



**Ministry of Government and
Consumer Services**

ServiceOntario

Regulatory Services Branch

Bulletin No. 2015-04

***Land Titles Act,
Section 55***

**DATE: December 18,
2015**

**Covenants to
Indemnify the Land
Titles Assurance
Fund**

Background

A land registrar may, from time to time, require any applicant for registration to indemnify The Land Titles Assurance Fund against loss by a bond or covenant to Her Majesty, either with or without sureties, or by such other security as the land registrar considers expedient (see *Land Titles Act*, R.S.O. 1990, c. L.5, s. 55). The form of the aforesaid covenant to indemnify (collectively, “**Covenants to Indemnify**” and each a “**Covenant to Indemnify**”) is prescribed as Form 54 of Ontario Regulation 690. This form is currently available on the Government of Ontario Land Registration Information Website at:

http://files.ontariogovernment.ca/covenant_to_indemnify_the_land_titles_assurance_fund_under_section_55_of_the_land_titles_act.pdf

Covenants to Indemnify have historically been signed and witnessed, then physically delivered to the land registrar concurrent with or after the receipt for registration of the instrument to which they relate, and then filed, in paper form, by the land registrar. This practice is outdated and inconsistent with the overall move towards the digitization of Ontario’s Land Titles system.

New Procedure

Covenants to Indemnify will still be signed and witnessed, but effective immediately, they will no longer be physically delivered to the land registrar in paper form. Instead, a new non-law statement numbered 3640 is being added to all electronic document types and will be available in Teraview on January 11, 2016. The duly signed and witnessed Covenants to Indemnify will be imported and attached to and form a part of the instrument to which they relate, all prior to the receipt of such instrument for registration. The document imported into the statement blank must be in PDF format.

3640 Covenant to Indemnify the Land Titles Assurance Fund (*import PDF covenant*)

Only originally signed and witnessed Covenants to Indemnify may be imported into the instrument (and, for greater certainty, notarial or certified copies of signed Covenants to Indemnify may not be imported into the instrument).

Execution and Acceptance

Since a Covenant to Indemnify is personal in nature, it must be executed by the party giving it and not by their solicitor or under the authority of a Power of Attorney. If an attorney or solicitor does execute the covenant, he or she must be personally indemnifying the Land Titles Assurance Fund. If a corporation is giving and executing the Covenant to Indemnify, it must be done under the corporate seal of the corporation or by using the statement "I/We have authority to bind the corporation". An Estate Trustee or all the beneficiaries may execute a Covenant to Indemnify on the behalf of an estate. The Director of Titles may, in addition to or in lieu of a Covenant to Indemnify from the applicant, require or accept a Covenant to Indemnify from one or more third parties.

Documents that otherwise require a Covenant to Indemnify but which do not have a Covenant to Indemnify imported into the document as aforesaid: (i) should not be submitted for registration; (ii) may not be certified; and (iii) may be returned for correction and subsequently withdrawn altogether if not satisfactorily corrected within the prescribed time.

Covenants to Indemnify will still be in the prescribed Form 54, except that applicants must now complete the line item that requires the "Application No." by inserting the words, "see Instrument to which this Covenant to Indemnify the Land Titles Assurance Fund is imported".

This Bulletin does not change, in any way, the circumstances under which a land registrar or the Director of Titles may require Covenants to Indemnify. This Bulletin merely changes how such Covenants to Indemnify, if otherwise required, are now to be entered into and stored in the Land Titles system.

Save and except as expressly amended herein, the provisions of Bulletin 86007 and Bulletin 92003 remain in full force and effect.

(Original signed by)

Jeffrey W. Lem
Director of Titles