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Increased Costs for Registering a Mortgage at the Alberta Land Titles Office (Effective January 31, 2025)

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Introduction

New amendments to the prescribed fees may change the costs for registering mortgages and debentures and similar instruments (collectively, Mortgages) at the Alberta Land Titles Office (the LTO). On December 4, 2024, the Government of Alberta passed the *Financial Statutes Amendment Act, 2024 (No.2)* (the FSAA), to repeal the reduction of the registration fee for a Mortgage which could significantly increase costs for borrowers. On January 29, 2025, the Government of Alberta announced that the FSAA amendments will come into effect on January 31, 2025.

The LTO charges a registration fee for Mortgages based on the principal loan amount that is to be registered on title.[1] As of October 20, 2024, the registration fee is $50.00 plus $5.00 for every $5,000.00 of value (or portion thereof) of the principal loan amount secured by the mortgage (for more information on the increase of LTO fees, please see our previous article: Alberta Land Titles Registration Fees Increasing on October 20, 2024: What Will It Mean for Your Real Estate Transactions?).[2] Until January 30, 2025, if the principal amount on the mortgage was greater than the value of the land, the borrower could seek a reduction of the registration fee to reflect the value of the land.[3] The FSAA repeals this option to reduce the registration fee for a Mortgage.[4] As of January 31, 2025, the LTO will no longer accept these applications.

Impacts in Lending Transactions

Mortgages are a common form of security in lending transactions involving real property. The FSAA will not affect Mortgages that are equal to or less than the value of the land a Mortgage is being registered over nor is it expected to substantially affect the common practice of lenders registering a principal amount only slightly more than the value of the land. Supplemental and substitute mortgages will not be required to pay the registration fee twice due to a standard form which reduces fees to only the difference in the principal amount.

However, the effects of the FSAA will noticeably impact borrowers and lenders with credit facilities which are secured by Mortgages registered for significantly higher amounts than the value of a single parcel of land in Alberta. It is common practice for lenders securing large loans over multiple properties to register the

Mortgage for the full value of the loan. When the amount secured by a Mortgage is significantly higher than the value of the land in Alberta, borrowers and lenders will be faced with the registration costs of the face value of the Mortgage, rather than the value of the land itself. The FSAA will pose similar problems for borrowers trying to increase their credit facility. Mortgage amendments will be charged solely on the additional credit registered instead of additional interest in land as currently permitted.[5]

Below is an example illustrating how the FSAA will impact registration fees for a Mortgage at LTO. In this scenario, a borrower is granting a Mortgage in the principal amount of $20 million dollars over a property in Alberta valued at $2 million dollars:



As illustrated above, the FSAA will significantly increase the costs of registering certain Mortgages at the LTO.

Potential Implications

The effects of the FSAA coming into force and the potential for higher fees in Alberta will impact how lenders structure Mortgage loan transactions involving multiple properties in Alberta, particularly where the loans are secured by property across Canada and around the globe. We anticipate these increased costs will pressure borrowers and lenders to rethink and restructure how they approach Alberta specific Mortgages as part of national or global lending transactions, further complicating these transactions. We also expect the short two-day timeline between notice and implementation of these changes will impact current transactions and potentially catch some people by surprise.

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Conclusion

The FSAA imposes significant registration fees for certain Mortgages of real property located in Alberta, which has implications not only for Alberta credit facilities but also national and global credit facilities. The FSAA amendments come into effect less than four months after the imposition of a significant registration fee increase for land transfers and Mortgage registrations. While registrations submitted to the LTO prior January 31, 2025, are subject to the current fee structure, the two-day notice provided by the Government of Alberta will likely affect and could potentially delay upcoming Mortgages.

If you are looking for more information on the FSAA, please contact our Real Estate & Development Group.

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[1] *Land Titles Act,* RSA 2000 c L-4, s 102.1(1).

[2] *Ibid*, s 102.1(2).

[3] *Ibid,* s 102.1(3)-(4).

[4] *Financial Statutes Amendment Act*, SA 2024 c15, s 9(4)(c).

[5] *Ibid*, s 9(4).

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.