



# LAND TITLE AND SURVEY AUTHORITY OF BRITISH COLUMBIA

## PRACTICE BULLETIN NO. 0306

**SUBJECT:** Land Title Act Section 168.51

**ISSUANCE:** Director of Land Titles

**IMPLEMENTATION:** All Land Title Offices

**AUTHORITY:** *Land Title Act*

**RELATIONSHIP TO PREVIOUS PRACTICE:** RESTATEMENT

**EXECUTIVE APPROVAL:**

EFFECTIVE DATE:	BULLETIN NO.:	
November 30, 2006	0306	Minor correction to paragraph 3(c). The evidence required under sub-section 168.51(c) would be similar in nature to item (b) above. Previous version erroneously referred to item 2.

## 1. ISSUE

Questions have arisen on how registrars will interpret section 168.51 of the Land Title Act which states the following:

### **Production of evidence**

**168.51** The registrar may, before the registration or cancellation of an estate, interest or claim evidenced by an electronic instrument, require that an applicant do one or more of the following:

- (a) produce for inspection
  - (i) the executed true copy of the electronic instrument referred to in section 168.3 (3) (a),
  - (ii) a supporting document referred to in section 168.41 or a true copy of a supporting document, and
  - (iii) the executed true copy of the electronic instrument referred to in section 168.3 (3.1);
- (b) produce evidence, satisfactory to the registrar, to verify that a transferor
  - (i) if Part 5 applies in relation to an instrument, executed a true copy of the electronic instrument in the presence of an officer and made the applicable acknowledgement under that Part, and
  - (ii) if Part 5 does not apply in relation to an instrument, executed a true copy of the electronic instrument in compliance with the applicable enactment;
- (c) produce evidence, satisfactory to the registrar, to verify that the requirements established under section 168.3 (3.2) are met.

## **2. DISCUSSION**

The purpose of s.168.51 is to authorize the registrar to require evidence that an applicant (or his or her agent or solicitor) is in compliance with Part 10.1.

This section permits registrars to require an applicant to do any one of the items set out under sub-sections 168.51(a) or 168.51(b) or 168.51(c) or more than one in combination. Concerns have been raised about compliance with section 168.51 where for example an applicant does not have an executed true copy of an electronic instrument but instead has a copy of a true copy in their possession.

## **3. PRACTICE**

Registrars prefer to have the best evidence available to support registration. However, in the interests of consistency and predictability for land title users registrars will accept evidence of compliance with sub-sections 168.51(b) and (c) as fulfilling the requirements of section 168.51, including 168.51(a). To demonstrate compliance with sub-section 168.51(b) and (c), registrars will accept the following:

- a) The production for inspection of the executed true copy of the electronic instrument or a copy of that true copy which is in the possession of subscriber pursuant to sub-section 168.3(3)(b).
- b) The evidence that the transferor executed the true copy of the electronic instrument may be in the form of an affidavit where either the lawyer who took the officer certification states the facts to comply with sub-section 168.51(b) or someone else, such as the solicitor for the applicant, may set out the requisite facts under this sub-section. Where necessary, affidavits sworn on information and belief are acceptable.
- c) The evidence required under sub-section 168.51(c) would be similar in nature to item (b) above.

Any difficulties in the interpretation of this section 168.51 should be referred to the registrar or deputy registrar.