sections 20, 23 and 32 of this Act come into force on assent but are retroactive and are deemed to have been in force on and from the date on which section 1 of *The Land Titles Act, 2000* comes into force.

(3) Division 1 of Part IV of this Act comes into force on the latest of:

- (a) the day on which this Act is assented to;
- (b) the day on which section 1 of *The Land Titles Act, 2000* comes into force; and
- (c) the day on which section 1 of *The Adult Guardianship and Co-decision-making Act* comes into force.