

# Your guide to replacing a lost or destroyed certificate of title

The following information is a general guide to the procedure for applying for a replacement certificate of title that has been lost or destroyed.

### 1. Should you use a lawyer to apply for a replacement certificate of title?

Depending on the facts, an application for a replacement certificate of title may be quite simple or very complex.

Staff at Land Victoria are required by law to satisfy themselves as to certain evidence before approving an application for a replacement certificate of title. The evidence required is described in this guide under the Section 8 'Standard requirements for evidence and documents'. If all the evidence required is not presented your application will be refused.

If you are not certain that you understand how to gather and present the required evidence, you should consider employing a lawyer or other adviser to do the work for you.

If you wish to use a lawyer, the Law Institute of Victoria has a referral service that can refer you to lawyers experienced in this type of work. The Law Institute of Victoria is at 470 Bourke Street, Melbourne 3000 and can be contacted on (03) 9607 9311. Ask the receptionist for a referral to a lawyer for an application at Land Victoria.

### 2. What does a certificate of title look like?

There are two types of certificate of title in Victoria. The older certificates are produced on heavy paper. All transactions after the original date of creation are recorded and each transaction is printed or handwritten with different inks and stamps.

The newer certificate is a computer print out on blue security paper, which has a hologram and blue seal on the front page plus an authentic eagle watermark. The new paper also has a unique control number on the bottom right corner of the back page.

### 3. Where to look before applying for a replacement certificate of title

Land Victoria issues certificates of title to the person who last lodged documents at Land Victoria for amendment. This is usually one of the registered proprietors (owners), the mortgagee (bank or other lender), or a lawyer or conveyancer for the registered proprietors or mortgagee.

You can identify the party to whom a title is issued by doing an issue search at Land Victoria.

Other places to look or inquire before making a replacement title application include:

- Safe deposit boxes and envelopes held by any registered proprietor.
- Your lawyer's office, it is easy to forget that you gave a certificate of title to your lawyer for safekeeping, for example, the last time you updated your Will.
- Your personal papers, for example in your home safe or in a filing cabinet or drawer with your insurance policies.
- Your bank, for example if you paid off a mortgage but never got the certificate of title back.

### 4. What you need to apply for a replacement certificate of title

- (a) Application (form AP31), which can be purchased from Land Victoria. The application should be typed, laser printed or legibly handwritten in permanent ink. Self correcting typewriter ribbon or correction fluid may not be used. An example of the Form of Application is set out at the back of this guide.
- (b) Evidence to establish loss or destruction of the certificate of title, including evidence that all reasonable searches have been made. Land Victoria sells a standard form of statutory declaration for the assistance of applicants (see example at the back of this guide). In most cases, statutory declarations will be required from

several witnesses in order to explain what happened to the certificate of title after Land Victoria issued it. If there is more than one registered proprietor of the land, each registered proprietor must provide a statutory declaration verifying that he or she does not have the certificate and does not know where it is. The requirements to be addressed are set out in Section 8 of this guide. You must address all of these requirements.

- (c) Before making an application, you must obtain from Land Victoria an up-to-date title search to determine the last transaction registered and also request an issue search at this time.

### 5. Where a registered proprietor has died

Where any registered proprietor has died, an application for a replacement certificate of title must be accompanied by the appropriate application to remove the name of the deceased person(s). This would usually be an Application by Surviving Proprietor (form ASP – for joint proprietors) or an Application by Personal Representative (form APR – for sole proprietors and tenants in common).

Where you are an executor or administrator of a deceased estate, you must state your belief that all debts of the estate have been satisfied. You must state the reasons for this belief and give details of any notices served or published in relation to actual or possible claims against the estate.

### 6. Lodging your application at Land Victoria

If you are lodging your application personally (for example, not using a lawyer), you will need to prove to Land Victoria staff that you are the registered proprietor of the land. Applications personally lodged at Land Victoria by the applicant will not be accepted until satisfactory identification has been provided.

Applications lodged by mail will be accepted but will not be approved until satisfactory proof of identity is submitted.

If attending Land Victoria in person, satisfactory proof of identity includes:

Any one of:

- passport
- driver's licence
- other document with your name and photo issued by a government agency in Australia

or

Any two of:

- birth certificate
- credit card
- Medicare card
- marriage certificate
- bank book

### 7. How much does it cost?

**Statutory fees** – Current fees are set out in the fees guide available at Land Victoria or online at [www.land.vic.gov.au](http://www.land.vic.gov.au) or at [www.dse.vic.gov.au](http://www.dse.vic.gov.au)

**Advertising requirements and insurance contribution** – In addition to the statutory fees, you may be required, at your expense, to place a public notice in a newspaper after the application has been reviewed by Land Victoria. Land Victoria will advise you if required.

Upon lodging your application you will be required to pay an indemnity contribution (similar to insurance), based on the value of the land and the circumstances of loss or destruction.

Land Victoria decides the amount of the indemnity contribution after considering the evidence for each case. The amount is calculated based on the value of the property on the certificate of title and the degree of risk (or uncertainty) that the certificate of title might have been used fraudulently.

A certificate of title is a very important document. Under Victorian law Land

Victoria (on behalf of the State of Victoria) is potentially liable to make good any loss suffered as a result of fraudulent use of a lost or stolen certificate of title. It is because of this potential liability that there are strict requirements for the evidence, advertising and indemnity contributions.

The contribution for cases assessed as low to normal risk would be calculated on the following scale: \$100 for land (including improvements) valued at up to \$200,000, thereafter 0.1 per cent for land valued at up to \$500,000. For example, for land valued at \$325,000 the contribution would be \$325. The maximum contribution for land valued at over \$500,000 is \$600.

If the risk of fraudulent use is considered to be higher than normal the indemnity contribution may be increased to cover the risk.

The contribution must be paid on lodging and is not refundable.

To ensure that the contribution you are charged is as low as possible, it is important to provide as much information as you can about how your certificate was stored, how it went missing and detail the full and exhaustive searches and inquiries that have been made.

## 8. Standard requirements for evidence and documents

**General** – Statutory declarations should be made by all applicants and should demonstrate clearly the means of knowledge of the declarant.

**Documents** – Land Victoria issue search and copies of relevant documents and correspondence should be referred to in one or more statutory declarations. Documents referred to in statutory declarations must be clearly identified and signed by the witness to the statutory declaration. Documents referred to may be stapled to the statutory declaration or be presented with Supreme Court-style exhibit notes.

**Valuation** – Your statutory declaration must state what you believe the current market value of the land to be. To support

this, a copy of the most recent rate notice or current rate certificate showing council valuation must be supplied. Your statutory declaration must also state whether or not the land is subject to a contract of sale. If the land is subject to a contract, your statutory declaration must also state the contract price and name of purchaser. A copy of the contract should be produced with your application.

### **Custody of lost or destroyed certificate**

– The statutory declarations provided with this application must trace the custody of the certificate of title from the time it was last issued from Land Victoria until loss or destruction was discovered. A statutory declaration should be supplied from each person who had custody. The statutory declaration should make it clear when, where and by whom the certificate was last seen. In the case of a witness who is deceased, unavailable or uncooperative, inability to obtain a statutory declaration must be substantiated with copies of correspondence, death certificates or other appropriate evidence attached to your own statutory declaration.

**Records of mortgagees** – Where a certificate is believed to have been lost while in the custody of a mortgagee (for example, a bank), the mortgagee must state if monies are owing on the loan; that the relevant records of the mortgagee still exist; and that the records show that the certificate was not released from the custody of the mortgagee. In any case where the mortgagee's records have been destroyed (for example, after repayment of a loan), further proof is required that the certificate was not released from the mortgagee's custody.

**Caveats** – Where a caveat affects the land a statutory declaration that the certificate of title is not in the possession of the caveator(s) or in the possession of the current practitioner for the caveator(s) must be provided.

**Destruction** – In the case of destruction, the remains of the old certificate must be produced or accounted for and copies of correspondence about insurance claims must be supplied. If there was no

insurance claim, the reason for this must be explained.

**Theft** – In the case of theft, details of the report to police must be supplied; and copies of correspondence about insurance claims must be supplied. If there was no insurance the reason for this must be explained.

**Searches** – One or more statutory declarations must detail who looked where to find the missing title. If you have failed to look in any obvious places, you will be required to look there and submit a further statutory declaration.

**Different names** – If the registered proprietor is described by any different names in any of the documents submitted, this should be explained by statutory declaration. (However, use of first initials, or omission of middle names or middle initials generally need not be explained.)

**Statement as to deposit of certificate** – You must state that the missing certificate has not been deposited as a security or held by another by way of lien. If you have no personal knowledge because, for example, you are an executor of a deceased proprietor, you must state your belief that the missing certificate of title has not been deposited as a security or held by another by way of lien. You must also explain the reasons for your belief.

**Undertaking to return** – You must state in your statutory declaration that you undertake to return the missing certificate of title to the Registrar of Titles in the event that it is ever found.

**Application for a new  
certificate of title in place  
of one lost or destroyed  
Section 31 Transfer of Land Act 1958**

**Privacy Collection Statement**  
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

Lodged at the Office of Titles by:

Name: .....

Phone: .....

Address: .....

Ref: .....

Customer Code: .....

The applicant applies for the issue of a new Certificate of Title to replace the lost or destroyed Certificate of Title.

Land: *(volume and folio reference)*

Applicant: *(full name and address including postcode)*

Date:

Signed

Applicant .....

or

Current Practitioner under the  
*Legal Practice Act 1996*  
for applicant .....

**AP31**

THE BACK OF THIS FORM MUST NOT BE USED

*Land Registry, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010*

I/We .....  
of .....

**Privacy Collection Statement**  
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

Do solemnly and sincerely declare that -

- The current market value of the land described in the certificate of title volume(s) ..... folio(s) ..... with all improvements thereon is \$ .....
- The missing certificate of title last issued from Land Registry on ..... to .....  
*(attach issue search results)*
- .....  
*(How that person or firm disposed of the certificate of title)*
- .....  
*(When and under what circumstances did the applicant last see the missing certificate of title.)*
- The missing certificate of title has not been deposited as a security or on lien.
- I/We have made full and exhaustive searches and inquiries for the missing certificate of title in the following places and with the following persons(s) *(refer to Section 8 of a 'Guide to replacing a lost or destroyed certificate of title')*
- I/We undertake to deliver up the missing certificate of title to the Registrar of Titles should it ever come into my/our possession or control.

Penal  
Charges

I/We solemnly and sincerely declare that this declaration is signed with my/our name and handwriting.

I/We acknowledge that this declaration is true and correct in every particular and I/we make it in the belief that person(s) making a false declaration are liable to the penalties of perjury.

Declared at ..... in the State of Victoria

the ..... day of ..... 20 .....  
*(Signature of declarant)*

before me

Signature of witness: .....

**Print name in full:** .....

Address: .....

Qualification: .....

Persons authorised to witness this statutory declaration include:

- |   |                         |                                |                                     |
|---|-------------------------|--------------------------------|-------------------------------------|
| <i>Bank manager</i>   | <i>School principal</i> | <i>Notary Public</i>           | <i>Councillor of a municipality</i> |
| <i>Justice of the Peace</i>                                 | <i>Pharmacist</i>       | <i>Medical practitioner</i>    | <i>Member of police force</i>       |
| <i>Legal Practitioner under the Legal Practice Act 1996</i> | <i>Dentist</i>          | <i>Veterinary practitioner</i> |                                     |

THE BACK OF THIS FORM MUST NOT BE USED

### **Further Information**

Land Registration Services

Land Victoria

Level 9

570 Bourke Street

Melbourne, 3000

Telephone (03) 8636 2010

Office Hours 8:30am – 4:00pm