

# Planning to do real estate work?

## *A primer on title insurance and the TitlePLUS<sup>®</sup> program*

If you're planning to do any real estate work when you go into practice, you'll soon hear about a resource used by many real estate practitioners – title insurance. It's a type of insurance coverage that lawyers across Canada are telling their clients about to help protect them against some typical problems that might crop up after closing – problems that in the past might have led to the client filing a malpractice claim against the lawyer.

Several companies offer title insurance – including LAWPRO, through its TitlePLUS title insurance program. This article provides a very basic overview of the what and why of title insurance, how our TitlePLUS program is different, and where you can find more information.

### What is title insurance?

As its name suggests, title insurance is an insurance policy for purchasers, mortgage lenders and existing owners of real property that provides compensation for losses suffered because of problems with title, survey, zoning and other issues with the property – even if they are not discovered until years after the purchase is completed.

Some of these issues are unpredictable or undetectable – such as forgery, fraud, missing heirs, and unregistered easements. Other problems that can affect a property covered under a title insurance policy include issues such as construction liens, access rights and conflicting interests in a property.

When the lawyer in the transaction has secured a title insurance policy for the owner or mortgage lender, it is the title insurer – and not the lawyer or client – who assumes the risk for matters covered under the policy<sup>1</sup> and, if there are losses, pays compensation.

It is important to understand that title insurance replaces the title opinion and not the lawyer in the transaction. The role of the real estate lawyer remains just as important

to ensure the client's interests are properly addressed and protected. In fact, depending on the issue, a client may prefer that the lawyer do a search to determine the status of a matter rather than depend on title insurance and the right to be able to make a claim to an insurer at a later date.

### What's different about the TitlePLUS title insurance program?

LAWPRO's TitlePLUS program is different in several ways:

**1. Title + legal services coverage:** With TitlePLUS coverage, the legal services that you – as the lawyer in the transaction – provide are also covered by the policy<sup>2</sup>. So if as part of your services you make an error or overlook something (e.g., fail to register a document or remove an encumbrance, incorrectly adjust items on closing), the TitlePLUS policyholder – your client – can seek compensation directly from us. In other words, the error will not result in a claim under your LAWPRO errors and omission policy if you obtained a TitlePLUS policy for your client.

- 2. Online software that makes closings easy:** We make it easy for you to undertake real estate transactions by providing you with access to an online system that walks you through a closing.
- 3. It's all-Canadian:** In fact, TitlePLUS title insurance is the only all-Canadian title insurance product on the market today.
- 4. We advocate for the real estate bar:** Each year, LAWPRO undertakes an extensive consumer public awareness/education campaign on how a lawyer protects their interests in various scenarios – from buying a home or cottage to drawing up a power of attorney to the perils of running a home-based business. In the past few years, this effort to put lawyers at the forefront has reached millions of consumers across Canada.

### How can you find out more?

Go to [titleplus.ca](http://titleplus.ca) for information on the TitlePLUS program, including How To videos.

For more information on some of the tools and resources for home buyers, see [titleplus.ca/rsreg](http://titleplus.ca/rsreg). ■

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<sup>1</sup> Title insurance policies may vary. Refer to the policy for full details, including actual terms and conditions.

<sup>2</sup> TitlePLUS policies issued with respect to properties in Québec and OwnerEXPRESS<sup>®</sup> (existing owner) policies do not include legal services coverage.