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Electronic signatures on land title documents

The Law Society wishes to remind lawyers of their obligations when granted the right to affix a digital signature to documents to be filed in the Land Title Office.

The Law Society has become aware of a lawyer who permitted a member of his staff to affix his digital signature to land title documents contrary to the *Land Title Act*.

Land title documents such as the Form A transfer and the Form B mortgage include the standard notice that:

Your digital signature is a representation that you are a subscriber as defined in the *Land Title Act*, RSBC c.250 and that you have applied your digital signature in accordance with s. 168.3, and a true copy, or a copy of that true copy, is in your possession.

“Subscriber” is defined in s. 168.1 of the *Land Title Act* as:

an individual who is authorized by a certificate to sign

(a) electronic applications and instruments under this Part, and

(b) electronic returns under the *Property Transfer Tax Act*,

In addition, s. 168.3(2) of the Act states:

An electronic instrument is signed for the purposes of this section when a subscriber incorporates his or her electronic signature into the instrument in accordance with the requirements established by the director.

Lawyers should be aware that it is an offence under s. 168.9 of the *Land Title Act* to incorporate your digital signature into an electronic instrument or electronic application without first complying with the provisions of Part 10.1 of the Act. It is also an offence to incorporate the electronic signature of another person into an electronic application or electronic instrument. Juricert also retains the right to revoke the right to use a digital signature if the signature is misused.

The Land Title and Survey Authority has informed the Law Society that where it learns of circumstantial evidence that a lawyer has permitted another person to affix a digital signature, the LTSA may, in some cases, warn the lawyer about the conduct and, if the conduct is repeated, instruct Juricert to revoke the lawyer's right to use the digital signature.

Failure to comply with the digital signature requirements of the *Land Title Act* could result in title fraud and it is important that all lawyers observe those requirements strictly.