

## BACKGROUND

A corporation is a legal entity created pursuant to a statute and as such is included in the definition of "person" in section 28(1)(nn) of the Interpretation Act of Alberta, R.S.A. 2000, c. I-8. A corporation's status is independent of that of its shareholders or members who generally have no responsibility or liability for the acts or obligations of the corporation. Most corporations are created under general statutes which authorize the creation of corporate entities, such as the Business Corporations Act, R.S.A. 2000, c. B-9 but some are created pursuant to specific statutes, such as the Agricultural Financial Services Act. Before any instrument or caveat is registered in favour of a corporation, the Registrar is required to obtain evidence that it does exist as a legal entity. (1)

## REGISTRATION PROCEDURE

### A. ACQUISITION OF INTERESTS

1. A corporation which is acquiring an interest under any instrument (except a builders' lien, notice of security interest under the Personal Property Security Act, R.S.A. 2000, c. P-7 or a writ of enforcement) (2) or which is filing a caveat to claim an interest must have its corporate status verified. The name of a corporation usually has one of the following as the last word: Limited, Limitée, Incorporated, Incorporée, Corporation, Professional Corporation or the abbreviation Ltd., Ltée., Inc. or Corp.

2. When an instrument or caveat in favour of a corporation is being submitted for registration, a message will appear if the corporation is not registered or if its status has changed. Once it is established that a corporation is registered, either through a search of the Corporate Registry (CORES) table or by some other method that satisfies section 27 of the Land Titles Act, the corporation name is added to the ALTA table. The following are examples of unusual situations:

- a) If you have a document that uses either an English or French name and CORES shows only the English/French combination, then reject the document and advise registrant to contact Corporate Registry for the process that needs to be followed in order to allow the company to use either the English or French name separately.
- b) If you have a document that uses an English/French combination and CORES shows them as separate English and French names, then the combined name can be entered into the ALTA name file and you can proceed with registration. (3)
- c) If a message indicates that a corporation is unregistered and the CORES search shows an assumed name, then the assumed name can be entered into the ALTA table. The document is rejected and the registrant advised that the

document must be prepared using the assumed name. If documents contain evidence of both an assumed name in Alberta as well as the registered corporation's legal entity name, the documents must be registered using only the assumed name in Alberta. (4)

When using the &L name feature on the ALTA system the computer will not perform a corporate registry check, you must therefore do a CORES check.

3. CORES provides a record of all corporations which are incorporated in Alberta under the Companies Act, the Business Corporations Act, the Societies Act, the Cooperative Associations Act, the Credit Union Act, the Cemetery Companies Act, the Religious Societies' Land Act and private Act corporations and all corporations which are created by another jurisdiction and have registered as extra-provincial corporations in order to carry on business in Alberta. Corporations incorporated under the federal Business Corporations Act are required to register as extra-provincial corporations. (5)

If a corporation is not listed, a solicitor's certificate stating that the corporation is registered under one of the above statutes can be accepted. (6)

4. CORES also provides a record of all loan and trust corporations which are incorporated under the Loan and Trust Corporations Act. A certificate from the Minister or Deputy Minister charged with the administration of the Act advising of a name change or an amalgamation can be registered.

A record of licensed insurance companies can be accessed at

<http://www.finance.gov.ab.ca/publications/insurance/companies.html>

A notarized copy of letters patent issued by the Minister responsible for the Insurance Companies Act (Canada) is required for the registration of Insurance Company amalgamations.

A record of subsisting companies incorporated under the Agricultural Societies Act can be accessed at

<http://albertaagsocieties.ca/ag-societies/>

5. A statement in a document that a corporation is incorporated under the federal Bank Act, Railway Act or Canada Transportation Act or that it is an agent of the federal Crown can be accepted as evidence of compliance with section 27.

A record of banks can be accessed at

<http://www.osfi-bsif.gc.ca/>

A notarized copy of letters patent from the Minister of Finance (Canada) or an order to commence and carry on business is required when a bank is registering a change of name.

6. For a corporation created by a special Alberta statute, the statute should be checked to ensure that it creates the corporate entity unless it is a well-known corporation. (7)

7. If corporate status cannot be verified by any of the above methods, the document should be rejected for non-compliance with section 27 of the Land Titles Act unless a delay in registration could jeopardize a transaction. In such a case, registration in favour of an extra-provincial corporation may be completed if a written undertaking to register extra-provincially under the Business Corporations Act within 30 days is received. (8)

## **B. DISPOSITION OF INTERESTS**

1. Except where expressly stated otherwise (e.g., in respect of incorporated religious societies, and a condominium corporation), a document executed by a corporation (including a municipal corporation) is deemed for Land Titles purposes to be sufficiently executed if it is

- a) sealed with the corporate seal of the corporation and countersigned by at least one officer or director of the corporation, or
- b) executed by at least one officer or director of the corporation who has his signature witnessed and the document is accompanied by an affidavit of attestation and an affidavit by the officer or director in the prescribed form (FORM 31.1) verifying his authority to execute the document. (9) However, some corporate documents may have more than one signature as required by the statute or rules governing the corporation.

2. Although it is better practice for the officer or director to specify the position which he holds in the corporation, it is not an essential requirement.

3. The corporate seal must contain the name of the corporation (10) and may be in the form of a rubber stamp. Hand-written seals are not acceptable because of the absence of control over use of the seal.

## **C. CHANGE OF NAME OR AMALGAMATION**

1. A certificate of change of name or of amalgamation issued by the (Alberta) Registrar of Corporations can be registered. If a registrant advises that the Registrar will not issue a certificate in respect of an extra-provincial corporation which has changed its name or amalgamated, a comparable certificate from the incorporating jurisdiction can be accepted.

2. A certificate submitted for registration must either

- a) be accompanied by the legal description(s) for the land, title number(s) or by an instrument(s) registered in the name of the corporation (The legal description(s), title

number(s) or instrument number(s) can be provided in special instructions on the E.D.R.R. or in a letter), in which case the corporate name is amended on the appropriate titles (see procedure under [NAM-1](#) with respect to instructions on amending the certificate of title and for procedures for registering an individual name change), or

b) accompany a document executed under the new corporate name, in which case the certificate is given a registration number and the particulars are endorsed on the title.

[Tariff item 11\(4\) or 11\(6\)](#) is charged for the registration of the certificate. [Tariff item 12 or 13](#) is charged, as appropriate, for each additional title or endorsement after the first.

3. For future transactions where the corporate name has not been amended on the title, the registration particulars of the certificate are to be recited in the documentation presented for registration so that the corporate name change or amalgamation can be verified. It is not necessary to amend the name on the title or charge any extra fee, except where the name is a continuing item of information on the title (e.g., where the registered owner submits a mortgage under the new name). In circumstances where a fee is charged, the service can be added to the Document Registration Request Form (D.R.R.) as it is an essential pre-requisite to registration of the instrument.

An amended certificate of title may be issued upon the request of the registrant. [Tariff item 12](#) is charged. If the request is made subsequent to the registration of the change of name document, the letter or a photocopy of the D.R.R. in which the request is made is given a registration number and an amended certificate of title issued.

4. A document which is executed under the previous corporate name prior to a name change or amalgamation can be accepted for registration.

## **STATUTE AND CASE REFERENCES**

Statute references are to the Land Titles Act, R.S.A. 2000, c. L-4, unless otherwise indicated.

1. s. 27; In respect of writs of enforcement, a corporate creditor in most cases will have had to be incorporated or registered in order to maintain the court action pursuant to s. 295 of the Business Corporations Act, R.S.A. 2000, c. B-9.
2. s. 27
3. s. 10(5) and (6) and Part 21 of the Business Corporations Act
4. s. 283(1)(2) Business Corporations Act
5. s. 1(i.1), Part 21 and s. 278 - 279, Business Corporations Act; *Great West Saddlery Company v. The King*, [1921] 2 A.C. 91. Although the status and essential powers of a federally incorporated incorporation cannot be impaired, they are subject to provincial laws of general application such as the requirement in the Land Titles Act for a corporate entity to be registered under one of the specified statutes before an instrument or caveat in favour of the corporation is registered.

6. s. 27(4)
7. Alberta Social Housing Corporation s. 17(1) Alberta Housing Act, R.S.A. 2000, c. A-25
8. This exercise of discretion is consistent with s. 279(1) of the Business Corporations Act which requires that an extra-provincial corporation be registered within 30 days after it commences carrying on business in Alberta.
9. s. 161
10. s. 25(1), Business Corporations Act.