



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

Legal
and
Survey
Standards
Branch

BULLETIN NO. 84034

DATE: December 24, 1984

TO:
ALL LAND REGISTRARS

COURTS OF JUSTICE ACT, 1984, S.O.
1984, c.11

CERTIFICATE OF PENDING LITIGATION
EXECUTION AGAINST A PARTNER

The Courts of Justice Act, 1984 was proclaimed in force on January 1, 1985. The Act replaces the Judicature Act and related legislation affecting the courts and legal proceedings. There are two significant amendments which relate to land registration.

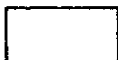
Section 116 provides for the registration in the land registry office of a certificate of pending litigation (formerly known as a certificate of lis pendens). A certificate of pending litigation in the prescribed form may be registered directly against the land under either the Registry Act or the Land Titles Act (see Form 42A of the Rules of Civil Procedure, which appears at the end of this Bulletin). Section 190, which contains a complementary amendment, repeals subsection 135(1) of the Land Titles Act. As a result of the above, Bulletin 82030 is superseded.

Subsection 177 (3) adds section 29a to the Execution Act. Section 29a provides that a writ of execution based on a personal judgment against a partner does not bind partnership land. The judgment can only be enforced against the partner's share of the profits by means of a receiving order.

A change in the indexing procedures for executions may be required in some offices as a result of the enactment of section 29a. Effective immediately, all writs of execution against partnerships must be indexed against the partnership name in addition to being indexed against the names of individual partners.

Land Registrars in the land titles system are advised as of January 1, 1985 that where there is any dealing with land where the ownership of such land is described as partnership property and the partnership name is provided, the following procedures apply to execution searches:

1. If a land registry office has been indexing executions against the partnership name in addition to the names of individual partners since January 1, 1979, a search should be



made only against the partnership name. There is no need to search executions against the individual partners.

2. Where executions have not been separately indexed against the partnership name since January 1, 1979, searches must also be made against the names of all the individual partners to determine if any execution affects partnership land. This procedure will have to continue until executions have been indexed against the individual and partnership names for a period of six years. After that period, the procedure in paragraph 1 shall be followed. An execution indexed against an individual partner will only bind the partnership land if the execution debtor is the partnership.

The above procedures also apply where there is any dealing with land described as partnership property where the parcel register does not indicate the partnership name. In this circumstance, a statutory declaration must be provided in which the deponent states the name of the partnership to enable a search to be made against the name.



Allen Doppelt
Solicitor

**FORM 42A
CERTIFICATE OF PENDING LITIGATION**

(General heading)

(Court seal)

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that in this proceeding an interest in the following land is in question:

(Set out a description of the land sufficient for registration. Where the land is registered under the Land Titles Act, include the parcel number. Attach a schedule if necessary.)

This certificate is issued under an order of the court made on *(date)*.

Date

Issued by

Local registrar

**Address of
court office**
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