

Lapse of Interest Pre-December 6, 2004

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Lapse of Interest

According to *The Land Titles Act 2000*, certain interests may lapse. You can find the legislation regarding this at the end of this document.

The owner of the title or interest against which the lapsable interest is registered may apply to lapse the interest, and then apply for a discharge of that interest. A complete list of lapsable interests can be found later in the document.

Process

Step # 1 – Registration of the Notice – Lapse Procedure Commenced.

A title owner can lapse an interest registered against their title while an interest holder can lapse a sub-interest registered against their interest.

The *Notice - Lapse Procedure Commenced* Interest must be registered as a sub-interest against the interest you are attempting to lapse by submitting the Application for Interest Registration. On the Application, the Interest Type field must be completed with the name of the interest type exactly the same as it currently appears on title. For example, if the interest is listed on the title as a CNV Caveat the notice to lapse cannot refer to a CNV Common Law Caveat, as this may be misleading to a person receiving the notice. Any party can send the notice but the Affidavit of Lapse must be sworn by one of the title owners (for the lapse of interests) or interest holders (for the lapse of sub-interests). The notice must be sent to the interest holder exactly as it appears on the title.

When completing the Interest Registration Form the holder of the *Notice – Lapse Procedure Commenced* must be one of the title owners (for the lapse of interests) or interest holders (for the lapse of sub-interests). Do not attempt to register somebody other than a title owner as the interest holder or your application may be rejected. If your application registers using the incorrect interest holder you must re-register this interest.

Finally, the actual notice must be included with the Application for Interest Registration of the *Notice – Lapse Procedure Commenced* behind a Begin Attachment Sheet. Our staff will review the notice prior to registering the interest. This is an **exception** to the normal rule regarding reviewing documents behind a Begin Attachment Sheet. The purpose of reviewing the *Notice* is to advise the client if there are problems with the notice that will prevent the lapsing from being completed.

The following will be reviewed prior to registration:

- The interest type is lapsable pursuant to Section 47 of the *Land Titles Regulations, 2001*. A complete list of lapsable interests is attached.
- A copy of the notice to lapse is provided in the Application. There is no prescribed form for the notice to lapse, but all the following requirements must be met:
 - When a title owner is lapsing an interest:
 - Notice is made attention to the interest holder(s) as provided on the title.
 - Interest Register number, Interest number(s) and Title numbers are provided.
 - Interest Type is accurate within the body of the notice.
 - Notice is given that interest holder must register Court Order on the title(s) within 30 days or the interest will be discharged.
 - When an interest holder is lapsing a sub-interest:
 - Notice is made attention to the sub-interest holder(s) as provided on the title.
 - Interest Register number and Interest numbers are provided.
 - Sub-Interest Type is accurate within the body of the notice.
 - Notice is given that sub-interest holder must register Court Order on the interest(s) within 30 days or the interest will be discharged.

[Sample]

Notice to Lapse

Notice to Interest holder

To: _____ *[Name of Interest holder(s)]*

_____ *[Last known address on the title]*

I, _____ hereby notify you that pursuant to Section 46 of *The Land Titles Regulations, 2001* that the _____ *[Interest Type]* registered as Interest Register # _____ Interest #(s) _____ against Title #(s) _____ shall Lapse after 30 days from the mailing by registered mail / personal service of this Notice unless within those 30 days a Court Order is registered against the said Title(s) extending the said Interest(s).

[signature]

[Sample]

Notice to Lapse

Notice to Sub-Interest holder

To: _____ *[Name of Sub-Interest holder(s)]*

_____ *[Last known address on the title]*

I, _____ hereby notify you that pursuant to Section 46 of *The Land Titles Regulations, 2001* that the _____ *[Sub-interest Type]* registered as Interest Register # _____ Interest #(s) _____ against Interest #(s) _____ shall Lapse after 30 days from the mailing by registered mail / personal service of this Notice unless within those 30 days a Court Order is registered against the said Interest extending the said Interest(s).

[signature]

Step # 2 – Application for Interest Discharge (Affidavit of Lapse)

Thirty clear days must have passed from the date of service of the notice before the affidavit can be sworn and submitted for registration. This will be checked prior to registration of the discharge. There is no requirement that 30 days pass between Step # 1 and Step # 2. However, if you choose to complete both steps within one packet you cannot be assured that the notice is acceptable. As a result, the packet will be more likely to be rejected and you will need to reserve the notice and wait an additional 30 days.

If the title is locked you must determine the type of lock and if the lock will prevent the discharge from registering. If the title has transferred after the date of service of the notice you must obtain an Affidavit from both the former and current title owners. Sample affidavits are attached.

The Affidavit must contain the following minimum requirements:

- When a title owner is lapsing an Interest:
 - Sworn by title owner (indicate title number).
 - Set out Interest Register and Interest numbers.
 - Indicate the date of service of the notice.
 - Indicate how service was affected (personal or registered mail to address as registered on title for that Interest number).
 - Attach the notice. The notice does not need to be an exhibit to the affidavit.
 - They are aware of no court order extending the interest.

- When an interest holder is lapsing a sub-interest:
 - Sworn by interest holder (indicate interest number).
 - Set out Interest Register and Interest numbers.
 - Indicate the date of service of the notice.
 - Indicate how service was affected (personal or registered mail to address as registered on title for that Interest number).
 - Attach the notice. The notice does not need to be an exhibit to the affidavit.
 - They are aware of no court order extending the sub-interest.

Preventing a Lapse

Builders' Liens – Certificate of Action

A Builders' Lien cannot be lapsed if a Certificate of Action has been filed with the Land Registry pursuant to Section 58 of the *Builders' Lien Act*. The Court of Queen's Bench issues a Certificate of Action when a Statement of Claim is filed to enforce the Builders' Lien. Form O (attached after the Common Questions) of the *Builders' Lien Regulation* is the prescribed form.

When a Certificate of Action is obtained it should be sent directly to the ISC Land Registry at Frontier Mall - 11406 Railway Avenue East, North Battleford, SK S9A 3G8 or via fax at (306) 446-7949. The title(s) related to the Certificate will be locked with the Builders' Lien Lock.

The Builders' Lien Lock will prevent the assignment or discharge of **all interests** based on a Builders' Lien. However, it will not prevent the registration of a subsequent Builders' Lien, the transfer of the title, or registration or discharge of other interest types. After a Certificate of Action has been filed and there is only one Builders' Lien on the title, the Builders' Lien may be discharged by the holder of Builders' Lien or discharged pursuant to Section 61 (3) of the *Builders' Lien Act*. If there are more than one Builders' Lien on a title all liens must be discharged pursuant to the requirements as set out in Section 61 (2.1).

Section 55 of the *Builders' Lien Act* requires the holder of the Builders' Lien to have the matter set down for trial within two years of filing the Statement of Claim. However, the Lien holder can obtain a Court Order to extend this time period and register the *Builders' Lien Act – Order extending time*.

The Registrar does not automatically remove a Builders' Lien after the 2 years referred to in Section 55(1) have expired. The *Builders Lien Act-Order extending time* is registered as an interest on the title.

All other interest types

Clients should send court orders that prevent a lapse directly to the ISC Land Registry at Frontier Mall - 11406 Railway Avenue East, North Battleford, SK S9A 3G8 or via fax at (306) 446-7949. These registrations are not processed in the normal packet processing queue. The title(s) related to the Court Order will be locked to ensure the order is complied with.

Lapsing of Lease Interest Types

On February 13, 2009 a change was made to *The Land Titles Regulations, 2001* allowing the ability for an interest holder or interested party to use the lapse process to discharge lease interests so long as there are no sub-interests registered against the lease interest at the time the lapse process is commenced.

The following lease interests are affected by this change:

- CNV Lease
- Lease – 10 years or more
- Lease – less than 10 years
- Condominium Property Act – Common Property Lease
- Saskatchewan Water Corporation Act Lease
- Saskatchewan Watershed Authority Act Lease

After 30 days have passed, the interest holder or interested party may submit an Application for Interest Discharge.

Please note that any sub-interests registered against the lease interest during the 30 day period will not prevent the interest holder or interested party from submitting an Application for Interest Discharge.

Common Questions

1. Who can lapse an interest?

Section 46 provides that a title owner may seek to lapse an interest registered against their title. An interest holder may seek to lapse a sub-interest registered against their interest. An interest holder **cannot** lapse another interest registered against the same title. For example, if Company A and Company B both have CNV Caveats registered against John Smith's Title. Company A cannot lapse the Interest of Company B. John Smith must complete the lapsing process. This is a change from *The Land Titles Act, 1978*.

2. What if the Lapse Procedure had been commenced and the title has transferred to a new owner prior to the Lapse Procedure being completed?

The lapse process does not have to start over. Both the former and current title owners must swear the Affidavit of Lapse. This policy ensures an interest holder can conduct a title search at any point prior to the expiry of the 30 day period and properly serve the court order.

3. What if the lapse was commenced in a former Land Titles Registration District within 30 days of the office closure?

The lapse process does not have to start over. You must submit an Application for Interest Discharge along with the Affidavit of Lapse. A Sample Affidavit for this situation is attached. If 30 days had passed between the mailing of the notice by the Registrar in a former Land Titles Registration District and the closing of the former office Land Titles district please contact the Customer Call Centre.

Interest holders that commenced the lapse procedure under the Old Act **can** complete the lapse under the new *Act* and lapse other interests. The rule prohibiting interest holders from lapsing other interest does not apply in this instance.

4. Do we require a copy of the notice to lapse if the lapse was commenced in the Old World?

No

5. What if the address on title is incomplete?

The *Act* requires that all title and interest holders maintain their current address with the Land Registry. The position of the Registrar is that the notice must be sent to the address as it appears on the title. The 30-day waiting period prior to swearing the Affidavit of Lapse is still required.

6. Can you lapse a share of an interest?

Yes, but the entire interest must be discharged. Interest discharges occur at the interest level and not at the share level.

Therefore, you must submit authorization from the remaining share holders who are not subject to the lapse. For example if an interest is held in three shares you can register the *Notice Lapse Procedure Commenced* against one of the shares. In the application for discharge you must have the Affidavit of Lapse for the share to be lapsed along with an interest discharge authorization from the remaining two share holders.

All authorizations would be enclosed within the same application.

7. Who can send the notice?

Anybody.

8. Who can swear the Affidavit of Lapse?

The title owner for lapse of interests and interest holders for lapse of sub-interest may swear the Affidavit. One joint tenant or interest holder may swear the affidavit on behalf of all other joint tenants.

If the affidavit is on behalf of a Corporation the position of the person swearing the affidavit must be indicated and they must indicate they are authorized to swear or sign on behalf of the Corporation. A seal or additional affidavit indicating signing authority is not required.

If the title owner or interest holder is deceased the Personal Representative can sign the affidavit but they must enclose Letters Probate (Administration) confirming their appointment.

9. What if the notice is sent by an agent/solicitor?

This is fine but the registered owner must still swear the Affidavit. The Affidavit of Lapse must be amended to indicate "I am advised by [agent] that service of the notice etc."

10. Can you lapse a mortgage registered as a miscellaneous interest?

Yes. The determining factor is the type as it appears on the title.

11. Can you lapse an interest if the title is locked because a Certificate of No Infants has not been provided?

Yes.

12. Can you lapse a CNV Caveat?

Yes. All CNV Caveats are lapsable.

13. Is the Corporate Seal required on the notice to lapse?

No.

14. Does the notice to lapse have to be served on every holder of the interest to be lapsed?

Yes. However, one notice can refer to more than one interest holder.

Form O

Form O
CERTIFICATE OF ACTION

(Subsection 86(5) of The Builders' Lien Act)

In the Queen's Bench for Saskatchewan

Judicial Centre of _____

BETWEEN:

(Plaintiff)

- and -

(Defendant)

I certify that the above named plaintiff has commenced an action in the above named Court to enforce against the following land: (here set out legal description of land):

a claim of lien, pursuant to *The Builders' Lien Act*, for \$ _____

Dry: Masta / Ven

Local Registrar

3 Jan 88 QB-7.1 Reg 1.

Interest Types

Interest Type Registered on the Title	Lapsable ?
Adult Guardianship - Co-Decision – Making Act Notice (S.57)	N
Assignment of Rents	N
Assignment of a Lease as Security	N
Bank Act Security	N
Bankruptcy Caution	N
Builders' Lien	Y
Builders' Lien Act -Order Extending Time	N
Certificate of Pending Litigation	N
CNV Bankruptcy Caution	N
CNV Bankruptcy Exemption	N
CNV Builders' Lien	Y
CNV Caveat	Y
CNV Certificate of Chief Engineer	N
CNV Common Law Easement	N
CNV Conditional Sales Agreement	N
CNV Conservation Easement	N
CNV Drainage Control Act	N
CNV Easement	N
CNV FW Federal Writ	N
CNV Homestead Caveat	N
CNV Judge's Order – Interest	N
CNV Lease	Y
CNV Lis Pendens	N
CNV Maintenance Order	N
CNV Maintenance Writ	N
CNV Matrimonial Order	N
CNV Mechanics Lien	Y
CNV Mediation Board Consent	N
CNV Mediation Board Order	N
CNV Mortgage	N
CNV Mortgage – Annuity	N
CNV Mortgage – Debenture	N
CNV Mutual Easement	N
CNV Notice – Condominium Property Act	N
CNV Notice – Designation Heritage Property	N
CNV Notice – Designation Heritage Property – Municipal	N
CNV Notice – Designation Heritage Property – Provincial	N
CNV Notice – Developers Declaration – Condominium Property Act	N
CNV Notice – Expropriation Procedure Act	N
CNV Notice - Intent Heritage Property	N
CNV Notice - Intent Heritage Property – Municipal	N
CNV Notice - Intent Heritage Property – Provincial	N
CNV Notice – Meewasin Valley Authority Act	N
CNV Notice – Northern Municipalities Act	N
CNV Notice – Resolution of Replotting Scheme – Planning and Development Act	N
CNV Notice – Rural Municipality Act	N

CNV Notice – Surface Rights Acquisition and Compensation Act	Y
CNV Notice – Urban Municipality Act	N
CNV Notice – Wascana Centre Act	N
CNV Notice Community Planning Act	N
CNV Party Wall Agreement	N
CNV Personal Property Security Interest	N
CNV Pipeline Easement	N
CNV Planning and Development Act Caveat	N
CNV Postponement	N
CNV Power of Attorney	N
CNV Public Utility Easement	N
CNV Restrictive Covenant	N
CNV Tax Lien	N
CNV Warning of Impending Forfeiture - Mineral Taxation Act	N
CNV Water Corporation Certificate	N
CNV Water Corporation Notice	N
CNV WE Provincial Writ	N
CNV Writ	Y
Condominium Property Act - Arbitration Costs	N
Condominium Property Act - Common Property Lease	Y
Condominium Property Act - Court Appointed Administrator	N
Condominium Property Act - Developer's Reservation	N
Condominium Property Act - Encroachment Agreement	N
Condominium Property Act - Endorsed Declaration	N
Condominium Property Act - Lien For Arrears	Y
Condominium Property Act - Notice of Objection	N
Condominium Property Act - Notice of Termination	N
Condominium Property Act -Objection to Appointment Scheme	N
Condominium Property Act - Parking Redesignation	N
Conservation Easement	N
Conservation Easements Act - Election by Crown	N
Court Order	N
Creditor's Relief Act Claim	N
Easement Mutual	N
Easement Non-Mutual	N
Environmental Management and Protection Act - Certificate of Permit (S. 27(3))	N
Environmental Management and Protection Act - Permit Notice (Section 25(2)).	N
Expropriation Act - Abandonment of Intention to Expropriate	N
Expropriation Act - Abandonment of Interest	N
Expropriation Act - Confirmation of Expropriation	N
Expropriation Act – Intention to Expropriate	N
Expropriation Procedure Act -Notice of Possession/Dedication	N
Family Property Act - Order for Exclusive Possession	N
Farming Communities Land Act (s.3)	N
Federal Writ	N
Heritage Property Act - Conservation District Notice	N
Heritage Property Act - Easement of Covenant	N
Heritage Property Act - Interest for Repair	N
Heritage Property Act - Notice of Amendment	N
Heritage Property Act - Notice of Designation (Municipal)	N

Heritage Property Act - Notice of Intention (Municipal)	N
Heritage Property Act - Notice of Intention (Provincial)	N
Heritage Property Act - Order of Designation (Provincial)	N
Heritage Property Act - Order Rescinding Designation of Heritage Property (Provincial)	N
Homestead Interest	N
Joint Use Utility Easement	N
Lease - 10 years or more	Y
Lease - less than 10 years	Y
Maintenance Order	N
Maintenance Writ	N
Many Islands Pipe Lines Easement - SaskEnergy Act (S.19)	N
Meewasin Valley Authority Act - Arbitrator's Decision	N
Meewasin Valley Authority Act Voluntary Easement	N
Mineral Commodity Agreement	Y
Mineral Taxation Act -Warning of Impending Forfeiture	N
Miscellaneous Interest	Y
Mortgage	N
Mortgage – Annuity	N
Mortgage of Lease	N
Municipal Board Order	N
National Energy Board Order	N
Northern Municipalities Act - Notice (Northern)	N
Notice - Interest held by Personal Representative	N
Notice - Interest held by Trustee in Bankruptcy	N
Notice - Lapse Procedure Commenced	N
Party Wall Agreement	N
Personal Property Security Act Interest	N
Pipelines Act – Easement	N
Planning and Development Act -Agreement for contract zoning (s.82)	N
Planning and Development Act -Deferral of Dedication (s.195)	N
Planning and Development Act -Development Agreement (s.55.5)	N
Planning and Development Act -Development Agreement in direct control district (s.79)	N
Planning and Development Act -Development Permit to Demolish Residential Building (s.84.1)	N
Planning and Development Act -Easement on dedicated lands (s.204)	N
Planning and Development Act -Enforcement Order (s.220.1)	N
Planning and Development Act -Interest Protecting Agreement (s.215)	N
Planning and Development Act -Interest re: development standards on hazardous lands (s.142)	N
Planning and Development Act -Servicing Agreement (s.143)	N
Planning and Development Act -Waiver of subdivision regulations (s.146)	N
Postponement	N
Potash Development Act - Vesting Order	N
Power Corporation Act - Notice of Requirement of Easement	N
Power Corporation Act Interest (S.14)	N
Power Corporation Act Interest (S.23)	N
Provincial Lands Act – Interest	N
Provincial Mediation Board Consent	N

Provincial Mediation Board Order	N
Public Health Act Notice	N
Public Trustee Act - Lien for Expenses	N
Public Utility Easement	N
Registrar's Notice	N
Registrar's Order	N
Restrictive Covenant – Mutual	N
Restrictive Covenant - Non-Mutual	N
Revocation of Power of Attorney	N
Rural Municipality Act – Notice	N
Safer Communities and Neighbourhoods Act – Community Safety Order (S.23)	N
Safer Communities and Neighbourhoods Act – Removal of Closure Order (S.48)	N
Sale or Lease of Certain Lands Act -Order in Council	N
Saskatchewan Farm Security Act – Order	N
Saskatchewan Telecommunications Act Easement (S.12)	N
Saskatchewan Telecommunications Act Easement (S.20)	N
SaskEnergy Act – Notice of Requirement of Easement	N
SaskEnergy Act Easement (S.19)	N
SaskTel Easement	N
Securities Act – Notice	N
Surface Rights Acquisition and Compensation Act – Order	Y
Tax Enforcement Act - Abridgement Order	N
Tax Lien	N
TLE Interest in Mineral Rights Currently subject to Crown (Sask) Disposition	N
TransGas Easement - SaskEnergy Act (S.19)	N
Urban Municipality Act – Notice	N
Wascana Centre Act – Notice	N
Wascana Centre Act - Resolution Altering Area	N
Water Corporation Act - Certificate of Approval (s.60)	N
Water Corporation Act - Notice (s.59)	N
Water Corporation Easement	N
Watershed Authority Act – Certificate (Section 58)	N
Watershed Authority Act – Notice of Approval (Section 59)	N
Watershed Authority Easement	N
Watershed Authority Lease	Y
Water Corporation Lease	Y
WE Provincial Writ	N

Sample Affidavits

 **NOTE** These are **not** prescribed forms.

Lapse commenced in the Old World – Completed in the New

1. I was one of the registered owners of Certificate of Title _____
or
1. I was one of the interest holders on Certificate of Title _____.
2. That since the date of service of the notice to lapse the Certificate of Title was converted and is now Title # _____.
3. An interest to be lapsed, was registered on the said Certificate of Title on _____ by the former _____ Land Titles District.
4. The Certificate of Title indicates that the Registrar of the former _____ Land Titles District mailed the notice to lapse on _____ as required by the *Land Titles Act, 1978*.
5. That to my knowledge no court order has been made extending the registration of the said interest.
6. That I make this Affidavit in support of an Application to Discharge the said interest by reason of lapse and for no other purpose.

Title owner lapsing an Interest

1. I am one of the registered owners of Title # _____.
2. Service of the notice to interest holder _____ Interest Register # _____ Interest # _____ was made on _____ by registered mail sent to _____ being the last address for service shown in the Land Registry record on the said title - **or** - by way of personal service. [*attach the Notice*]
3. That to my knowledge no court order has been made extending the registration of the said Interest.
4. That I make this Affidavit in support of an Application to Discharge the said interest(s) by reason of lapse and for no other purpose.

Interest holder lapsing an interest

1. I am one of the registered holders of Interest Register # _____
Interest # _____
2. The Notice – Lapse Procedure Commenced was registered as a sub-interest on above mentioned Interest # on _____
3. Service of the notice to sub-interest holder _____
Interest Register # _____ of Interest _____ was made on _____
by registered mail sent to _____ being
the last address for service shown in the Land Registry record -or- by way of personal
service. [attach the notice]
4. That to my knowledge no court order has been made extending the registration of the said
sub-interest.
5. That I make this Affidavit in support of an Application to Discharge the said Sub-Interest by
reason of Lapse and for no other purpose.

Service of Notice to lapse – Title Transferred – Lapse completed (2 affidavits required)

Note: Only one of the Affidavits must indicate how service was made.

Former Owner

1. I was one of the registered owners of Title # _____ when service
of the notice to lapse was made.
2. Service of the notice to interest holder _____ of Interest
Register # _____ Interest # _____ was made on _____
by registered mail sent to _____
being the last address for service shown in the Land Registry record on the said Title - or -
by way of personal service. [attach the notice]
3. That to my knowledge no court order has been made extending the registration of the said
interest(s).
4. That I make this Affidavit in support of an Application to Discharge the said interest by
reason of lapse and for no other purpose.

Current Owner:

1. I am one of the registered owners of Title # _____
2. That since the date of service of the notice to lapse Title # _____ was
transferred and is now Title # _____
3. Service of the notice to interest holder _____ of
Interest Register # _____ Interest # _____ was made on _____
by registered mail sent to _____
being the last address for service shown in the Land Registry record on the said Title - or -
by way of personal service. [attach the notice]
4. That to my knowledge no court order has been made extending the registration of the said
interest(s).
5. That I make this Affidavit in support of an Application to Discharge the said Interest(s) by
reason of lapse and for no other purpose.

Legislation

Land Titles Act (“Act”)

Lapsing

63(1) The registration of an interest may only be lapsed as permitted in the regulations.

(2) Where the registration of an interest has been lapsed in accordance with the regulations, the registration may be discharged on application to the Registrar in accordance with section 64. 2000, c.L-5.1, s.63.

Application to discharge interest registration

64(1) An application for registration of a discharge of an interest may be made to the Registrar in the prescribed manner.

(2) On receipt of an application that meets the requirements of subsection (1), the Registrar shall register the discharge. 2000, c.L-5.1, s.64.

Land Titles Regulations, 2001 (“Regulations”)

Lapsing

46(1) Subject to section 47, a registered owner or interest holder may seek to lapse an interest registered against his or her title or interest, as the case may be.

(2) A registered owner or interest holder seeking to lapse an interest pursuant to subsection (1) must:

(a) in accordance with section 109, notify the holder of the interest to be lapsed that the interest will lapse after the expiration of 30 days after the date of personal service or the mailing of the notice, unless before that time expires the holder of the interest to be lapsed registers an interest based on a court order against the interest intended to be lapsed that provides that the interest is to continue beyond the 30 days; and

(b) apply to the Registrar to register an interest based on a notice of a lapse against the interest intended to be lapsed.

(3) An application to the Registrar to discharge the interest intended to be lapsed pursuant to subsection (1) must include, as authorization to the Registrar to discharge the registration of the interest, an affidavit of the registered owner or the interest holder, as the case may be, stating that:

(a) in accordance with clause (2)(a), the deponent notified the holder of the interest to be lapsed that the interest will lapse after the expiration of 30 days after the date of personal service or the mailing of the notice; and

(b) to the deponent’s knowledge, no order has been made extending the registration of the interest beyond the 30-day notice period.

(4) On receipt of an application and affidavit in accordance with this section, the Registrar shall register a discharge of a lapsed interest where no court order extending the registration of the interest beyond the 30-day notice period has been registered.

(5) If an interest based on a court order has been registered extending the registration of an interest, unless an interest based on a further court order is registered further extending the registration of the interest, after the expiration of the extended period named in the court order, the Registrar shall register a discharge of the lapsed interest where:

(a) an affidavit meeting the requirements of subsection (3) is provided to the Registrar; and

(b) an interest based on a further court order extending the registration of the interest beyond the period specified in the original court order

mentioned in clause (2)(a) has not been registered. 20 Jly 2001 cL-5.1 Reg 1 s46.

Exceptions to the lapsing process

47 Notwithstanding section 46, registration of the following interests may not be lapsed:

- (a) an interest based on a mortgage;
- (b) an interest based on a lease;
- (c) an interest based on an easement if there is a dominant tenement;
- (d) an interest based on a party wall agreement;
- (e) an interest based on a restrictive covenant;
- (f) an interest based on a court order;
- (g) an interest based on an Act or an Act of the Parliament of Canada, unless that Act or Act of the Parliament of Canada specifically provides for the lapsing of that interest;
- (h) an interest based on a writ or maintenance order;
- (i) an interest based on a notice of a personal representative;
- (j) an interest based on a notice of a trustee in bankruptcy;
- (k) an interest designated as a registrable interest pursuant to section 36;
- (l) a postponement of any interest mentioned in clauses (a) to (k). 20 Jly 2001 cL-5.1 Reg 1 s47; 22 Mar 2002 SR 21/2002 s11.

Builders' Lien Act

Lien expires unless action set down for trial

55(1) Subject to subsection (2), a lien, for which an action has been commenced, expires where an action in which that lien may be realized is not set down for trial within two years of the day the action was commenced.

(2) The court may extend the time mentioned in subsection (1).

(2.1) An order pursuant to subsection (2) extending the time for commencing an action may be registered as an interest in the Land Titles Registry.

(3) Where a lien has expired under subsection (1), the court shall, on application, make an order dismissing the action if there is no other registered claim of lien at the time of the application, otherwise the court shall make whatever order it deems appropriate for continuation of the action.

Lapsing of lien

58(1) Subject to subsection (2), a registered interest based on a claim of lien may be lapsed in accordance with *The Land Titles Act, 2000*.

(2) A registered interest based on a claim of lien may not be lapsed where any of the following interests have been registered:

(a) an interest based on a certificate of action issued pursuant to subsection 86(5);

(b) an interest based on a court order extending the time for commencing an action mentioned in subsection 55(4).

Certificate of action

61(1) Where:

(a) a certificate of action is registered;

(b) the registration of a claim of lien with respect to which the action relates is vacated; and

(c) there remain liens which may be enforced in the action to which that certificate of action relates; the court may give directions in respect of the continuation of the action or otherwise.

(2) On application to the registrar, the registration of an interest based on a certificate of action in the Land Titles Registry may be discharged.

(2.1) An application pursuant to subsection (2) must include a certificate, in the prescribed form, of the registrar of the Court of Appeal, the local registrar of the court at the judicial centre in which the action is pending, or a deputy of either of them, certifying that:

(a) the plaintiff has filed a notice of discontinuance and all other lien claimants who are parties to the action have consented to discontinuance of the action; or

(b) the action has been finally determined at trial or on appeal, and any further right of appeal has expired.

(3) Where a certificate of action and only one claim of lien are registered, the person who submitted the certificate of action for registration and the person on whose behalf the claim of lien is registered may apply to the registrar, in the prescribed form, to discharge the registration of the certificate of action.



Note: Both Affidavits must be completed. However, only one of these affidavits must indicate how service was made.

I, _____ of _____ in the Province
of _____ **make oath and say that:**

1. I was one of the registered owners of Title # _____ when service of the notice to lapse was made.
2. Service of the notice to interest holder _____ of Interest Register # _____ Interest # _____ was made on _____ by registered mail sent to _____ being the last address for service shown in the Land Registry record on the said Title
- or - by way of personal service. [*attach the notice*]
3. That to my knowledge no court order has been made extending the registration of the said interest.



4. That I make this Affidavit in support of an Application to Discharge the said interest by reason of lapse and for no other purpose.

JURAT

Sworn before me at _____,)

in the Province of _____,)

this _____ day of _____, 20____,)

A Commissioner for oaths for Saskatchewan)
or Notary Public)
or other person authorized to take oaths)

_____ (specify).)
My commission/appointment expires)

_____ (dd/mm/yy).)
or being a Solicitor)

Signature_____



Note: Both Affidavits must be completed. However, only one of these affidavits must indicate how service was made.

I, _____ of _____ in the Province of _____ make oath and say that:

- 1. I am one of the registered owners of Title # _____
2. That following the date of service of the notice to lapse Title # _____ was transferred and is now Title # _____
3. Service of the notice to interest holder _____ of Interest Register # _____ Interest # _____ was made on _____ by registered mail sent to _____ being the last address for service shown in the Land Registry record on the said Title - or - by way of personal service. [attach the notice]
4. That to my knowledge no court order has been made extending the registration of the said interest.
5. That I make this Affidavit in support of an Application to Discharge the said Interest(s) by reason of lapse and for no other purpose.

JURAT

Sworn before me at _____ ,)



in the Province of _____,)

this _____ day of _____, 20____,)

_____)
A Commissioner for oaths for Saskatchewan)
or Notary Public)
or other person authorized to take oaths)

_____ (specify).)
My commission/appointment expires)

_____ (dd/mm/yy).)
or being a Solicitor)

Signature_____