



Federation of Ontario
Law Associations
Fédération des associations
de barreau de l'Ontario

June 4, 2024

Dear Real Estate Representatives, Presidents and Library Staff,

In an effort to keep real estate lawyers updated with the ever-changing situation in the way we practice, we have further information to be shared with the real estate lawyers in your association.

Director of Titles

We are pleased to advise that **Rebecca Hockridge** will be continuing in her role as Director of Titles, following about six months of being in the role on an interim basis. We look forward to working with her as the land titles system develops.

Verification of Client Identification Virtually

Effective **January 1, 2024**, the Law Society's temporary emergency measure allowing licensees to virtually verify client identity without authentication has ended. On and after that date, licensees must authenticate an individual's government-issued ID, meaning the licensee must use a process or method to determine if the ID is true and genuine and cannot do so virtually. Bylaw 7.1 allows two methods of verification virtually: the credit file method and the dual process method. Licensees can also use an agent to verify identity. The Notice to the Profession dated July 27, 2023 can be found [here](#).

LawPRO's PracticePRO website also has relevant links and a chart for Virtual Identity Verification Service Providers, which can be found [here](#).

These enhanced rules will impact real estate lawyers specifically as our engagement is routinely to facilitate the transfer of funds for our clients. Be on the lookout for CPD programming in connection with this to better prepare yourself, your practice and your staff.

Bill 185, Cutting Red Tape to Build More Homes Act, 2024

This Bill has passed second reading. It contains various amendments to legislation to enable more expedited permitting for housing in various sectors. Practitioners should be aware of some of the changes, particularly to the *Municipal Act/City of Toronto Act*, *Line Fences Act* and *Planning Act*. The Bill can be accessed [here](#).

Bill 200, Homeowner Protection Act, 2024

This Bill has passed first reading. It contains various amendments to legislation in the area of homeowner protections, particularly in the area of new home construction for freehold lots (the creation of a 10-day statutory rescission period, akin to the one for newly built condo units), amendments to the *Heritage Act* for deemed removal of undesignated heritage properties if not designated by a fixed date, and changes to the *Personal Property Security Act* in connection with registered notices of security interest (a "NOSI"). The proposed legislation would, if passed, immediately prevent registration of a NOSI in the Land Titles system for prescribed consumer goods and immediately expire ones in existence at the time of Royal Assent. The current wording

suggests the security would be prohibited/expired but potentially not any underlying debt or agreement containing the security interest in the asset. The Bill can be accessed [here](#).

Federal Trust Reporting Requirements 2023

The federal government added new reporting requirements for trusts as of December 31, 2023, requiring all trusts (except for limited identified exceptions) to file T3 returns and a Schedule 15 report in connection with the trust property, beneficial owners and income derived therefrom. The reporting requirements are overly broad and will attach to situations where a family member is added to title as a joint tenant without acquiring a beneficial interest in the property (i.e. Historical estate planning tools). These trusts (by their trustees) will need to report within 90 days of year end (i.e. April 2, 2024). This could have sweeping implications on how many estates and real estate lawyers advise their clients and care should be taken to review the new rules and to determine if trust indentures should be a regular part of your offerings to clients who seek to add family members to bank accounts or real property.

These rules will also apply to trust accounts opened by lawyers/paralegals maintained as a separate trust for a particular client/clients or purpose. General trust accounts are NOT covered by these rules. The Federal Government's FAQ on this can be reviewed [here](#).

The Federal Government suspended this requirement a few days prior to the mandatory reporting deadline. We will continue to monitor this as the situation develops.

Bulletin 2024-03: Digital Certification

Effective June 17, 2024, the Land Titles System will commence a pilot project to digitally certify certain Charges/Mortgages that are receipted into the system. The intention is to expedite the certification process while minimizing any impact to the user. The bulletin can be found [here](#) to review.

Bulletin 2024-02: Court Orders

There has historically been challenges with the manner in which a court order will impact registered title. A Court may order title to be amended or vested in a different person. The intersection between the Court's order and how that impacts registered title has been challenging. This bulletin, accessed [here](#), outlines the key considerations that practitioners should be aware of when obtaining an order of the Court and when pre-approval of the draft order should be obtained via OnLand.

It would be practical to advise your professional colleagues who litigate in the normal course of their practice but who do not have daily interactions with the Land Titles system, to be aware of these requirements and establish working connections with them to assist in the pre-approval process for Court Orders.

Changes to Land Transfer Tax Statements

The Ministry of Finance no longer requires automatic submission of supplementary material when a transfer is made involving a trust for the same beneficial owner. Lawyers will still need to assemble the information in case the Ministry requests it or reassesses the transaction. Changes to the eReg system have been made to address this.

In addition, a new statement 9205 has been introduced to confirm acknowledgement as to the collection of information and privacy for land transfer tax statements. The newsletter outlining these changes can be found [here](#).

Federal Prohibition on Purchase of Residential Property by Non-Canadians

This federal legislation was extended by the government for an additional two years, now expiring on January 1, 2027. The legislation came into effect on January 1, 2023 to prevent the sale and purchase of residential property to Non-Canadians in an attempt to address the housing supply shortage in the country.

Capital Gains Amendment

The Federal Budget identified a proposed change to the capital gain inclusion rate from 50% to 66.7% which is to take effect on **June 25, 2024**. This will impact all corporations and trusts, but will impact individuals beyond the \$250,000 exemption threshold. As of the date of this update, the federal legislation implementing this change to the *Income Tax Act* (Canada) has not been published.

Stay up to date with FOLA's real estate information at <https://www.foia.ca/issue/real-estate/>.

Mark Giavedoni
FOIA Real Estate Chair

Please note: The information provided herein is of a general nature only and is not intended to provide legal advice.