



BILL NO. 95

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
53 Elizabeth II, 2004*

An Act to Amend Chapter 6 of the Acts of 2001, the Land Registration Act

CHAPTER 38
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 18, 2004**

The Honourable Barry Barnet
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 6
of the Acts of 2001,
the Land Registration Act**

Be it enacted by the Governor and Assembly as follows:

1 Clause 3(1)(w) of Chapter 6 of the Acts of 2001, the *Land Registration Act*, is amended by adding “registered” immediately after “terminate” in the second line.

2 Subsection 6(1) of Chapter 6 is repealed.

3 Subsection 9(1) of Chapter 6 is amended by striking out “by the Registrar General” in the third line.

4 Subsection 13(1) of Chapter 6 is repealed and the following subsection substituted:

(1) A parcel register shall contain the information prescribed in regulations made by the Minister.

5 (1) Section 18 of Chapter 6, as amended by Chapter 19 of the Acts of 2002, is further amended by adding immediately after subsection (2) the following subsection:

(2A) The date and time of registration of an interest is deemed to be the date and time when the document describing the interest was received and indexed by the registrar.

(2) Subsection 18(6) of Chapter 6 is amended by adding “or such other information as prescribed in the regulations” immediately after “effect” in the second line.

6 Section 19 of Chapter 6 is repealed and the following Sections substituted:

19 (1) Where a document is submitted for registration or recording pursuant to this Act, the legal description for the parcel shall be referred to in the manner prescribed in the regulations.

(2) Notwithstanding clause 3(1)(ab), an instrument of subdivision cannot be used for the purpose of describing a parcel that is being registered or amending the legal description of a parcel that is registered pursuant to this Act.

19A (1) A person who owns a registered interest in a parcel may grant an easement in the parcel for the benefit of another parcel that the person owns.

(2) The easement continues to exist notwithstanding subsequent vesting of the dominant and servient tenements in the same person absent an express release of the easement.

7 Subsection 21(4) of Chapter 6 is repealed.

8 Subsection 23(2) of Chapter 6 is repealed and the following subsection substituted:

(2) All registered and recorded interests that appear in the parcel register of the parent parcel shall be placed in the parcel register for the infant parcel.

9 Subsection 31(4) of Chapter 6 is repealed.

10 Section 33 of Chapter 6 is repealed and the following Section substituted:

33 Registered interests shall be rectified under the circumstances and in the manner prescribed in regulations made by the Minister.

11 (1) Subsection 37(3) of Chapter 6 is repealed and the following subsection substituted:

(3) A mortgage of a parcel entered into after the coming into force of this subsection, and after the county in which the parcel is situated is designated by the Governor in Council pursuant to subsection 128(2), does not create a security interest in that parcel until title to the parcel is registered and the mortgage is recorded pursuant to this Act.

(2) Subsection 37(4) of Chapter 6, as amended by Chapter 19 of the Acts of 2002, is further amended by

(a) **adding** “and that the solicitor’s opinion is based on the abstract of title required by clause (c)” **immediately after** “record” **in the last line of clause (b);**

(b) **striking out clause (d); and**

(c) **striking out** “property” **in the first line of clause (g) and substituting** “parcel”.

(3) Clause 37(9)(a) of Chapter 6, as amended by Chapter 19 of the Acts of 2002, is further amended by adding “or any other enactment” **immediately after** “Act” **the second time it appears in the last line.**

(4) Subsection 37(10) of Chapter 6 is repealed.

12 Section 39 of Chapter 6 is repealed.

13 Subsection 40(1) of Chapter 6 is amended by adding “in a residential mortgage” **immediately after** “interest” **in the second line.**

14 (1) Clause 46(1)(a) of Chapter 6 is amended by striking out “valuable consideration” **in the last line and substituting** “a sale price or for value”.

(2) Subsection 46(3) of Chapter 6, as amended by Chapter 19 of the Acts of 2002, is further amended by

- (a) striking out “to the present owner” in the second line of clause (ab);
- and
- (b) adding immediately after clause (ac) the following clause:
 - (ad) in a tax deed;

15 Chapter 6 is further amended by adding immediately after Section 46 the following Section:

46A (1) Notwithstanding Sections 37 and 46, the Registrar General may recommend that the Minister enter into a written agreement with a person who claims to own a parcel that is not registered to have an instrument respecting that parcel registered under the *Registry Act*, if circumstances exist that require the instrument to be registered under that Act.

(2) The agreement referred to in subsection (1) shall set out the time period within which title to the parcel shall be registered pursuant to this Act.

(3) A registrar of deeds shall register the instrument referred to in subsection (1) if the registration requirements of the *Registry Act* have been complied with and the instrument is accompanied by a certificate of the Registrar General.

(4) The agreement referred to in subsection (1) is subject to any provisions prescribed by the Minister in the regulations.

(5) Notwithstanding Section 37, a person who has entered into an agreement with the Minister in accordance with this Section may mortgage the parcel that is the subject of the agreement or any interest in it or provide a security interest in it.

16 Section 47 of Chapter 6 is amended by adding immediately after subsection (4) the following subsection:

(4A) An interest pursuant to the *Matrimonial Property Act* may be recorded.

17 (1) Subsection 48(1) of Chapter 6 is amended by

- (a) adding “register or” immediately after “shall” in the first line;
- (b) adding “registration or” immediately after “for” in the first line of clause (a); and
- (c) adding “registration or” immediately after “for” in the second line of clause (b).

(2) Section 48 is further amended by adding immediately after subsection (2) the following subsection:

(3) The date and time of the recording of an interest is deemed to be the date and time when the document describing the interest was received and indexed by the registrar.

18 Subsection 53(3) of Chapter 6 is amended by adding “floating part of the” immediately after “the” in the fourth line.

19 Subsection 60(2A) of Chapter 6 is repealed.

20 Section 61 of Chapter 6, as amended by Chapter 19 of the Acts of 2002, is further amended by adding “(1)” immediately after the Section number and by adding the following subsections:

(2) A person who owns a registered interest in a parcel may grant a restrictive covenant in the parcel for the benefit of another parcel that the person owns.

(3) The restrictive covenant continues to exist notwithstanding subsequent vesting of the dominant and servient tenements in the same person absent an express release of the restrictive covenant.

21 (1) Subsection 63(2A) of Chapter 6 is repealed.

(2) Subsection 63(3) of Chapter 6 is amended by adding immediately after clause (a) the following clause:

(aa) a security interest;

22 Subsection 74(3) of Chapter 6 is repealed.

23 (1) Subsection 79(4) of Chapter 6 is amended by adding “or stamp” immediately after “seal” in the second line.

(2) Subsection 79(5) of Chapter 6 is amended by adding “or stamp” immediately after “seal” in the last line.

(3) Subsection 79(6) of Chapter 6 is amended by adding immediately after clause (i) the following clause:

(ia) an instrument or document that, pursuant to the regulations, does not require a certificate of execution;

24 Clause 94(1)(c) of Chapter 6 is repealed and the following clauses substituted:

(c) respecting registrations and recordings;

(ca) respecting forms;

(cb) respecting certificates of execution;

(cc) respecting agreements made pursuant to this Act;

(cd) respecting rectification of registrations;

25 Subsection 119(3) of Chapter 6 is repealed.

26 Chapter 6 is further amended by adding “legal” immediately before “description” wherever that word appears in Chapter 6.

27 (1) Subject to subsection (2), this Act comes into force on such day as the Governor in Council orders and declares by proclamation.

(2) Section 15 has effect on and after September 24, 2004, upon the Governor in Council so ordering and declaring by proclamation.
