

Manitoba Land Titles Office Document Witnessing Rules

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Effective December 5, 2011, the Manitoba Land Titles Office implemented the following rules regarding the witnessing of Land Titles Office documents. It should be noted that the rules pertaining to who may sign have not changed. Only the rules pertaining to the witnessing of signatures have changed.

Corporate Execution of Documents

It is no longer sufficient or necessary that a corporation affix its corporate seal over the signatures of its proper signatories. All persons signing on behalf of a corporation must have their signature witnessed on those documents requiring a witness, such as a Transfer of Land or a Mortgage. The witness cannot be a person who signs the document on behalf of the corporation.

This new rule does not apply to:

- Federal, Provincial and Territorial Governments or their agencies; or
- National, State or Provincial Governments outside of Canada and their agencies.

Rule No. 1 - Transfers Signed in Canada

All Transfers of Land or Transfers of Encumbrance (but not a Transfer of Mortgage) signed within Canada must be witnessed by a lawyer who practises in the province or territory where the Transfer is being signed. If it is not possible to have the Transfer witnessed by a lawyer, the Land Titles Office may allow a person entitled to administer oaths pursuant to The Manitoba Evidence Act (the "Act") (Sections 62 and 63) to witness the Transfer without swearing an affidavit of execution. It should be noted that this is a discretionary power within the control of the Land Titles Office, which may be granted on a case-by-case basis.

Rule No. 2 - Mortgages Signed in Canada

All Mortgages executed in Canada must be witnessed by a lawyer who practises in the province or territory where the Mortgage is being signed. The Mortgage may also be witnessed by an officer, an employee, or a person designated to act on behalf of the mortgagee provided it is a financial institution. If it is not possible to have the Mortgage witnessed by the foregoing parties, the Land Titles Office may allow a person entitled to administer oaths pursuant to the Act to act as a witness by inserting their name, position, address, and if applicable, their position with the financial institution. An affidavit of execution is not required.

Rule No. 3 - Transfers and Mortgages Signed Outside of Canada

As there are international treaties in place respecting the execution of documents outside of Canada, a Transfer of Land, a Transfer of Encumbrance, and a Mortgage may be witnessed by a lawyer, a notary public for the jurisdiction where the Transfer is signed, or a person entitled to administer oaths outside of Manitoba, without the necessity of an affidavit of execution. The Mortgage may also be witnessed by an officer, an employee, or a person designated to act on behalf of a mortgagee which is a financial institution, and an affidavit of execution is not required.

Rule No. 4 - Documents Signed in Canada

All Land Titles Office documents other than Transfers of Land, Transfers of Encumbrance, and Mortgages, may be witnessed by the following persons:

- A lawyer who practises in the province or territory where the documents are signed; or
- A competent adult who is not a party to the document or signing on behalf of a party to the document, provided he or she swears an affidavit of subscribing witness before someone authorized by Section 62 of the Act. If the document was signed in Canada but outside Manitoba, the affidavit must be sworn by a person authorized by Section 63 of the Act.

Rule No. 5 - Documents Signed Outside of Canada

All Land Titles Office documents other than Transfers or Mortgages may be witnessed by a lawyer, a notary public for the jurisdiction where the document is signed, or a person entitled to administer oaths outside of Manitoba, without the necessity of an affidavit of execution.

A competent adult who is not a party to the document or signing on behalf of a party to the document may act as a witness and swear an affidavit of subscribing witness, such affidavit

to be sworn before someone authorized by Section 62 of the Act.

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