

# Director's Requirements No. 02-11

(Issued initially as Practice Bulletin 204)

**DOCUMENT TITLE:** Director's Requirements for a Certification Authority

**ISSUER:** Director of Land Titles

**APPLICATION:** All Land Title Offices

**RELATIONSHIP TO PREVIOUS POLICY:** Version 1.9

**APPROVAL:**



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**Craig D. Johnston, Director of Land Titles**

**EFFECTIVE DATE:** February 21, 2014

**FILE NUMBER:** *Land Title Act*

## Change Record

Version	Date	Page	Description
1.0	April 1, 2004	All	Initial Statement
1.1	June 2, 2004	3,4,5	Version number change noted, Correct misspelling of "subscriber", Generalize language for item 7 and use term "electronic signature" in item 9
1.2	August 23, 2004	4,5	Clarify need for revocations to be completed in a timely fashion, Change in professional status to trigger Revocation
1.3	July 18, 2005	1,4,5	Version number change noted, Updated LTSA Information, Added Section 4 to page 4 to include BC land surveyors, Add Association of British Columbia Land Surveyors
1.4	March 20, 2008	4,5,6	Added Section 5 to include Statutory Officers as subscribers
1.5	May 13, 2008	4,5	Reformatted, Amended Section 5 Statutory Officer
1.6	October 5, 2010	All	Bulletin reformatted, amended Section 5 Statutory Officer to add Director's ability to waive requirements, adds recognition of Juricert as the Certification Authority, changes Branch to Division, added new Item re S.168.79 and renumbered paragraphs
1.7	January 21, 2011	Cover page	Changed the name to DR 02-11 from Director's Practice Bulletin 204
1.8	April 22, 2013	6	Added Authorized Subscriber in Requirements to Obtain a Certificate Section 6
1.9	December 4, 2013	6	Removed Statutory Officer Section 5 and renumbered Authorized Subscriber Section 6 to Section 5

## 1. BACKGROUND:

This bulletin arises in consequence of the authority provided to the Director of Land Titles (the "Director") under ss. 168.79, 168.8 and 168.81 of the *Land Title Act*. R.S.B.C. 1996, C250 as amended (the "Act"). The Act provides the Director with authority to establish certain requirements in respect of a Certification Authority.

## 2. DIRECTOR'S REQUIREMENTS FOR A CERTIFICATION AUTHORITY:

The Director recognizes the Law Society of British Columbia as the Certification Authority under s. 168.79 of the Act.

The Director establishes the following requirements in respect of the certification of subscribers by a Certification Authority under ss. 168.8 and 168.81 of the Act.

### *Requirements to Obtain a Certificate*

A person is eligible to obtain a certificate if one of the following is true:

1. The person is a practicing member in good standing of the Law Society of British Columbia and that person has indicated in writing to a Certification Authority that:
  - 1.1. They are eligible to electronically sign land title documents, property transfer tax ("PTT") returns, and any other document permitted or required to be filed via the electronic filing system ("EFS") under all applicable legislation and rules of law;
  - AND
  - 1.2. They agree to immediately notify the Certification Authority of any change in circumstance that would affect their eligibility to electronically sign documents such documents;
  - AND
  - 1.3. They agree that the Certification Authority has the right and obligation to revoke the certificate upon receiving any information (whether from the person or some other source) that would reasonably lead the Certification Authority to conclude that they are no longer eligible to electronically sign such documents;
- OR
2. The person is a notary in good standing with the Society of Notaries Public of British Columbia and that person has indicated in writing to a Certification Authority that:
  - 2.1. They are eligible to electronically sign land title documents, PTT returns, and any other document permitted or required to be filed via EFS under all applicable legislation and rules of law;

AND

- 2.2. They agree to immediately notify the Certification Authority of any change in circumstance that would affect their eligibility to electronically sign documents such documents;

AND

- 2.3. They agree that the Certification Authority has the right and obligation to revoke the certificate upon receiving any information (whether from the person or some other source) that would reasonably lead the Certification Authority to conclude that they are no longer eligible to electronically sign such documents;

OR

3. The person has indicated in writing to a Certification Authority that they are a "financial officer" and that:

- 3.1. They are authorized to electronically sign those documents EFS indicates are to be signed by financial officers;

AND

- 3.2. They agree to immediately notify the Certification Authority of any change in circumstance that would affect their eligibility to electronically sign such documents;

AND

- 3.3. They agree that the Certification Authority has the right and obligation to revoke the certificate upon receiving any information (whether from the person or some other source) that would reasonably lead the Certification Authority to conclude that they are no longer eligible to electronically sign such documents.

OR

4. The person is a practicing land surveyor as declared by the Association of British Columbia Land Surveyors and that person has indicated in writing to a Certification Authority that:

- 4.1 They are authorized to electronically sign those documents in EFS in accordance with the Director's requirements for Electronic Filing;

AND

- 4.2 They agree to immediately notify the Certification Authority of any change in circumstance that would affect their eligibility to electronically sign such documents;

AND

- 4.3 They agree that the Certification Authority has the right and obligation to revoke the certificate upon receiving any information (whether from the person or some other source) that would reasonably lead the Certification Authority to conclude that they are no longer eligible to electronically sign such documents;

OR

5. The person is an Authorized Subscriber registered in the LTSA's Authorized Subscriber Register and has indicated in writing to the Certification Authority that:

- 5.1 They are authorized to electronically sign documents for registration in the land title office, by application as described in DR 01-13 Director's Requirements for the Authorized Subscriber Register;

AND

- 5.2 They agree to immediately notify the Certification Authority of any change in circumstance that would affect their eligibility to electronically sign documents;

AND

- 5.3 They agree that the Certification Authority has the right and obligation to revoke the certificate upon receiving any information (whether from the person or some other source) that would reasonably lead the Certification Authority to conclude that he or she is no longer eligible to electronically sign documents.

The Director may waive or modify any of the requirements as may be necessary.

### ***Factors Limiting the Issuance of Certificates***

A certificate should not be issued:

1. To a person where the Certification Authority has previously revoked a certificate and the cause for that revocation has not been resolved to the reasonable satisfaction of the Certification Authority;

OR

2. To a person whom the Land Title Division indicates to the Certification Authority should not receive a certificate.

### ***Suspension of Certificates***

Certificates will not be suspended. In the event that there is any circumstance that might call a certificate or Subscriber into question, the certificate will be revoked.

### ***Revocation of Certificates***

A certificate will be revoked if any of the following conditions are true:

1. The Certification Authority is made aware that the Subscriber ceases to be eligible to electronically sign documents under the enabling legislation and any requirements established by the Director from time to time;  
  
OR
2. The Certification Authority is made aware that the Subscriber ceases to meet the criteria to obtain a certificate;  
  
OR
3. Where a subscriber's status with the Law Society of British Columbia of British Columbia, the Society of Notaries Public of British Columbia, Association of British Columbia Land Surveyors, or the Land Title and Survey Authority's Authorized Subscriber Register changes and that change means the subscriber fails to meet the requirements to obtain a certificate;  
  
OR
4. Upon the request to the Certification Authority by the Subscriber;  
  
OR
5. The Certification Authority is made aware of any circumstance where the Subscriber has repudiated their electronic signature;  
  
OR
6. The Certification Authority is made aware that the witness to the application to obtain a certificate repudiates their statement in support of that application;  
  
OR
7. The Subscriber indicates to the Certification Authority that they do not wish the certificate information to be made available to the Land Title Division;  
  
OR
8. The person who has applied for a certificate fails to complete the certificate issuance process within such reasonable period established by the Certification Authority after issuance of the certificate;  
  
OR
9. The term of certificate as set out in the Subscriber Agreement has expired without action by the Subscriber to renew it;  
  
OR
10. The Certification Authority determines there is a reasonable basis for concern that:
  - The Subscriber has made any material misstatement in their application to obtain a certificate;
  
  - OR
  - The security, integrity, and privacy of the certificate has been

compromised;

OR

- The electronic signature has been lost;

OR

- The electronic signature has been used by someone other than the Subscriber;

OR

- The electronic signature has been used fraudulently;

OR

11. The Land Title Division indicates to the Certification Authority that the Subscriber should not retain their certificate;

OR

The Subscriber indicates to the Certification Authority that they do not accept any published modifications to the subscription agreement or any amendments to the business practices and policies of the Certification Authority;

OR

12. The Certification Authority determines that the Subscriber has breached the subscriber agreement.

### **Notifying Land Title Division of Certificate Revocations**

The Certification Authority will notify the Land Title Division in writing if it revokes a certificate on the basis that the Subscriber has repudiated their electronic signature or that there is a reasonable basis for suspecting fraudulent use of an electronic signature.

### **Renewal After Suspension or Revocation**

Certificates will not be renewed following suspensions or revocations. Persons wishing to obtain a certificate following a revocation must meet the requirements to obtain a new certificate.

### **Renewal of Certificates Prior to Expiration**

An existing certificate will be renewed if:

1. The Certification Authority is not aware of any information that would indicate that the Subscriber would not be eligible to obtain a new certificate;

AND

2. The Certification Authority has satisfied itself that the Subscriber wishes to have the certificate renewed;

AND

3. The Subscriber has entered into a subscription agreement for the period of the extension.

If the Certification Authority determines that a certificate should be renewed, this determination will be effected by revoking the prior certificate and issuing a new certificate.

### **Renewal of Certificates After Expiration**

Certificates will not be renewed after expiration. After the expiry of a previous certificate, a person must apply to obtain a new certificate.

### **Reissuing Certificates to Support Technical Migration**

Certificates may be revoked and reissued if necessary to support ongoing technology evolution on the part of the Certification Authority and / or the Land Title Division. Certificates will only be revoked and reissued for this purpose when a specific agreement to do so is reached between the Certification Authority and Land Title Division and then only to extent and in the manner set out in such an agreement.