

# LAWPRO holds insurance premium increase to 5% in 2005

The base insurance premium paid by most Ontario lawyers will be \$2,625 per lawyer in 2005 – a five per cent increase.

The \$125 increase is the first in 10 years, and is the result of increased claims costs and declining premium revenues from transaction levies. Between 1995 and 2004, premium levels fell consistently from a high of \$5,600 to \$2,500 in 2003 and 2004.

Premiums for many lawyers in 2005 will be significantly below the base \$2,625 mark, depending on variables such as options selected, years in practice and practice areas. For example, part-time practitioners, those who restrict their practice to criminal and/or immigration law, and lawyers newly called to the bar could pay a premium of \$1,178 in 2005.

Premiums for other insurance coverage, transaction levies and discounts will remain the same as they were in 2004.

The increase in the base premium is the result of two diverging trends: Claims costs, which had remained in the \$65 million range in earlier years, have increased in 2004. This increase can be traced to fraud-related claims as well as those resulting from incivility, shortcomings in client loyalty and conflicts.

At the same time, premium revenue from transaction levies is expected to continue to decrease. In particular, real estate transaction levies have declined, reflecting an increase in the use of title insurance.

Revenue to meet the forecasted \$78.5 million in total costs for the insurance program in 2005 will come from three sources: \$48.6 million from base premiums (based on 19,800 insured lawyers); \$21.2 million from transaction and claims history surcharge levies; and \$8.7 million from the premium stabilization fund.

## Law Society-approved indemnification agreements a must for title insurers

Effective January 1, 2005, the professional liability insurance policy will be changed with respect to title-insured transactions. In future, the exemption from having to pay the real estate transaction levy surcharge will apply only if the title insurer has entered into a release and indemnity agreement in a form satisfactory to the Law Society.

The policy presently exempts lawyers and law firms from having to pay the \$50 real estate transaction levy surcharge for transactions that are title-insured, provided the title insurer has waived its rights and agreed to indemnify and save harmless the lawyer/law firm against claims arising under the title insurance policy or policies. This exemption reflects the core insurance program's reduced exposure to claims in situations where this protection is in place for lawyers.

The use of a standard indemnification agreement will minimize the administration required of lawyers and law firms and will ensure that the required release and indemnity agreement is in place on a consistent basis.

The bar will be advised of which title insurers have entered into release and indemnity agreements satisfactory to the Law Society. In situations where the title insurer does not provide this type of agreement, lawyers acting on these transactions – even if they are title-insured – will have to pay the real estate transaction levy surcharge.

# How to save on 2005 insurance premiums

## E-file to save \$50 per lawyer

### E-file in 4 easy steps:

1. Go to the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca) and click on **File Online**.
2. On the Sign-in page, enter your Law Society member number and your unique, confidential password. New applicants can follow the online instructions for setting up a password.
3. Select 2005 **Professional Liability Insurance Application** ("Renewals" or "New Applicant" as applicable) from the list of online filing options. If you are renewing coverage, your online application will be pre-populated with information on your current insurance coverage, as per information in our database.

4. Follow the on-screen instructions for completing your application – in minutes! All of the information on the 2005 insurance program and options is available online.

## Pay your premium in a lump sum and save \$150 per lawyer

You can choose to pay your 2005 premium in a lump sum, or by quarterly or monthly instalments. But only lump sum payments, made by cheque or pre-authorized bank account withdrawals, qualify you for the \$150 per lawyer lump sum payment discount. For more information, go to question #16 on your 2005 insurance application, and program guide.

# Filing 2005 insurance application or exemption forms

## Application filing deadlines:

### November 1: E-file deadline

File your 2005 insurance application by November 1, 2004, and you'll receive a \$50 premium discount on your next year's insurance premium. Last year, close to 80 per cent of lawyers opted to take advantage of this discount and completed their applications via the File Online option on our Web site – [www.lawpro.ca](http://www.lawpro.ca)

### November 5: Application filing deadline

To avoid paying a late filing surcharge of 30 per cent of the base premium, applications must be filed with LAWPRO by November 5, 2004. Applications can be filed in one of three ways: electronically (e-file), by fax or mail.

## Who must file an application?

- Any lawyer insured under the LAWPRO program in 2004 who intends to continue in private practice in 2005.
- Any lawyer who was exempt under the program in 2004 but intends to return to private practice in 2005.
- Any in-house counsel, government or education lawyer, who, in the course of employment or otherwise, provides legal services to third parties.
- Any lawyer who, although retired from active private practice, occasionally provides legal services.
- Any Law Society member who, although not resident in Ontario, engages in more than "occasional practice" in Ontario, as defined under the Rules for Exemption Eligibility and does not qualify for the mobility exemption.

## FOR MORE INFORMATION

Information on the 2005 insurance program, as well as copies of the 2005 program guide, and application and exemption forms, in PDF format, are available online on the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca). Copies are also available on request from the LAWPRO Customer Service Department at 416-598-5899 or 1-800-410-1013, e-mail [service@lawpro.ca](mailto:service@lawpro.ca).

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# Lawyers and LAWPRO opt for streamlined, online insurance filings

*Based on the resounding success of last year's electronic filing – which saw more than 16,000 of the 19,800 lawyers in practice e-file their insurance application – LAWPRO will again emphasize electronic processes during the upcoming insurance renewal season.*

As was the case last year, insurance applications, invoices and policy documents for the 2005 insurance program will be delivered primarily via our Web site rather than in printed format through the mail.

By now, all lawyers with an e-mail address on file with LAWPRO should have received e-mail notification that the LAWPRO Web site is open for e-filing 2005 insurance applications.

Printed application packages were mailed only to lawyers who have never e-filed, to those for whom LAWPRO did not have a valid and current e-mail address on file, and to those who had specifically requested a printed application package.

All lawyers – whether or not they have e-filed in the past – are encouraged to file their 2005 insurance application electronically, and be eligible for the \$50 per lawyer e-file discount (note, e-filing must be completed by November 1, 2004).

## **Law firms of five or more lawyers:**

The managing partner, firm administrator and/or insurance contact identified on your most recent online filing will have received e-mail notification that your firm's pre-populated 2005

insurance materials are available online. Firms are encouraged to e-file on a firm basis, to streamline the insurance renewal process.

Filing online will qualify the firm for a \$50 per lawyer discount that will be applied to the 2005 insurance premium, if received by November 1, 2004.

## **Instant access to your 2005 invoice and policy documents**

Most lawyers who practise alone and opt to e-file, will see their applications processed instantly and will have immediate online access to their 2005 premium invoice and policy documents in a secure section of the LAWPRO Web site.

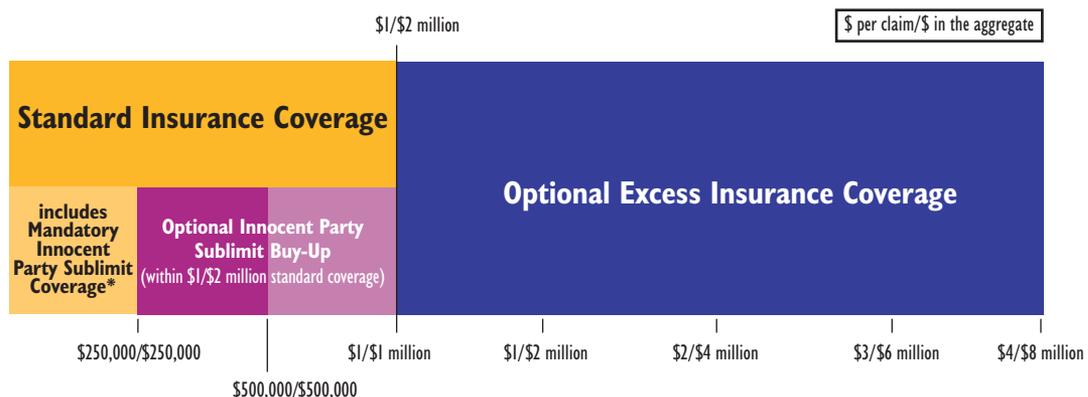
Lawyers who prefer to receive a printed invoice in the mail will be able to indicate this preference on the application form.

As in the past two years, only those lawyers who do not e-file, and for whom we do not have an e-mail address, will receive printed packages of the 2005 policy and the booklet containing forms for transaction levy filings. PDF copies of the 2005 insurance policy will also be available for downloading and printing from the LAWPRO Web site.

# 2005 insurance coverage

## for lawyers in private practice

### Sole practitioners and lawyers in association or partnership



## Standard insurance coverage

### The base program

*Eligibility:* Required for all lawyers providing services in private practice.\*\*

*Coverage limit:* \$1 million per claim/\$2 million in the aggregate (i.e. for all claims reported in 2005), applicable to claim expenses, indemnity payments and costs of repairs together.

*Standard deductible:* \$5,000 per claim, applicable to claim expenses, indemnity payments and costs of repairs together.

*Base premium:* \$2,625 per insured lawyer.

### Mandatory Innocent Party Sublimit Coverage\*\*\*

*Eligibility:* Required for all lawyers practising in association or partnership (including general, MDP and LLP partnerships), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

*Coverage sublimits:* \$250,000 per claim/in the aggregate, applicable to claim expenses, indemnity payments and costs of repairs together.

*Premium:* ©2004 Lawyers' Professional Indemnity Company. This article originally appeared in LAWPRO Magazine "LAWPRO holds Insurance Premium Increase to 5% in 2005", October 2004. It is available at [www.lawpro.ca/magazinearchives](http://www.lawpro.ca/magazinearchives)

## Optional Insurance Coverages

### Innocent Party Sublimit Buy-Up\*\*\*\*

*Eligibility:* Optional for all lawyers practising in association or partnership (including MDPs and LLPs), law corporations (with more than one lawyer) and sole practitioners practising with employed lawyers.

*Coverage sublimits & premiums:* Innocent Party Sublimit Coverage can be increased as follows:

- to \$500,000 per claim/aggregate for an additional \$150 per lawyer (\$400 total Innocent Party premium); or
- to \$1 million per claim/aggregate for an additional \$249 per lawyer (\$499 total Innocent Party premium).

### Optional Innocent Party Sublimit Coverage\*\*\*\*

*Eligibility:* Optional for sole practitioners and lawyers practising alone in a law corporation. Provides protection for ongoing liability that sole practitioners can have in situations such as the following:

- if you've acted as back-up counsel or had others act as back-up counsel for you;
- if you've taken a temporary leave of absence from your practice and have delegated your work to others;
- if you've practised as a partner or associate in the past;
- if your practice includes or once included employees;
- if you've practised in any situation in which you could be seen as lending your name to others;
- as an assurance to others if involved in electronic registration and escrow closings.

*Coverage sublimits:*

- LAWPRO offers Optional Innocent Party sublimits of:
- \$250,00 per claim/aggregate;
- \$500,000 per claim/aggregate;
- \$1 million per claim/aggregate.

*Premiums:* Underwritten on an individual basis, based on a risk assessment of information provided in the Innocent Party Sublimit application.

## Excess Insurance Coverage

*Eligibility:* Available to all lawyers in private practice, and to all lawyers with Run-Off Insurance Coverage.

*Coverage limits:* The following Excess limits\*\*\*\* are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a FIRM basis (i.e. for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$2 million in the aggregate;
- \$2 million per claim/\$4 million in the aggregate;
- \$3 million per claim/\$6 million in the aggregate;
- \$4 million per claim/\$8 million in the aggregate.

*Premiums:* Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

### FOR INFORMATION

For detailed information on the insurance programs and insurance options, or for application forms, please visit the LAWPRO Web site at [www.lawpro.ca](http://www.lawpro.ca).

Information is also available from the LAWPRO Customer Service Department at 416-598-5899 or 1-800-410-1013 or via e-mail: [service@lawpro.ca](mailto:service@lawpro.ca).

\* Optional for sole practitioners.

\*\* Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

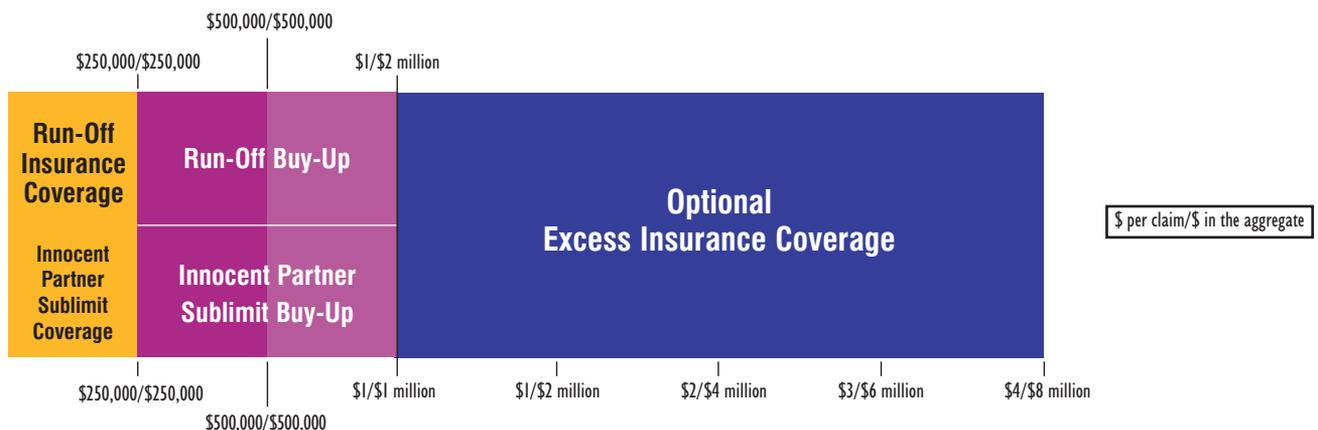
\*\*\* Coverage for dishonest, fraudulent, criminal or malicious acts or omissions.

\*\*\*\* LAWPRO strongly recommends that all lawyers purchase Professional Indemnity Coverage. This article originally appeared in LAWPRO Magazine "LAWPRO holds Insurance Premium Increase to 5% in 2005", October 2004. It is available at [www.lawpro.ca/magazinearchives](http://www.lawpro.ca/magazinearchives)

# 2005 insurance coverage

## for exempt lawyers\*

- In-house corporate counsel
- Government lawyers, educators and others not in active private practice
- Retired lawyers, judges and others no longer practising law
- Legal aid clinic lawyers (not directly employed by Legal Aid Ontario)



## The standard Run-Off Coverage

**Eligibility:** Provided at no charge to all members of the Law Society who are not in active private practice who qualify for exemption\*\* from payment of insurance premiums and levies.

**Coverage limits:** \$250,000 per claim/in the aggregate, not re-instated annually, subject to the following:

- applies to claims arising out of services provided while the lawyer was in private practice or otherwise maintained the full, ongoing practice coverage;

- does not provide coverage for claims arising out of any services a lawyer provides while exempt from paying the insurance premium; the only exception to this is with respect to *pro bono* legal services provided through an approved *pro bono* legal services program associated with Pro Bono Law Ontario;
- applies to claims expenses, indemnity payments and costs of repairs together.
- includes a sublimit coverage of up to \$250,000 per claim/in the aggregate for Innocent Partner claims.

*Premium:* None.

## Optional Insurance Coverages

### Run-Off Coverage Buy-Up

*Eligibility:* Optional for lawyers with only the basic Run-Off Coverage who are concerned that claims now and in the future may exceed \$250,000 per claim/aggregate.

*Coverage limits:* Exempt lawyers can apply to increase Run-Off Coverage limits to:

- \$500,000 per claim/aggregate; or
- \$1 million per claim/\$2 million in the aggregate;

for terms ranging from two to five years.

*Premiums:* Underwritten on an individual basis, depending on the years practised, areas of law practised, the amount of time since the applicant was in private practice, and other risk-based factors.

### Innocent Partner Sublimit Buy-Up\*\*\*

*Eligibility:* Optional for exempt lawyers who have applied to increase their Run-Off Coverage through Run-Off Coverage Buy-Up and who may be concerned about their innocent partner exposure.

*Coverage sublimits* Innocent Partner Sublimit Coverage can be increased as follows:

- & premiums:*
- to \$500,000 per claim/aggregate for an additional five per cent of the Run-Off Coverage Buy-Up premium; or
  - to \$1 million per claim/aggregate for an additional eight per cent of the Run-Off Coverage Buy-Up premium.

## Excess Insurance Coverage

*Eligibility:* Available to all lawyers in private practice, and to all lawyers with Run-Off Insurance Coverage.

*Coverage limits:* The following Excess limits\*\*\* are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a FIRM basis (i.e. for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$2 million in the aggregate;
- \$2 million per claim/\$4 million in the aggregate;
- \$3 million per claim/\$6 million in the aggregate;
- \$4 million per claim/\$8 million in the aggregate;

*Premiums:* Underwritten on a firm basis, based on a risk assessment of information provided in the Excess Insurance application.

\* Lawyers eligible for the "mobility" exemption have insurance coverage as described on the Web site at [www.lawpro.ca](http://www.lawpro.ca).

\*\* Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

\*\*\* LawPRO strongly recommends that all lawyers purchase coverage from the LawPRO Insurance Company. This article originally appeared in LAWPRO Magazine "LAWPRO holds Insurance Premium Increase to 5% in 2005", October 2004. It is available at [www.lawpro.ca/magazinearchives](http://www.lawpro.ca/magazinearchives)

# Why consider buying up your insurance coverage limits if you are on exemption?

Although you may believe that claims are not as much of an issue for you because you are on exemption, the opposite is in fact true. Your exposure to claims is ongoing:

- Legal services which you or former partners or associates provided in the past may give rise to a claim, now or in the future.
- Lawsuits arise from many quarters - past clients, former employers and their officers or directors, shareholders, employees and any others who have relied on your legal advice.
- Many claims do not surface for several years after legal services were provided; up to 10 per cent of claims are not reported until five years after the service that gave rise to the claim was provided.
- Although legislative changes such as the *Limitations Act, 2002*, may provide greater defences, they do not address all areas of exposure.\*

## Limited protection:

Yet, as is detailed on pages 6 and 7, the standard Run-Off Coverage provides you with only limited protection:

- The \$250,000 per claim/in the aggregate limit applies to ALL of the claims made against you while on exemption (for reasons other than mobility or a temporary leave of absence). In other words, this is all the coverage you have for ALL claims made

against you this year, in the past while you were exempt, and in future years while you are exempt.

- The \$250,000 limit applies to claim expenses, costs of repairs, pre-judgment interest and indemnity payments together for each claim made against you. Any amounts incurred to resolve a claim reduce the funds available to respond to any other claims.

Statistics tell us that 1 in 50 claims against lawyers exceeds the \$250,000 mark; and 1 in 100 claims tops \$500,000. Thus, a single claim, or series of small claims, could easily exceed your \$250,000 Run-Off Coverage limits, leaving you personally liable for any additional costs.

## Run-Off Coverage Buy-Up (RBU) Insurance

If you are concerned that claims arising out of past legal activities could exceed your \$250,000 Run-Off Coverage limits, you can apply to buy up these limits (as well as your Innocent Partner Coverage limits) for an additional premium. RBU Coverage can be tailored to your particular needs, as is more fully described on page 7.

\* For a more detailed discussion of the issues that those on exemption should consider in assessing their potential exposure to claims, and for information on Run-Off Coverage and options to increase your coverage limits, please see the LawPRO Web site at [www.lawpro.ca](http://www.lawpro.ca), or contact our Customer Service Department at 416-598-5899 or 1-800-410-1013 or by e-mail at [service@lawpro.ca](mailto:service@lawpro.ca) and ask for a copy of the Insurance Matters brochure that applies to your category of exemption.



## LAWYERS' PROFESSIONAL INDEMNITY COMPANY (LAWPRO®)

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LAWPRO news is published by the Lawyers' Professional Indemnity Company (LAWPRO) to update practitioners about LAWPRO's activities and insurance programs, and to provide practical advice on ways lawyers can minimize their exposure to potential claims.

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