



Ministry of Government and
Consumer Services
ServiceOntario
Policy and Regulation Branch

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***Land Titles Act
Registry Act
Land Registration
Reform Act***

DATE: MARCH 7, 2008

**New Access
Requirements for
ELRS; Registration
Requirements for
Transfers and Powers
of Attorney**

**TO: ALL LAND REGISTRARS
AND
USERS OF THE ELECTRONIC
LAND REGISTRATION SYSTEM**

A. OVERVIEW

On December 20th, 2006, the Ministry of Government Services *Consumer Protection and Service Modernization Act, 2006* (Bill 152) received Royal Assent. The Act contained amendments to a number of statutes, including the *Land Registration Reform Act*, *Land Titles Act* and *Registry Act*, to address issues related to real estate fraud.

The Ministry continues to work with the Real Estate Fraud Stakeholder Consultation Group and users of the land registration system as we move forward to implement the provisions of the legislation and other initiatives contained in the Real Estate Fraud Action Plan to combat fraud. We have consulted with a number of stakeholders over the past eighteen months to identify and put in place requirements that will further enhance the security of transactions in the electronic land registration system.

This Bulletin provides information related to the new access requirements, registration requirements for transfers of title and new registration requirements for powers of attorney and any documents registered under the authority of a power of attorney, and summarizes materials that have been communicated. Packages have been sent to Teraview® account holders with respect to the access requirements. If you have not received your application package, please refer to the ServiceOntario website, <http://www.serviceontario.ca/landregistration/>, select Real Estate Fraud from the menu on the left, where Applications and Application Guides are available to download, print and fill out by hand. Please call 1-866-262-8135 or 416-314-3138 for more information relating to the authorization process.

B. ACCESS REQUIREMENTS

The electronic land registration system (ELRS) has enhanced the security of Ontario's land registration by imposing increased identification requirements. Under the system, each user must have a unique access key, and all registrations performed through the use of that key are traceable back to the party.

A key component of the Real Estate Fraud Action Plan is the implementation of new processes related to access requirements to ensure that appropriate checks and safeguards are in place. The Director of Land Registration has authority under the *Land Registration Reform Act* to authorize persons to access the electronic land registration system to register documents and to establish the manner in which the authorization is assigned to those persons.

In this regard, the Ministry has introduced three criteria which must be met by anyone who wishes to submit documents for registration in the electronic land registration system. These criteria are:

Identity – to ensure that only those who are entitled to have access to the system are registering documents

Financial Resources – sufficient to compensate victims of fraud

Good Character/Accountability - to ensure that only those with appropriate qualifications and integrity are dealing with the registration system.

By ensuring that all Account Holders meet the criteria, we can further strengthen the security of the system and make certain that victims of real estate fraud have appropriate recourse where registrants have acted fraudulently.

The authorization process is being rolled out in two phases:

Phase 1, which will end on March 31, 2008, requires Account Holders that are **lawyers and law firms** (and other companies that employ lawyers who wish to register documents) to submit their application for authorization.

New statements will be required by the electronic land registration system as of Monday April 7th, 2008. If the Director's authorization has not been obtained by this date, users will not be able to prepare or register documents in the electronic land registration system, but will have access to the system on a search-only basis.

Phase 2, which will end in Summer, 2008, requires all other Account Holders to obtain authorization.

It is expected that the majority of Teraview® Account Holders will satisfy the criteria. If for any reason users apply for authorization and it is not granted, a further process is in place to request a review of the Director's decision.

C. NEW REGISTRATION REQUIREMENTS FOR TRANSFERS OF TITLE

In November 2006, the Minister of Government and Consumer Services announced that the right to register most transfers of title would be restricted to lawyers only, while allowing other documents, such as mortgages, to be registered by all those who meet specified criteria.

Transfers are one of the main documents involved in title fraud. By restricting the ability to register most transfers of title to lawyers, who are part of a self-governing body with a legislative framework that deals with integrity and practice standards for members, we can further secure the system, isolate documents and provide consumers with additional protection. In implementing these requirements, most transfer of title documents will require two different lawyers to sign for completeness, one for the transferor and one for the transferee. These requirements do not apply to other types of interests. Transfers of easements, for example, do not need a lawyer to sign for completeness and no law statement will be required.

The exceptions to this requirement, where only one lawyer will be required to sign a transfer of title, are outlined below:

- Transfers where the transferor and transferee are the same, and
 - The transfer is to effect a change in legal tenure; or
 - The transfer is to effect a severance of land prior to a certain expiry date;

- Transfers from an estate trustee, executor or administrator to a person who is beneficially entitled;
- Interfamily transfers, related party transfers and transfers occurring in remote communities. In these circumstances one lawyer may sign a new statement stating that he/she is signing for both the transferor and transferee and that the transfer is being completed in accordance with the lawyer's professional standards. The Law Society has recently passed new Rules of Professional Conduct to address this situation.

Government transfers where land is acquired or disposed of by the Crown in Right of Ontario or the Crown in Right of Canada, including any Crown corporation, or any agency, board or commission of the Crown; or by a municipal corporation pursuant to a municipal by-law, will not require a lawyer to sign for completeness.

On April 7, 2008, when system changes come into effect, the electronic system will perform a validation check at the time a document is signed for completeness or submitted for registration to ensure that new statements outlined in this bulletin have been included. If they are not, an error message will be displayed. To complement these changes, two statements relating to *Planning Act* consent will be retired and replaced with one new statement. Law statements are identified by the number in **bold** font.

Retired Statements:

100 "A consent from the name has been obtained for this severance and contains no conditions or the following conditions" and

101 "The name has consented to this severance herein: import consent"

New non-law statement:

4048 "The name has consented to the severance herein. (import image)."

D. LAW STATEMENTS FOR TRANSFER OF TITLE DOCUMENTS

To implement these improvements, provisions for additional statements, including law statement(s), will be made in Ontario Regulation 19/99. These law statement(s) will be contained in all transfers of title and the appropriate statement must be selected when registering. The following are new statements and associated statement numbers. Law statements are identified by the number in **bold** font.

(i) For Registration of Title Transfer Documents:

Each solicitor must select one of the following statements, as applicable:

4041 I am the solicitor for the transferor(s) and I am not one and the same as the solicitor for the transferee(s).

4042 I am the solicitor for the transferee(s) and I am not one and the same as the solicitor for the transferor(s).

OR the solicitor for the transferor(s) may select one of the following statements, if applicable:

4043 I am the solicitor for the transferor(s). The transferor(s) and the transferee(s) are one and the same, and the transfer is being made to effect a change in legal tenure.

4044 I am the solicitor for the transferor(s). The transferor(s) and the transferee(s) are one and the same, and the transfer is being made to effect a severance of the land prior to the expiry of a consent granted under the *Planning Act*.

(Note: if statement 4044 is selected, the following non-law statement must also be selected: 4048 "The name has consented to the severance herein. (import image).)

4045 I am the solicitor for the transferor(s). The transferor(s) and the transferee(s) are one and the same, and the transfer is being made to effect a severance of land pursuant to a municipal by-law registered as number.

4049 I am the solicitor for the transferor(s) and the transferee(s), and this transfer is being completed in accordance with my professional standards.

OR the following statement may be selected, if applicable:

4046 The land is being acquired or disposed of by the Crown in Right of Ontario or the Crown in Right of Canada, including any Crown corporation, or any agency, board or commission of the Crown; or by a municipal corporation pursuant to a municipal by-law.

(ii) For Registration of a Transfer by Personal Representative:

All of the above statements are available for this document type. In addition, the following law statement is available for selection in lieu of the above statements:

4047 I am the solicitor for the transferor(s). The transfer is from an estate trustee, executor or administrator to a person who is beneficially entitled.

E. POWERS OF ATTORNEY

Powers of Attorney are registered in the land registration system by individuals and corporations/banks to authorize someone else to sign a document on their behalf. As another component of the Real Estate Fraud Action Plan, the Ministry is implementing changes with respect to the use of Powers of Attorney in real estate transactions by instituting a registration requirement that a law statement will be necessary when an individual registers any document under the authority of a Power of Attorney. In these cases, a lawyer will be required to discuss the Power of Attorney with their clients and provide the requisite law statement.

To implement these improvements, provisions for additional statements, including law statements, will be made in Ontario Regulation 19/99.

A law statement will not be required in documents signed under the authority of a Power of Attorney given by a corporation or a bank. In those cases, the attorney will be required to make a statement that they are acting within the scope of the Power of Attorney.

Additional changes are being made to require the original signed and witnessed Power of Attorney to be scanned into the electronic registration of a Power of Attorney. Similarly, provisions will be made in the Regulation for electronic statements to require the scanning of a Revocation of a Power of Attorney into the electronic registration of a Revocation.

Most of the existing statements in an electronic Power of Attorney and Revocation of Power of Attorney document are being retired and replaced with new statements, which are identified under the document headings below.

(i) Statements to be Retired as of April 7th, 2008:

- 2901 I appoint the donee as my attorney to act for and on my behalf to do all things which I am legally entitled to do.
- 2902 I appoint the donee as my attorney to act for and on my behalf for the purposes of enter purpose.
- 2903 I appoint the donee as my attorney to act for and on my behalf. This power of attorney has been witnessed in accordance with the Substitute Decisions Act.
- 2910 The attorney has the authority to make spousal statements on behalf of the donor.
- 2911 I hereby revoke, effective yyyyymmdd, this Power of Attorney given by me to the attorney
- 3553 The Power of Attorney appoints the holder of the following office(s) position as our attorney to act for and on our behalf to do all things which we are legally entitled to do.
- 3554 The Power of Attorney is of a limited nature for the purpose of identify purpose.
- 3555 The Power of Attorney is of a general nature.

(ii) Statements which will Continue to be Available

The following statements will continue to be available to select when a document is not being executed under the authority of a power of attorney.

- 2909, 2906 This document is not authorized under Power of Attorney for this party.

(iii) New Statements Pertaining to Registration of a Power of Attorney:

In all cases when a Powers of Attorney is being registered, the following non-law statement must be selected:

- 2912 The Power of Attorney is attached hereto as an image in electronic format, is still in full force and effect, and has not been revoked. (*import image*)

and one of the following non-law statements must be selected:

- 2927 The power of attorney is for a limited purpose.
- 2928 The power of attorney is for a general purpose.

Where the donor is a company, the following non-law statement must also be selected:

- 10 I, name, have the authority to bind the corporation.

(iv) New Statements for Revocation of Power of Attorney:

Select the appropriate statement below and enter the required information. Law statements are identified by the number shown in **bold** font.

- 2913 The revocation of power of attorney, effective yyyymmdd, is attached hereto as an image in electronic format. (*import image*)
- 2914** The power of attorney is no longer in force, pursuant to an order which is in full force and effect and is attached hereto as an image in electronic format. (*import image*)
- 2915 Evidence that the power of attorney is no longer in force is attached hereto as an image in electronic format. (*import image*)
- 2916** The power of attorney is no longer in force, pursuant to the death of the donor on yyyymmdd.

(v) New Statements For Registration of All Documents Executed Under Authority of a Power of Attorney:

In this section, statements are shown with two different numbers. The first number is the statement that would be available for selection for a “Party From” on a document; the second number is the statement that would be available for selection for a “Party To” on a document. Law statements are identified by the number shown in **bold** font.

(a) For Documents Executed Under Authority of a Power of Attorney Granted by a Donor that is not a Company:

The following existing statement must be selected with the appropriate new statements in either (I) or (II):

- 2907, 2904 I, name say that to the best of my knowledge and belief, the power of attorney is still in full force and effect and the principal had the capacity to give the power of attorney when giving it and was at least 18 years of age when the power of attorney was executed. The power of attorney was registered as number number.

(I) Where the attorney is not a company:

- 2917, 2922** I, name of solicitor, confirm that I have reviewed the power of attorney with the attorney, and the attorney has confirmed that:
1. The attorney is the lawful party named in the power of attorney,
 2. The attorney is acting within the scope of the authority granted under the power of attorney,
 3. To the best of the attorney’s knowledge, information and belief, the power of attorney was lawfully given, and
 4. The power of attorney has not been revoked.

(II) Where the attorney is a company:

- 2918, 2923** I, name of solicitor, confirm that I have reviewed the power of attorney with the attorney, and the attorney has confirmed that:
1. The attorney is the lawful party named in the power of attorney,

2. The attorney is acting within the scope of the authority granted under the power of attorney,
3. To the best of the attorney's knowledge, information and belief, the power of attorney was lawfully given,
4. The power of attorney has not been revoked, and
5. At the time this document was executed, name was the position of company/bank (donee), and had the authority to bind the attorney.

(b) For Documents Executed under Authority of a Power of Attorney Granted by a Corporation/Bank:

These statements will be retired, and replaced by the statements in (b) (I) (II) and (III) below.

2908, 2905 (1) Power of Attorney, registered as number number. (2) To the best of my knowledge and belief, the power of attorney is still in full force and effect and gives the attorney the authority to bind the corporation. (3) At the time the document was executed, the name of person was the position of the name of company/bank

The applicable statement to the situation being dealt with must be selected. None are law statements.

(I) For an attorney that is a company:

- 2919, 2924
1. Power of Attorney was registered as number number.
 2. To the best of the attorney's knowledge and belief, the power of attorney is still in full force and effect.
 3. The attorney is acting within the scope of the authority granted under the power of attorney.
 4. At the time this document was executed, name was the position of (attorney) company/bank, and had the authority to bind the attorney.

(II) For an attorney that is a named person who is not in a company:

- 2920, 2924
1. Power of Attorney was registered as number number.
 2. To the best of my knowledge and belief, the power of attorney is still in full force and effect and gives me, name, the authority to bind the donor.
 3. I am acting within the scope of the authority granted under the power of attorney.

(III) For an attorney that is a named person and/or holds a position in a company:

- 2921, 2926
1. Power of Attorney was registered as number.
 2. To the best of my knowledge and belief, the power of attorney is still in full force and effect and gives me the authority to bind the donor.
 3. I am acting within the scope of the authority granted under the power of attorney.

4. At the time this document was executed, I, name, was the position of (attorney) company/bank.

F. DOCUMENTS IN PROGRESS

It is anticipated that these system changes will be implemented on the weekend of April 5th and that Teraview® will be available on Sunday April 6th for document creation and modification capabilities. Ministry staff will be available on that day at 1-866-262-8135 or 416-314-3138 should you require assistance in this regard.

Any document that is receipted with a registration number prior to April 7th will not be affected by these changes, even if returned for correction after the changes are implemented.

Unregistered Documents in Work In Process

If an unregistered document in your work-in-process has a statement selected that is being retired, the system will deselect and remove the retired statement from the unregistered document. Where the document has already been signed for completeness and/or release, the signature(s) will also be removed.

As identified throughout this bulletin, the following statement numbers are being retired: 100, 101, 2905, 2908, 2901, 2902, 2903, 2910, 2911, 3553, 3554 and 3555 and therefore, an unregistered document that has one of these statement numbers selected may need additional statement selections and signatures.

In addition, as of April 7th, the system will look for the new required statements upon signing for completeness and at registration. The unregistered documents that may be affected are as follows:

- Transfer
- Transfer by Partnership
- Transfer by Personal Representative
- Transfer by Religious Organization
- Transfer by Trustee in Bankruptcy
- Transfer: Power of Sale
- Power of Attorney
- Revocation of Power of Attorney
- Any document signed under the authority of a Power of Attorney

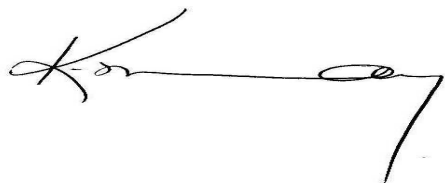
G. SUMMARY

The security and integrity of land registration records are continuing priorities of the Ministry. The Ministry continues to take steps to combat real estate fraud.

Teraview® account holders have been advised that the deadline for obtaining authorization to access the land registration system from the Director of Land Registration is quickly approaching. Any account used by a lawyer to register documents in the electronic land registration system must receive that authorization by April 7, 2008 or the account will be switched to search-only access.

The Electronic Registration Procedural Guide is being updated with these changes and a new version will be available with Teraview® version 5.4 in May 2008.

The Ministry is committed to working with its stakeholders and users of the land registration system on these important issues, and will continue to keep them informed of changes. Please continue to check the ServiceOntario website (www.serviceontario.ca) and select Land Registration from the menu at left.



Katherine M. Murray
Director of Titles



John Dalgliesh
Director of Land Registration