

CERTIFICATES OF PENDING LITIGATION

The authority to register a certificate of pending litigation against land is set out in section 215 of the *Land Title Act*:

Registration of certificate of pending litigation in same manner as charge

215 (1) A person who has commenced or is a party to a proceeding, and who is

- (a) claiming an estate or interest in land, or
- (b) given by another enactment a right of action in respect of land,

may register a certificate of pending litigation against the land in the same manner as a charge is registered, and the registrar of the court in which the proceeding is commenced must attach to the certificate a copy of the pleading or petition by which the proceeding was commenced, or, in the case of a certificate of pending litigation under Part 5 of the *Court Order Enforcement Act*, a copy of the notice of application or other document by which the claim is made.

(2) The land affected by the certificate of pending litigation must be described in a manner satisfactory to the registrar.

(3) On registration of a certificate of pending litigation, the registrar must forthwith mail a copy to the owner against whose title the certificate has been registered.

(4) If, after registration of a certificate of pending litigation, a change of parties occurs, the registrar,

- (a) on receiving a certificate of pending litigation showing the new party, and
- (b) on compliance with this Act,

must register the certificate of change in the same manner as a modification of a charge.

(5) Despite subsection (1), if a person entitled to enforce a restrictive covenant or building scheme has commenced an action to enforce it, the person may register under this section a certificate of pending litigation in the form approved by the director against land in respect of which a breach is alleged to have occurred.

(6) A party to a proceeding for an order under the *Family Law Act* respecting the division of property may register under this section a certificate of pending litigation in the form approved by the director in respect of any estate or interest in land the title to which could change as an outcome of the proceeding.

(7) Despite subsection (1), a person who has commenced an action under the *Wills, Estates and Succession Act* may register a certificate of pending litigation in the form approved by the director against the land affected.

(8) A judgment creditor who

(a) applies under section 9 of the *Fraudulent Preference Act*,
and

(b) in the application, claims to be entitled to register the judgment against the land in respect of which the application was made, or against the judgment debtor's or another person's interest in the land,

may register a certificate of pending litigation in the form approved by the director against the land.

Samples of the forms are included in this package. The form that you need will depend on the type of proceeding you have commenced in the Supreme Court.

The court filing fee for the issuance of a certificate of pending litigation is \$40.00.

Included in this package are;

- 1) Form 31 – Certificate of Pending Litigation
- 2) Form 32 – Certificate of Pending Litigation
- 3) Form 33 – Certificate of Pending Litigation
- 4) Form 34 – Certificate of Pending Litigation

Note: These forms are land title forms. The filing party ought to check with BC Land Title and Survey to ensure they are using the correct and current form. A list of the available certificate of pending litigation forms may be found on their website under the list of Forms for Manual Filing,

<https://ltsa.ca/professionals/land-title-practice/land-title-forms/>

More information about the BC Land Title and Survey Office is available from their website, <https://ltsa.ca/>.

LAND TITLE ACT
Form 31
(Section 215(1))

NATURE OF INTEREST: CHARGE: CERTIFICATE OF PENDING LITIGATION

HEREWITH FEE OF: *

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO.(S):

Address of person entitled to register this certificate of pending litigation:

Full name, address, telephone number of person presenting application

.....
Signature of Applicant or
Solicitor or Authorized Agent

No.
.....Registry

In the Supreme Court of British Columbia

Between

Plaintiff/Petitioner

and

Defendant/Respondent

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that in a proceeding commenced in this court a claim is made for an estate or interest in land or a right of action in respect of land is given by an enactment other than the *Land Title Act*. The particulars are set out in the attached copy of the document by which the claim is made.

Given under my hand and the seal of this court at, British Columbia,
this day of, 20..... .

.....
Registrar

* Fee not applicable where certificate of pending litigation relates to proceedings under the *Builders Lien Act*.

LAND TITLE ACT
Form 32
(Section 215(5))

NATURE OF INTEREST: CHARGE: CERTIFICATE OF PENDING LITIGATION

HEREWITH FEE OF:

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO.(S):

Address of person entitled to register this certificate of pending litigation:

Full name, address, telephone number of person presenting application:

.....
Signature of Applicant or
Solicitor or Authorized Agent

No.
..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff/Petitioner

and

Defendant/Respondent

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that in this proceeding to enforce a restrictive covenant or building scheme it is alleged that a breach has occurred in respect of the lands specified in the attached document.

Given under my hand and the seal of this court at British Columbia,
this day of....., 20..... .

.....
Registrar

LAND TITLE ACT

Form 33

(Section 215(6))

NATURE OF INTEREST: CHARGE: CERTIFICATE OF PENDING LITIGATION

HEREWITH FEE OF:

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO.(S):

Address of person entitled to register this certificate of pending litigation:

Full name, address, telephone number of person presenting application:

I certify that the title to an estate or interest in the land above mentioned could change as an outcome of the proceeding mentioned below.

.....
Signature of Applicant or
Solicitor or Authorized Agent

No.
..... Registry

In the Supreme Court of British Columbia

Between

Claimant/Petitioner

and

Respondent

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that this proceeding claims for an order under the *Family Law Act* respecting the division of property. Subject to Rule 22-8 of the Supreme Court Family Rules, a copy of the document by which the claim is made may be obtained from the Court Registry.

Given under my hand and the seal of this court at, British Columbia,
this day of....., 20.....

.....
Registrar

LAND TITLE ACT

Form 34 (Wills, Estates and Succession Act)

(section 215 (7))

NATURE OF INTEREST: CHARGE: CERTIFICATE OF PENDING LITIGATION

HEREWITH FEE OF: \$

LEGAL DESCRIPTION AND PARCEL IDENTIFIER NO.(S):

Address of person entitled to register this certificate of pending litigation:

Full name, address, telephone number of person presenting application:

.....
Signature of Applicant or
Solicitor or Authorized Agent

No.
..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff/Petitioner

and

Defendant/Respondent

CERTIFICATE OF PENDING LITIGATION

I CERTIFY that a proceeding has been commenced under the *Wills, Estates and Succession Act* and that the lands described in the attached document by which the proceeding was commenced may be affected.

Given under my hand and the seal of this court at, British Columbia,
this day of, 20..... .

.....
Registrar