

Real Estate Practice Coverage

required for all real estate practitioners

At some point in 2008 (likely in the first quarter of the year), all real estate practitioners will have to demonstrate to the government that they have in place a prescribed form of insurance coverage that would respond in the event of certain instances of fraud. Proof of this coverage will be required for lawyers to be able to access Ontario's electronic registration system.

This new coverage modifies LAWPRO's existing Innocent Party Coverage to ensure there is coverage for claims arising out the registration of fraudulent instruments under the *Land Titles Act*. The new Real Estate Practice Coverage Option provides for a sublimit coverage of \$250,000 per claim/\$1 million in the aggregate, applicable to claim expenses, indemnity payments and/or costs of repairs together.

The annual premium for this new coverage has been set at \$500 per lawyer.

However, as this coverage may not be required of Ontario real estate practitioners until some time in the first quarter of 2008, **LAWPRO will charge only \$375** of the \$500 annual premium. In so doing, LAWPRO is opting to not charge any premium for this real estate practice coverage for the first three months of 2008, even if the coverage may first be required of Ontario lawyer licensees at some point during this period.

LAWPRO will provide real estate lawyers with this coverage subject to a number of criteria:

Eligibility

The Law Society has determined that some lawyers will not be eligible to practise real estate law and therefore would not be eligible for this coverage. Lawyers not eligible for this Real Estate Practice Coverage are:

- those who are in bankruptcy;
- those who have been convicted or disciplined in connection with real estate fraud;
- those under investigation, where the Law Society obtains: an interlocutory suspension order or a restriction on the lawyer's practice prohibiting the lawyer from practising real estate; or an undertaking not to practise real estate.

Applying for this coverage

The 2008 insurance application package includes information on this new coverage option. As well, all lawyers applying for

insurance coverage in 2008 will have to complete a new question on the application form that deals with whether or not they intend to practise real estate law in Ontario in 2008.

Definition of real estate law

Under the 2008 LAWPRO insurance policy, "real estate law" is a broadly defined term that is not limited to specific types of transactions, such as transfers or charges. Rather, the term is defined as follows:

"REAL ESTATE LAW means the practice of the law of Canada, its provinces and territories, that concerns:

- i) the registration of any instrument under the LAND TITLES ACT; and/or
- ii) the actual or contemplated transfer, charging, insuring, or otherwise affecting, an estate, right or interest in land;

and may include, without limitation, any one or more of the following services by a solicitor: the receipt of instructions, preparation of documents, searches and/or the providing of one or more opinions or certificates with respect to the title, transfer or charge, and/or with respect to the issuance of any title insurance policy."

Lawyers changing area of practice

Lawyers who stop practising real estate law at some point in 2008, or who start to practise real estate law part way through the year, will qualify for a premium adjustment for this option, pro-rated for the period during which they practise (practised) real estate law, subject to the following criteria:

- a 60-day minimum premium; and
- only one premium adjustment per lawyer for this option for the year.

Lawyers who start to practise real estate law part way through the year should provide LAWPRO with a completed Application for Mid-Term Changes Form at least 10 days prior to the date that the requested change is to take effect.

Lawyers who cease to practise real estate law part way through the year and prefer not to continue to carry this coverage option, should provide LAWPRO with a completed Application for Mid-Term Changes Form within **30 days**, for any available reduction in premium to be applied.