

Subject: **LIENS REGISTERED PURSUANT TO THE RURAL
ELECTRIFICATION ACTS**

BACKGROUND

The Rural Electrifications Long Term Financing Act (RELTF Act) and the Rural Electrification Loan Act (REL Act) deal with the financing of the supply of electricity to rural areas. A loan under the RELTF Act is to be repaid over a period of 25 years or less, whereas the term of a loan under the REL Act is to be repaid over a period of 10 years or less. (1)

If an association is borrowing money, it must obtain lien notes from those members who have not fully paid their share of constructions costs. (2) If an individual is borrowing money, the lien note must be obtained from the individual. (3)

The Director of Rural Electrification Associations can file a notice of lien in the Land Titles Office that only affects the interest of the member or individual in the surface rights of the land. (4) (5) It remains on title until the notice of lien has been discharged unless it is foreclosed in proceedings relating to a mortgage to which it has been postponed. (6)

If necessary the Director may file a new notice of lien on other land owned by or in which the borrower has a registered interest and may give notice in the prescribed form. (7)

The Rural Electrification Loan Regulation authorizes the assignment of the loan portfolio under the RELTF Act and the REL Act to the private sector. (8)

REGISTRATION PROCEDURE

1. **Notice of Lien** - The Director of Rural Electrification Associations (9) shall file a notice of lien in the prescribed form (**FORM A** or **FORM B**) against the land described in the lien note. The notice must be signed under seal by the Director.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Lien

The code used for registration at Land Titles is: LIEN

In details enter one of the following:

“under the Rural Electrification Long Term Financing Act”

or

“under the Rural Electrification Loan Act”

2. **Dower** – Land for which a lien has been filed is deemed not to be a homestead therefore dower compliance is not required. (10)

3. **Postponement** – (11) (12) The Director may postpone a registered lien pursuant to the provisions of the Land Titles Act (see procedure under POS-1). The RELTF Act and REL Act both provide for the liens to have priority unless specifically postponed to a mortgage.

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Postponement

The code used for registration at Land Titles is: POST

4 **Court Proceedings** – (13) Proceedings to enforce a lien may be commenced in the Court of King's Bench and a certificate of *lis pendens* may be registered in respect of the proceedings (see procedure under CLP-1).

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Certificate of Lis Pendens

The code used for registration at Land Titles is: CELP (ensure to enter in the registration number of the lien)

5. The court may order that the estate or interest in land that is charged with the lien be sold or may direct the sale and removal of any works. If a vesting order in respect of a sale ordered by the court is presented for registration, section 191 of the Land Titles Act must be complied with (see procedure under ORD-1).

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Order – New Titles

The code used for registration at Land Titles is: ORDT

6. **Discharge – (14)** A lien endorsement is discharged upon registration of:
- a) a discharge in the prescribed form (**FORM C** or **FORM D**) signed by the Director,
or

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Discharge

The code used for registration at Land Titles is: DISC

- b) a certified copy of a court order directing its cancellation. **(15)**

The SPIN2 document type to be used when creating a Document Registration Request (DRR) form is: Discharge by Order

The code used for registration at Land Titles is: DISO

6. **Fees** – All registrations are made without fee. **(16)**

STATUTE AND CASE REFERENCES

Statute references are to the Rural Electrification Long Term Financing Act (RELTF Act), R.S.A. 2000, c. R-20 and the Rural Electrification Loan Act (REL Act), R.S.A. 2000, c. R-19, unless otherwise indicated.

1. s. 3(3) RELTF Act; s. 4(3) REL Act
2. s. 7 RELTF Act; s. 6 REL Act
3. s. 8 RELTF Act; s. 7 REL Act
4. s. 1(b) RELTF Act; s. 1 (b) REL Act; s. 1 (c)(i) Rural Utilities Act
5. ss. 7(6), 8(4) and 21 RELTF Act; ss. 6(6), 7(4) and 20 REL Act
6. s. 22(3) RELTF Act; s. 21(3) REL Act
7. s. 21(2) RELTF Act; s. 20(2) REL Act
8. s. 2(3)(b) Alberta Regulation 139/97
9. s. 21(1) RELTF Act; s. 20(1) REL Act
10. s. 22(4) RELTF Act; s. 21(4) REL Act
11. s. 21(5) RELTF Act; s. 20(5) REL Act
12. s. 22(3) RELTF Act; s. 21(3) REL Act
13. s. 25 RELTF Act; s. 24 REL Act
14. s. 21 RELTF Act; s. 20(4) REL Act
15. s. 24 RELTF Act; s. 23 REL Act
16. s. 21(3) and (4) RELTF Act; s. 20(3) and (4) REL Act