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## **New Record-Keeping Obligations for Old and New Ontario Corporations: What are they?**

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On December 10, 2016, the new *Forfeited Corporate Property Act, 2015* (the “Act”) was entered into force. The Act imposes record-keeping obligations on Ontario corporations by way of amendments to (a) the *Business Corporations Act (Ontario)* (“OBCA”); (b) the *Ontario Corporations Act* (“OCA”); and (c) when it comes into force, the *Ontario Not-for-Profit Corporations Act, 2010*.

### **I. What are the new obligations for old and new Ontario corporations?**

Pursuant to Section 300.1 of the OCA and Section 140.1 of the OBCA, corporations must now establish and maintain a register at its registered office listing all of its “ownership interest” in land in Ontario. Such register must identify each property and show the date the corporation acquired the property and the date of the disposal, if applicable.

In addition, the following, if any, will need to be kept with the register:

- a) copies of any deeds, transfers, or similar documents that contain the municipal address;
- b) registry or land titles division and PIN;
- c) legal description; or
- d) assessment roll number.

### **II. What is an “ownership interest” in land?**

While the term “ownership interest” is not defined in the Act, the OBCA and the OCA, or other related legislation or case law, interpreting it to cover both legal and beneficial interests in real property in Ontario, is the most cautious approach. It is not clear, however, whether ownership interests would also apply to options to purchase, mortgages held in respect of land in Ontario, easements and right-of-way interests or certain leasehold interests.

### **III. What is the timing of compliance for Ontario Corporations?**

All OBCA corporations created on or after December 10, 2016 are required to comply immediately as of such date. However, all pre-existing corporations have until December 10, 2018 to comply with these new obligations. It should also be noted shareholders and creditors will have the right to examine the corporation’s register of ownership interests during business hours and take extracts from those records.



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#### **IV. What are the consequences of non-compliance?**

Failure to maintain proper corporate records is an offence under the OBCA and punishable on conviction by a fine of not more than \$2000 and a prison term of not more than a year, or both for every director or officer who authorized, permitted or acquiesced in the offence and a fine of not more than \$25,000 where a corporate entity is convicted.

#### **V. Conclusion.**

These amendments may impose significant corporate record keeping requirements to certain Ontario corporations with a large “ownership interest” in land. Management and business owners of Ontario corporations should be aware of these new obligations. We recommend a cautious approach as there is currently little guidance from the Ministry of Ontario regarding this new regime.

For more information on these new record-keeping obligations for Ontario corporations, please contact Philip Aubry in the business law group at *Perley-Robertson, Hill & McDougall LLP/s.r.l.* He can be reached at [paubry@perlaw.ca](mailto:paubry@perlaw.ca) or at 613.566.2746.