

Alberta, Canada, Changes its Laws on Guarantees

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When the ***Alberta's Notaries and Commissioners Act*** (Alberta) became effective on April 30th, 2015, the ***Guarantees Acknowledgement Act*** (Alberta) was amended in several ways important to franchisees and franchisors. The amendments provide, inter alia, that any guarantee from an individual not obtained in compliance with the following rules is unenforceable:

1. each individual that provides a guarantee must appear before an active practicing lawyer and sign a certificate in a prescribed form in the presence of such lawyer acknowledging that such person has signed the guarantee. Signing in front of a student-at-law or notary public is no longer sufficient; and
2. the lawyer must be satisfied and certify that the individual guarantor is aware of, and understands, the contents of the guarantee.

The *Notaries and Commissioners Act* (Alberta) also removes the limitation on the fees to be provided for such services, which was previously capped at \$5.00.

These amendments are relevant to franchisors and franchisees as franchise agreements often require the principal of a corporation, where the franchisee is a corporation, to personally guarantee the corporate franchisee's obligations under the franchise agreement. Franchisors should update any existing acknowledgement certificate they use in respect of guarantees from individuals and make any corresponding amendments to their franchise disclosure document.

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National Law Review, Volume V, Number 204

Source URL: <https://natlawreview.com/article/alberta-canada-changes-its-laws-guarantees>