



Ontario

Ministry of  
Consumer and  
Commercial

Relations

Registration  
Division

Real  
Property  
Registration  
Branch

BULLETIN NO. **96004**

DATE: December 11, 1996

TO:  
All Land Registrars

*Land Titles Act*  
*Registry Act*

Discharges of Charge or Mortgage

There appears to be a lack of uniformity in dealing with a discharge of a mortgage/charge, in the following situations:

- i) The mortgagee/chargee is deceased, or
- ii) the mortgagee/chargee is a surviving joint tenant.

Effective immediately in either of the above situations, the procedures herein are to be followed in respect of a discharge which is otherwise a good and valid discharge:

**Land Titles Act:**

(i) Deceased Chargee

Where a chargee, or the sole surviving chargee is deceased, a discharge is to be accepted without an application to amend the register to enter the Executor, Administrator or Estate Trustee as owner, provided:

- a) letters probate, letters of administration, or certificate of appointment of an Estate Trustee are attached to the discharge instrument to show the authority of the signatory to give a valid discharge, or
- b) the registration particulars of a document already registered in that land registry office to which letters probate, letters of administration or certificate of appointment of Estate Trustee are attached, are quoted in the discharge of mortgage.

(ii) Surviving joint tenants:

Where a charge is held by two chargees on joint account with a right of survivorship and one of the chargees die, the surviving chargee may give:

- a) a discharge, with a statement of death issued by a funeral director or a death certificate, or
- b) the registration particulars of a document to which such evidence is attached, as proof of death.



A survivorship application is not required before a discharge signed by the surviving chargee, is registered.

As the *Mercantile Law Amendment Act* and the *Mortgages Act*, provide that the survivor of one or more of the chargees may discharge a charge, the same evidence as for a survivorship may be accepted as evidence to a discharge even if the charge is not held on joint account with right of survivorship.

**Registry Act:**

Where evidence similar to that mentioned above is registered or deposited as required by the Act, and the registration or deposit particulars are recited in, or the evidence is attached to an otherwise valid discharge, it will be sufficient for the Land Registrar to rule out the mortgage and associated instruments from the abstract index.

**Document User Guide:**

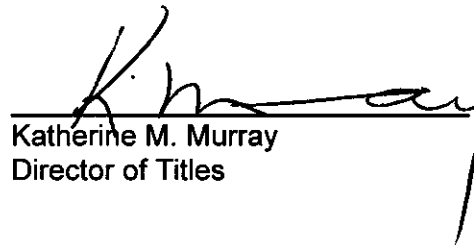
This bulletin amends the instructions in paragraph 33,850 on page 5734 of the Document User Guide, and paragraph 30,355 on page 5054 of the Land Titles Procedural Guide, as they relate to a discharge of mortgage/charge document.

A discharge with the above-mentioned evidence attached is not a combined document for the purposes of registration fees and assignment of a registration number. This exception is added as number 7 to the list of exceptions to the combined document prohibition on page 5929 of the Document User Guide.

This bulletin supersedes all previous directions on this subject.



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